

NOTICE OF SPECIAL MEETING

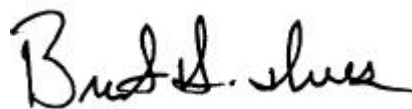
Pursuant to Section 54956 of the Government Code of the State of California, a Special meeting of the **Tracy City Council** is hereby called for:

Date/Time: **Tuesday, December 7, 2010, 6:00 p.m.**
(or as soon thereafter as possible)

Location: **Council Chambers, City Hall**
333 Civic Center Plaza, Tracy

Government Code Section 54954.3 states that every public meeting shall provide an opportunity for the public to address the Tracy City Council on any item, before or during consideration of the item, however no action shall be taken on any item not on the agenda.

1. Call to Order
2. Roll Call
3. Items from the Audience - *In accordance with Procedures for Preparation, Posting and Distribution of Agendas and the Conduct of Public Meetings, adopted by Resolution 2008-140 any item not on the agenda brought up by the public at a meeting, shall be automatically referred to staff. If staff is not able to resolve the matter satisfactorily, the member of the public may request a Council Member to sponsor the item for discussion at a future meeting.*
4. Approval of Minutes
5. ADOPT RESOLUTION CONFIRMING THE RESCISSION OF RESOLUTION 2009-117 RELATING TO A FEE-FUNDED EMERGENCY MEDICAL SERVICES (EMS) MEMBERSHIP PROGRAM AND USER FEES FOR FIRE DEPARTMENT MEDICAL AND VEHICLE ACCIDENT REPORTS
6. ADOPT A RESOLUTION DECLARING THE RESULTS OF THE NOVEMBER 2, 2010, CITY OF TRACY GENERAL MUNICIPAL ELECTION
7. Presentation to outgoing Council Members
8. Adjournment



Mayor

Posting Date: December 2, 2010

The City of Tracy complies with the Americans with Disabilities Act and makes all reasonable accommodations for the disabled to participate in public meetings. Persons requiring assistance or auxiliary aids in order to participate should call City Hall (209-831-6000), at least 24 hours prior to the meeting.

Any materials distributed to the majority of the Tracy City Council regarding any item on this agenda will be made available for public inspection in the City Clerk's office located at 333 Civic Center Plaza, Tracy, during normal business hours.

August 17, 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 Jim Bush, Heartland Church.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Staff made 19 recommendations:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The Clerk read the title of Proposed Ordinance 1151.

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

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

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

Larry Gamino addressed Council regarding the proposed sales tax.

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

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

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

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

Mayor

ATTEST

City Clerk

September 7, 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 7:02 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 19th 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.

Mayor

ATTEST:

City Clerk

September 21, 2010, 6:00 p.m.

City Council Chambers, 333 Civic Center Plaza

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

1. The Mayor Pro Tem Tucker called the Special Meeting to order at 6:00 p.m.
2. Roll call found Council Members Abercrombie, Maciel, Tolbert, and Mayor Pro Tem Tucker present; Mayor Ives absent.
3. Items from the Audience - None.
4. RECEIVE A PRESENTATION ON THE PROJECT STATUS OF THE GEOGRAPHIC INFORMATION SYSTEM (GIS) IMPLEMENTATION AND RELEASE OF THE PUBLIC GIS WEBSITE - Andrew Kellogg, Division Chief, Fire Department, and project manager for the project, presented the staff report.

During 2008, the Council identified implementation of a Geographic Information System (GIS) as a critical infrastructure project for the City. The system is needed to comply with regulatory requirements related to sewer system evaluation and capacity analysis. The implementation of the GIS project will benefit citizens by providing reliable information about the City's assets and services and greatly benefit the business community by providing business critical information on the City's website. Developing a citywide GIS is a collaborative effort that includes all City departments and provides a common platform for the City to provide efficient and effective service to Tracy citizens. The GIS Team has been working to build the Citywide GIS project over the last two years.

The GIS website will provide public access to information and tools which will allow users to see a clearer picture of the City and allow questions to be answered that might otherwise generate calls to City staff. The public GIS website will also provide developers, brokers and businesses access to City assets and demographic information which will ultimately increase economic development activities in Tracy. The GIS website will consist of several web-based applications that provide powerful search tools to allow residents to find parks, parcels, City facilities and other points of interest. The GIS project team has completed the initial stages of development and has planned a demonstration of the GIS website to select external stakeholders such as developers, engineers, planners, real estate agents and the Tracy Press. Several demonstration meetings are planned in September. The plan is to receive comments from Council and external stakeholders, update the GIS website and open it to Tracy residents in early November.

Chief Kellogg introduced V. J. Kumar of CH2MHill, and Jason Bone, who provided a power point presentation regarding the GIS website and gave an update on the project.

Council Member Abercrombie asked how difficult it was to update the information. Mr. Kumar indicated it would require 1-2 man-hours per month.

Council Member Maciel asked if code enforcement information would be available to the public. Mr. Kumar stated it was up to staff to identify which information would be available to the public.

Mayor Pro Tem Tucker asked about the structure for updating the portal and inquired if there would be a central place where changes are made, or would staff be responsible for specific areas. Mr. Kumar responded at this point there are a few specific individuals able to update the information. However, as departments become more familiar with the system, they will assume the responsibility. Mr. Johnston added a part-time GIS position has been added to the budget beginning January 1, 2011. The position is not funded from the General Fund

Mayor Pro Tem Tucker asked Mr. Johnston to give Council an update regarding the fiscal impact. Mr. Johnston indicated it was a three-year capital funded project. Mr. Johnston indicated there would not be any investment to make productivity much higher.

Council Member Abercrombie asked when a new development is completed, would the van go around and update GIS within the new development. Mr. Kumar indicated yes, and suggested that the information be updated every 2-3 years.

Mayor Pro Tem Tucker asked if the aerial view was from Google Earth. Mr. Boone stated it was purchased by the City in 2008. Mr. Kumar indicated it was purchased from a company that does aerials for the City.

5. 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: 6:39 p.m.

The above agenda was posted at the Tracy City Hall on September 16, 2010. The above are summary minutes. A recording is available at the office of the City Clerk.

Mayor

ATTEST:

City Clerk

September 21, 2010, 7:00 p.m.

City Council Chambers, 333 Civic Center Plaza

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

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

The invocation was given by Pastor Calvin Waetzig, Saint Paul's Lutheran Church.

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

1. CONSENT CALENDAR - Following the removal of item 1-H by a member of the public, 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 Pro Tem Tucker in favor; Mayor Ives absent. Motion carried 4:0:1.
 - A. Minutes Approval – Special meeting minutes of May 18, 2010, regular meeting minutes of July 20, 2010, and closed session minutes of September 7, 2010 were approved.
 - B. Acceptance of the Sidewalk/ADA Improvements Project, Phase 2 - CIP 73115, and 73118, Completed by Nor-Cal Concrete, Inc., of Suisun, California, and Authorization for the City Clerk to File the Notice of Completion – Resolution 2010-155 accepted the project.
 - C. Approval of Master Professional Services Agreements with Various Consultants to Provide Technical Analysis of Infrastructure Needs for Various Development Projects Related to Water, Storm Drainage, and Traffic and Authorize the Development & Engineering Services Director to Execute these Agreements and Subsequent Task Orders For a Not to Exceed Aggregate Amount of \$50,000 at One Time for Each Consultant – Resolution 2010-156 approved the agreements.
 - D. Award a Construction Contract to Republic ITS of Fremont, California, for the 2010 Traffic Calming Project - CIP 72065, and Authorize the Mayor to Execute the Contract – Resolution 2010-157 awarded a contract in the amount of \$35,400 for the project.
 - E. Authorize Federal Fiscal Year 2010 Grant Application for Section 5307 U.S. Department of Transportation Federal Transportation Administration Funds in the Amount of \$1,169,777 for Tracer Public Transportation Services and for Replacement Fixed Route Buses; Certification of Application Assurances; and the City Manager or Designee to Execute the Grant Documents – Resolution 2010-158 authorized the grant application.

- F. Declaring and Approving the List of Surplus Equipment and Commodities for Sale at Public Auction to the Highest Bidder – Resolution 2010-159 declared and approved the surplus list.
- G. Authorization to Award the Purchase of Three 26-Foot Low Floor Hybrid Buses and Two ADA Accessible Minivans for Tracer Paratransit Service to A-Z Bus Sales Under the CALACT/MBTA Purchasing Cooperative Agreement – Resolution 2010-160 authorized awarding the purchase in the amount of \$641,823.82.
- I. Authorization of Task Order No. CH01-13 to Master Professional Services Agreement No. CH01 With CH2M Hill for Wastewater Treatment Plant – Final Design of Effluent Outfall Pipeline and Diffuser Improvements and Authorization for the Mayor to Execute the Task Order – Resolution 2010-161 authorized the Task Order.
- J. Approval of a Resolution Authorizing Individuals to Act on Behalf of a 457 Deferred Compensation Trust Agreement with VALIC – Resolution 2010-162 approved the action.
- H Authorization to Enter Into a Lease Agreement with Agra Trading, LLC for the Holly Sugar Southerly Paved Drying Bed and Authorization for the Mayor to Execute the Agreement - Kevin Tobeck, Public Works Director, presented the staff report. Mr. Tobeck stated that in 2003, the City purchased approximately 1,200 acres from Holly Sugar. The majority of this property is in an agricultural lease. The purchased property included two paved areas historically used for drying sugar beets which were excluded from the agricultural lease area.

Since 1991 Agra Trading has provided by-product marketing, recycling and trading services to growers and buyers of various commodities throughout the western United States. Agra Trading proposes to lease the Holly Sugar southerly paved drying bed area for the purposes of storing, drying and distributing agricultural by-products such as walnut shells, tomato pumice, olive pits and peach pits which are transported to nearby cogeneration facilities for waste energy production.

Organic by-product storage, drying and distribution is an appropriate use for this facility as no odors or other nuisances are anticipated. The lease does not permit other uses. The proposed rent is \$4,000 per month for approximately 40 acres. Staff believes this amount represents fair market value. The proposed lease parcel is shown in Exhibit A of the Lease Agreement. The proposed lease term is for five years through September 30, 2015. The lease contains a six month notice provision for early termination.

This lease has no fiscal impact on the General Fund. The lease will provide \$48,000 annual revenue to the Wastewater Enterprise Fund.

Staff recommended that the Council authorize the City to enter into a Lease Agreement with Agra Trading, LLC for the Holly Sugar southerly drying bed and authorize the Mayor to execute the agreement.

Robert Tanner, 1371 Rusher Street, addressed Council asking why the monies were going to the Water Treatment Fund rather than the General Fund. Mr. Tobeck indicated the property was purchased by the Water Treatment Fund and the funds were to be returned to the same fund.

It was moved by Council Member Abercrombie and seconded by Council Member Tolbert to adopt Resolution 2010-163 approving the Lease Agreement with Agra Trading, LLC. Voice vote found Council Member Abercrombie, Maciel, Tolbert and Mayor Pro Tem Tucker in favor; Mayor Ives absent. Motion carried 4:0:1.

2. ITEMS FROM THE AUDIENCE - Susan Sarvey, 26139 Corral Hollow Road, addressed Council regarding the recent PG&E pipeline explosion in San Bruno. Ms. Sarvey indicated that she had addressed Council on several occasions regarding the pipelines that traverse the City. Ms. Sarvey stated the City should know who to contact in case of an emergency that could turn off pipeline shut off valves.

Irene Sundberg, 1852 W. Eleventh Street, addressed Council regarding decisions made by Council, including allowing future construction in the Ellis subdivision which is near a natural gas line. Ms. Sundberg stated Council should establish a policy regarding setbacks near pipelines.

A representative of the Friends of the Tracy Library thanked Council for their support of the Tracy Public Library.

Brian Van Lehn, 540 Winston Court, addressed Council regarding his ongoing concerns with noise issues at Leprino Foods.

3. DISCUSSION AND ADOPTION OF A RESOLUTION IN SUPPORT OF PROPOSITION 22, A LOCAL TAXPAYER, PUBLIC SAFETY AND TRANSPORTATION PROTECTION ACT OF 2010 - Maria Hurtado, Assistant City Manager, presented the staff report. Ms. Hurtado introduced Steven Qualls, League of California Cities, who provided information on Proposition 22. Mr. Qualls stated the League of California Cities requests the Council adopt a resolution in support of Proposition 22, which is on the November, 2010 ballot. The measure is designed to limit the State of California's ability to take, borrow, or shift costs to local governments. The main provisions of Proposition 22 include:

- Revokes the State's ability to borrow local government property tax funds (currently authorized by 2004 Prop 1A);
- Prohibits the State from taking or borrowing the Highway User Tax on gasoline (HUTA), which currently funds city, county and state roads, highway, transit and other transportation improvements and services;
- Prevents the State from redirecting or diverting locally levied taxes, including parcel taxes, sales taxes, utility user taxes, TOTs and other locally imposed taxes that are currently passed by local governments and/or their voters and dedicated to cities, counties and special districts;
- Prohibits the State from taking, borrowing or redirecting existing funding for public transit, including existing taxes on gas and "spillover" funds dedicated to the Public Transportation Account;
- Adds additional constitutional protections to prevent the State from raiding redevelopment funds or shifting redevelopment funds to other state purposes.

Staff recommended Council adopt a resolution in support of Proposition 22.

Mayor Pro Tem Tucker invited members of the audience to address Council on the item.

Larry Gamino, 21 W. First Street, addressed Council in support of the Proposition. Mr. Gamino indicated the ACE Train needed to be routed through Downtown, as well as busing which connects residents to BART and the ACE Train.

It was moved by Council Member Abercrombie and seconded by Council Member Tolbert to adopt Resolution 2010-164 in support of Proposition 22, the local Taxpayer, Public Safety and Transportation Protection Act of 2010. Voice vote found Council Member Abercrombie, Maciel, Tolbert, and Mayor Pro Tem Tucker in favor; Mayor Ives absent. Motion carried 4:0:1.

4. ITEMS FROM THE AUDIENCE – Kim Kern, 1710 Whirlaway Lane, addressed Council regarding the removal of the No Parking signs next to the Tracy Learning Center. Ms. Kern indicated she had called the City regarding the signs, but has not yet received a response.

Vasco Soares, thanked Council Member Tolbert and Mayor Pro Tem Tucker for their commitment to the community. Mr. Soares also stated he was not satisfied with the response he received from Andrew Malik, Director of Development and Engineering Services, regarding the length of time it took the Planning Department to approve a restaurant remodel. Mr. Soares referred to an article in the Tracy Press that indicated the owner of the Tracy Outlet Mall was also having issues with the Planning Department regarding approval and fees for store front remodels and signage. Mr. Soares requested the process be streamlined. Mr. Soares added he was not in favor Measure E. Mr. Soares stated the City needed to assist businesses that want to locate in the City.

5. COUNCIL ITEMS – None.
6. ADJOURNMENT - It was moved by Council Member Abercrombie, and seconded by Council Member Maciel to adjourn. Voice vote found Council Members Abercrombie, Maciel, Tolbert, and Mayor Pro Tem Tucker in favor; Mayor Ives absent. Motion carried 4:0:1. Time: 7:36 p.m.

The above agenda was posted at the Tracy City Hall on September 16, 2010. The above are summary minutes. A recording is available at the office of the City Clerk.

Mayor

ATTEST:

City Clerk

October 5, 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 7:01 p.m. and led the Pledge of Allegiance.

The invocation was provided by Pastor Kevin James, New Creation Bible Fellowship.

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

Leon Churchill, Jr., City Manager, presented the Employee of the Month award for October 2010, to Robert Rosenberg, Information Systems Tech II, Finance Department.

Mayor Ives and Acting Fire Chief Germaine Friends administered the Oath of Office to Michael Oliveri, who was promoted to Fire Captain, and Bobby Arnold, who was promoted to Fire Engineer.

Mayor Ives presented a proclamation to Pastor Scott McFarland, Journey Christian Church, Pastor Jon Fields, Grace Church, and Gene Birk, proclaiming October 23, 2010, as Make a Difference Day throughout Tracy.

Mayor Ives presented a proclamation to Lorraine Perez, Domestic Violence/Cal Works Program Coordinator, Women's Center of San Joaquin County proclaiming October as Domestic Violence Awareness Month.

Commissioners Raj Makker and Laqshya Taneja presented the Youth Advisory Commission's Annual Report.

Council Member Maciel thanked the presenters for their commitment to the Youth Advisory Commission and the community.

Mayor Pro Tem Tucker asked about the multigenerational program. Mr. Taneja indicated it was done in an attempt to bridge the gap between youth and the seniors.

Mayor Ives stated he appreciated their strategic goals.

1. CONSENT CALENDAR - It was moved by Council Member Abercrombie and seconded by Council Member Tolbert to adopt the Consent Calendar. Roll call vote found all in favor; passed and so ordered.
 - A. Minutes Approval – Special meeting minutes of June 15, 2010, and regular meeting minutes of August 3, 2010, were adopted.

- B. Acceptance of the Shoulder Backing at Various Street Locations, 2009 Project - CIP 73120, Completed by Teichert Construction, of Stockton, California, and Authorization for the City Clerk to File the Notice of Completion – Resolution 2010-165 accepted the project.
- C. Authorize a Professional Services Agreement with West Coast Arborist, Inc. for Tree Maintenance in the Tracy Consolidated Landscape Maintenance District for Fiscal Year 2010-2011, Authorize the City Manager to Execute Subsequent Agreement Extensions for Up to Four One-Year Terms, and Authorize the Mayor to Execute the Agreement – Resolution 2010-166 authorized the agreement.
2. ITEMS FROM THE AUDIENCE - Paul Miles stated he had presented information regarding the allegations of Police misconduct to Council on six occasions, without any resolution. Mr. Miles stated the City's lack of action regarding the allegations represented gross negligence. Mr. Miles indicated he will post information to www.tracy-ca.us in an effort to hold the City accountable and requested an independent investigation be undertaken. Mayor Ives provided a statement regarding Mr. Miles' concerns.

Nancy Young, Cypress Drive, addressed Council acknowledging the Fire OPS teams that participated in the event over the weekend. Ms. Young stated she has a new respect for Firefighters and EMTs.

George Buffleben, President of Tracy Friends of the Library, indicated the Tracy Friends of the Library is considering a proposal from Library Systems & Servicing, LLC (LSSI) regarding managing the public library. Mr. Buffleben asked Council to review the proposal and provide input. Mr. Buffleben recommended Council oppose the LSSI proposal.

Brian Van Lehn, 540 Winston Court, addressed Council regarding a resolution of the noise issues with Leprino Foods. Mr. Van Lehn provided examples of efforts they have made to mask the noise. Mr. Van Lehn requested that Council represent all the residents of Tracy without bias.

3. PUBLIC HEARING TO CONSIDER APPLICATIONS TO AMEND THE BROOKVIEW CONCEPT, PRELIMINARY AND FINAL DEVELOPMENT PLAN AND THE BROOKVIEW VESTING TENTATIVE SUBDIVISION MAP FOR THE 10-ACRE PARCEL LOCATED AT THE NORTHWEST CORNER OF BROOKVIEW DRIVE AND PERENNIAL PLACE, ASSESSOR'S PARCEL NUMBER 248-560-28. THE APPLICANT AND PROPERTY OWNER IS BROOKVIEW PROPERTIES, LLC. APPLICATION NUMBERS D10-0003 AND TSM10-0001 - Scott Claar, Associate Planner, presented the staff report. Mr. Claar stated that the subject property consists of a vacant 10-acre parcel located approximately 300 yards east of Tracy Boulevard. The site is bordered by Brookview Drive on the south, Perennial Place on the east, Lasata Drive on the north, the rear of residential lots that front onto Treana Court on the northwest, and a 2-acre City park on the southwest.

The subject property is contained within Garden Square, which is an existing 375-lot residential subdivision consisting of approximately 91 acres. The 10-acre subject property was originally designated as a school site by the Concept Development Plan (CDP) for Garden Square, which was approved in October 2000. In September 2002,

the Jefferson School District informed the City that it no longer desired to locate a school on this site and released all interest in the property, which granted development opportunity back to the property owner.

On June 19, 2007, the Council approved a 95-lot residential subdivision on the 10-acre subject property, known as Brookview (Application Numbers 12-04-D and 3-04-TSM). Since that time, no development has occurred on the vacant parcel. On June 23, 2010, Brookview Properties, LLC submitted applications to amend the Brookview Concept, Preliminary and Final Development Plan and the Brookview Vesting Tentative Subdivision Map.

The previously approved Brookview project consisted of a 95-lot residential subdivision. The development plan contained elements such as houses that fronted onto the adjacent public park, a variety of residential building types, and a portion of the houses with alley loaded garages.

The proposed changes to the Brookview project primarily include reducing the density from 95 to 80 lots, removing the Affordable Housing component, amending the housing types to all two-story designs, and removing the zero lot line houses.

The street layout and block configuration would remain the same, with the exception that the alley in the center block would be eliminated. The project would still feature houses fronting onto the adjacent public park and a portion of the houses would have alley-loaded garages.

The proposed amendment to the Vesting Tentative Subdivision Map would subdivide the 10-acre parcel into 80 residential lots, public streets and alleys. The street sections would include a five-foot landscape strip between the curb and sidewalk as previously approved.

The project would include two primary product types, described as "traditional lots" and "alley loaded lots." The traditional lots would be located on the perimeter of the site fronting Lasata Drive and Perennial Place, and in the center block area. The traditional lots would range in size from approximately 3,600 to 5,000 square feet and contain houses ranging between approximately 2,100 and 2,500 square feet with front-loaded garages.

The alley loaded lots would be located in the southwestern portion of the site, adjacent to the public park and at the entry point from Brookview Drive. The alley loaded lots would range in size from approximately 2,600 to 5,000 square feet and contain houses ranging between approximately 1,700 and 2,000 square feet with rear-loaded garages. In order to make up for the lack of rear yard area and the narrow side yards, these lots would have an easement on the contiguous neighbor's side yard, so that each property owner would enjoy the use of one 10-foot wide side yard, while giving up their 5-foot side yard on the opposite side.

The proposed architecture features a variety of house designs with six plan types with each plan type having two to three different elevations. The architectural styles include Traditional, Mediterranean, and Spanish. The architecture includes a variety of building materials and details appropriate to the styles. Garages are deemphasized and 18 houses have garages that would face an alley.

The proposed amendments to the Brookview PUD zoning regulations are intended to allow for a creative site plan that includes a mix of residential building types, sizes, and densities and a variety of lot sizes and configurations. Setbacks and other development standards are planned to accommodate the proposed development and also to address future property owner requests such as shade structures, pools, and detached accessory buildings.

The General Plan land use designation is Residential Low. The proposed project would be consistent with the density allowed for by the General Plan designation of Residential Low. Densities in the Residential Low category range from 2.1 to 5.8 units per gross acre with an average of 3.5 units per gross acre. The density of the Garden Square subdivision is currently 4.1 units per gross acre and with the proposed project it would be 5.0 units per gross acre (375 existing dwellings + 80 new dwellings = 455 dwellings, divided by 91.1 acres = 5.0 dwelling units per gross acre).

The proposed amendments to the Brookview project would be consistent with the City's Design Goals and Standards and the following General Plan policies:

Community Character Element - CC-6.1 – Policy P4

Blocks within neighborhoods should contain a mix of lot sizes and house sizes.

Community Character Element - CC-6.1 – Policy P1

There shall be a variety of architectural styles in each neighborhood and within each block of a neighborhood.

Community Character Element – CC-6.2 – Policy P5

The exterior of residential buildings shall be varied and articulated to provide visual interest to the streetscape.

The proposed project is located within the Jefferson Elementary School District for grades K – 8 and the Tracy Unified School District for grades 9 – 12.

In order to mitigate the proposed project's impacts on school facilities, the Tracy Unified School District has a mitigation agreement in place for the entire Garden Square subdivision, which would apply to the proposed project. The Jefferson Elementary School District has a fee of \$2.94 per square foot of residential development, which would apply to the proposed project, payable at the time of building permit issuance.

Parks are required to be established within residential neighborhoods to serve the residents of the homes that are established in Tracy. In order to meet the need for park land, projects are either required to build parks or pay park in-lieu fees. The City's requirement for park land is three acres of Neighborhood Park and one acre of Community Park, for a total of four acres of park land per 1,000 residents.

In this case, staff has determined that no dedication of park acreage is desired within the proposed project because the Garden Square subdivision is adjacent to an existing park. Garden Square contains a 2-acre park in the vicinity of Regis Drive and Brookview Drive; and an 8-acre park in the vicinity of Dietrick Avenue and Dandelion Loop, which is along the southern boundary of the subdivision. The total existing park acreage is approximately 10 acres.

The population estimate for Garden Square, including the proposed project, is 1,492 residents (375 existing dwelling units + 80 new dwelling units = 455 total dwelling units, multiplied by 3.28 people per unit). The City's requirement of park land for a subdivision consisting of 1,492 residents is approximately 6 acres.

The applicant would be required and has agreed to pay the park in-lieu fees. These fees would provide funds for the creation of parks and recreation facilities consistent with the Parks Master Plan and the City's General Plan.

The applicant conducted a neighborhood meeting on July 27, 2010, to share the proposed amendments to the Brookview project with nearby residents. Five neighbors were present at the meeting. According to the applicant, the primary concern of the neighbors was related to existing high-speed traffic on Brookview Drive.

During the review process for the previously approved Brookview project, many of the neighborhood residents expressed concerns and opposition. The primary concerns of the neighbors were related to traffic, density, building height, and Affordable Housing. Many of these previous concerns have been addressed by the reduction in density, the removal of the zero lot line houses, the removal of the three-story houses, and the elimination of the Affordable Housing component.

A traffic study was conducted as part of the previously approved Brookview project. The traffic study concluded that all eight study intersections currently operate at an acceptable level of service and are expected to continue to operate acceptably with the proposed project. The eight study intersections include South Tracy Boulevard and Whispering Wind Drive, Whispering Wind Drive and Regis Drive, Brookview Drive and Regis Drive, Brookview Drive and Bonsai Avenue, Brookview Drive and Perennial Place, Lasata Drive and Perennial Place, Lasata Drive and Treana Court, and Lasata Drive and Regis Drive. The two future street intersections at Brookview Drive and Perennial Place are also expected to operate acceptably with the proposed project.

The Planning Commission held a public hearing on August 25, 2010, to consider the proposal. There were no comments from the public. Following questions from Planning Commissioners for staff and the applicant, the Planning Commission voted 4-0-0-1 to recommend that City Council approve the project.

This project is consistent with the Mitigated Negative Declaration that was adopted by City Council on June 19, 2007 for the previously approved Brookview project. The proposed amendments to the Brookview project would include a reduction in density from 95 to 80 lots. The street and block layout would be the same as previously approved. No potentially significant impacts would result from this project that weren't previously addressed in the adopted Mitigated Negative Declaration. In accordance with CEQA Guidelines Section 15183, no further environmental assessment is required.

The amended Brookview project would be required to comply with the mitigation measures of the adopted Mitigated Negative Declaration. The mitigation measures include requiring compliance with all applicable rules and regulations of the San Joaquin Valley Air Quality Pollution Control District, compliance with General Plan mitigation measures to reduce the impacts of temporary noise from construction activities, and requirement of the applicant to pay an in-lieu park fee.

There will be no impact to the General Fund as a result of this project.

Staff and the Planning Commission recommended that the Council take the following actions for the 10-acre parcel located at the northwest corner of Brookview Drive and Perennial Place:

1. Introduce an ordinance amending the Concept Development Plan for the Brookview Planned Unit Development from a 95-lot residential subdivision to an 80-lot residential subdivision; and
2. Amend the Brookview Preliminary and Final Development Plan and the Brookview Vesting Tentative Subdivision Map, subject to the conditions and based on the findings contained in the City Council Resolution dated October 5, 2010.

Mayor Ives opened the public hearing.

Jerry Finch, 2406 Merced Street, Managing Property for Brookview Properties, LLC, addressed Council indicating Mr. Claar did a great job outlining the changes in the project. Mr. Finch stated this amendment was in response to the changing market conditions and added that if the market improved, they hoped to begin construction within the next year. Mr. Finch addressed the concerns residents had with the original proposal and how the amendment would lessen those concerns. Mr. Finch referred to a recent neighborhood meeting where residents voiced their appreciation of the changes. Mr. Finch stated that one resident did complain about vehicle racing that occurs in the neighborhood.

Mr. Dan Hale, Hunt Hale Jones Architects, 44 Spear Street, San Francisco, provided a PowerPoint presentation outlining the architectural features of the project.

Council Member Tolbert indicated she was a strong proponent of affordable and workforce housing that was included in the original proposal. Council Member Tolbert applauded Brookview for their ability to re-work the product in order to begin construction as soon as the economy began to recover. Council Member Tolbert asked why no single story homes were offered. Mr. Finch stated that today's economy does not allow single story homes at this site.

Council Member Tolbert asked when they might be able to begin construction. Mr. Finch indicated he was optimistic that they could proceed within the year.

Craig Salwaechter, 4083 Payton Lane, indicated he was the recipient of a home built by Mr. Finch and Mr. Evans. Mr. Salwaechter indicated he and the neighbors were in support of the project.

Larry Gamino, 21 W. First Street, stated the architectural design did not represent the needs of Tracy. Mr. Gamino added this was not the time to build more houses. Mr. Gamino indicated the land needed to be preserved for a future school site. Mr. Gamino urged Council not to approve the amended project since it represented further urban sprawl.

Craig Salwaechter responded that the Jefferson School District had been looking for a site for a potential school that included at least 50 acres. This 10-acre site was not

appropriate for a high school and that is why the Jefferson School District had rejected the site.

Mr. Gamino indicated affordable, according to the document, was between \$250,000 and \$300,000. Mr. Gamino suggested affordable housing was \$76,000.

Vasco Soares, 270 Hunter Trail, addressed Council indicating the site was appropriate for housing and that the project had been down-sized. Mr. Soares stated he was in favor of the project and added it was a good opportunity to build homes for Tracy.

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

Council Member Abercrombie indicated he did not appreciate references to Bay Area people and Tracy people and added Tracy was one community. Council Member Abercrombie stated 10 acres was not an appropriate size for a high school and that the area is surrounded by homes and did not represent urban sprawl.

Council Member Maciel indicated he agreed with Council Member Abercrombie's comments regarding the community, and added the homes would be a welcome addition to the neighborhood. Council Member Maciel indicated he was in support of the project.

Mayor Pro Tem Tucker indicated she too supported the project. Mayor Pro Tem Tucker added the developer has built a quality product in the City, and has addressed the neighbors' concerns.

Mayor Ives indicated he missed dealing with residential building issues. The site has had a history and has been an interesting piece for a number of years.

Mayor Ives asked the Clerk to read the title of Proposed Ordinance 1152.

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 1152. 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 2010-167, amending the Brookview Preliminary and Final Development Plan and the Brookview Vesting Tentative Subdivision Map for the 10-acre parcel located at the northwest corner of Brookview Drive and Perennial Place. Voice vote found all in favor; passed and so ordered.

4. ITEMS FROM THE AUDIENCE – None.
5. COUNCIL ITEMS – Council Member Maciel stated kudos were due to the Fire Department for putting on the OPS event.

Council Member Maciel stated an extensive project was taking place on West Ninth Street, and a lot of goods for the project are being purchased locally. Council Member Maciel commended City staff and economic development for their programs and efforts to retain and support the businesses in Tracy.

Council Member Abercrombie asked anyone to provide recommendations for Make A Difference Day.

Mayor Ives indicated that on October 28, 2010, there would be a ground breaking ceremony for the Tracy Gateway Project.

6. 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: 8:35 p.m.

The above agenda was posted at the Tracy City Hall on September 30, 2010. The above are summary minutes. A recording is available at the office of the City Clerk.

Mayor

ATTEST:

City Clerk

TRACY CITY COUNCIL - SPECIAL MEETING MINUTES

November 16, 2010, 6:00 p.m.

Council Chambers, 333 Civic Center Plaza, Tracy

1. CALL TO ORDER – Mayor Ives called the meeting to order at 6:00 p.m. for the purpose of a closed session to discuss the items outlined below.
2. ROLL CALL – Roll call found Council Members Abercrombie, Maciel, Tolbert, and Mayor Ives present; Mayor Pro Tem Tucker absent. Mayor Pro Tem Tucker arrived at 6:01 p.m.
3. ITEMS FROM THE AUDIENCE - None
4. CLOSED SESSION –

A. Personnel Matter (Gov. Code section 54957)

- Public Employee Appointment, Employment, Evaluation of Performance, Discipline, or Dismissal

Position Title(s): City Attorney

B. Real Property Negotiations (Gov. Code section 54956.8)

Property Location: City-owned Schulte Road Property (Two adjoining parcels located on the south side of West Schulte Road, approximately one mile west of Lammers Road; comprised of: APN#209-230-03; and APN#209-230-29)

Negotiator(s) for the City Leon Churchill, City Manager, and Andrew Malik, Director of Development and Engineering

Negotiating Parties: Representatives of GWF Solar II LLC

Under Negotiation: Price and terms of payment for the sale or lease of the property.

Property Location: City-owned Holly Sugar Property (comprised of: APN#212-130-12; APN#212-130-13; APN#212-160-04; APN#212-160-05; APN#212-160-06; APN#212-160-07; APN#212-150-01; and APN#212-160-09 generally in the area of 19500, 19582 & 19600 South Tracy Boulevard)

Negotiator(s) for the City Leon Churchill, City Manager; Andrew Malik, Director of Development and Engineering Services; Bill Sartor, Assistant City Attorney; and Kevin Tobeck, Director of Public Works

Negotiating Parties: Representatives of San Joaquin County

Under Negotiation: Price and terms of payment for sale or lease of the property.

C. Pending Litigation (Gov. Code section 54956.9(b))

- Claim of Bryan Denman
 - *Christopher Bosch v. City of Tracy, et al.*
(San Joaquin County Superior Court Case No. 39-2010-00252419-CU-OE-STK)
5. MOTION TO RECESS TO CLOSED SESSION – Council Member Abercrombie motioned to recess the meeting to closed session at 6:01 p.m. Council Member Maciel seconded the motion. Voice vote found all in favor; passed and so ordered.
 6. RECONVENE TO OPEN SESSION – Mayor Ives reconvened the meeting into open session at 6:44 p.m.
 7. REPORT OF FINAL ACTION – In the matter of the claim of Bryan Denman, Council Member Abercrombie moved to reject the claim and directed staff to send a notice of rejection to the claimant in accordance with Government Code section 913. Council Member Maciel seconded the motion. Voice vote found all in favor; passed and so ordered.
 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: 6:45 p.m.

The agenda was posted at City Hall on November 10, 2010.

Mayor

ATTEST:

City Clerk

AGENDA ITEM 5

REQUEST

ADOPT RESOLUTION CONFIRMING THE RESCISSION OF RESOLUTION 2009-117 RELATING TO A FEE-FUNDED EMERGENCY MEDICAL SERVICES (EMS) MEMBERSHIP PROGRAM AND USER FEES FOR FIRE DEPARTMENT MEDICAL AND VEHICLE ACCIDENT REPORTS

DISCUSSION

On June 16, 2009, the City Council adopted Resolution 2009-117 (attached) relating to a fee-funded Emergency Medical Services (EMS) Membership Program and user fees for Fire Department medical and vehicle accident reports.

On November 16, 2010, the City Council rescinded Resolution 2009-117.

The attached Resolution memorializes the City Council's action of November 16, 2010.

STRATEGIC PLAN

This agenda item is a routine operational item and does not relate to the Council's seven strategic plans.

RECOMMENDATION

It is recommended that the City Council adopt a Resolution confirming its rescission at its November 16, 2010 meeting, of Resolution 2009-117 relating to a fee-funded Emergency Medical Services (EMS) Membership Program and user fees for Fire Department medical and vehicle accident reports.

Prepared by: Daniel G. Sodergren, City Attorney
Approved by: Daniel G. Sodergren, City Attorney
Leon Churchill, Jr., City Manager

Attachment A - Resolution 2009-117

RESOLUTION 2009-117

ADOPTING A FEE-FUNDED EMERGENCY MEDICAL SERVICES (EMS) MEMBERSHIP PROGRAM AND USER FEES FOR FIRE DEPARTMENT MEDICAL AND VEHICLE ACCIDENT RESPONSES

WHEREAS, The implementation of user fees to recover a portion of the cost of providing EMS services is a practice being adopted by other municipalities in California and across the country, and

WHEREAS, Management Partners, a consultant hired by the City, provided an in-depth analysis to determine best practices for fire user fees and EMS Membership programs, and

WHEREAS, The cost recovery fees as proposed will help offset actual expenses incurred in the delivery of emergency medical services, and

WHEREAS, An EMS Membership Program provides a vehicle for residents and business owners to avoid the full impact of the fees, and

WHEREAS, The combined revenue generated from both the user fee and membership fees will assist in sustaining emergency medical services.

NOW, THEREFORE, BE IT RESOLVED, That the City Council (1) adopts the fee-funded emergency medical services membership program described in the staff report accompanying this item and (2) adopts new user fees for Fire Department medical and vehicle accident responses as set forth in Exhibit "A" to this resolution.

The foregoing Resolution 2009-117 was adopted by the Tracy City Council on the 16th day of June, 2009 by the following vote:

AYES: COUNCIL MEMBERS: MACIEL, TOLBERT, TUCKER, IVES

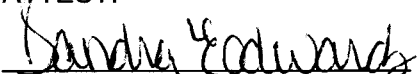
NOES: COUNCIL MEMBERS: ABERCROMBIE

ABSENT: COUNCIL MEMBERS: NONE

ABSTAIN: COUNCIL MEMBERS: NONE



Mayor

ATTEST:


City Clerk

EXHIBIT "A"

Service Description	Fee
EMS First Responder (ALS/BLS)	\$300
Non-resident EMS First Responder	\$400
ALS Support	\$100
Non-resident Motor Vehicle Incident	Actual Costs
Resident Motor Vehicle Incident	Actual Costs
Lockout Response	\$180

These fees are for service rendered for responses that meet the criteria for Advanced Life Support and/or Basic Life Support as defined by Sections 1797.52 and 1797.60 of the California Health and Safety Code.

RESOLUTION _____

CONFIRMING RESCISSION OF RESOLUTION 2009-117 RELATING TO A FEE-FUNDED EMERGENCY MEDICAL SERVICES (EMS) MEMBERSHIP PROGRAM AND USER FEES FOR FIRE DEPARTMENT MEDICAL AND VEHICLE ACCIDENT REPORTS

WHEREAS, On June 16, 2009, the City Council adopted Resolution 2009-117 relating to a fee-funded Emergency Medical Services (EMS) Membership Program and user fees for Fire Department medical and vehicle accident reports; and

WHEREAS, On November 16, 2010, the City Council rescinded Resolution 2009-117 and this resolution is to confirm that action.

NOW THEREFORE, BE IT RESOLVED, that Resolution 2009-117 is rescinded.

The foregoing Resolution _____ was passed and adopted by the Tracy City Council on the 7th day of December, 2010, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

Mayor

ATTEST:

City Clerk

AGENDA ITEM 6

REQUEST

**ADOPT A RESOLUTION DECLARING THE RESULTS OF THE NOVEMBER 2, 2010,
CITY OF TRACY GENERAL MUNICIPAL ELECTION**

EXECUTIVE SUMMARY

A General Municipal Election was held in the City on November 2, 2010. The Registrar of Voters has certified the results of the election which are attached. The results of the election and other matters as provided by law need to be adopted by resolution.

DISCUSSION

A General Municipal Election was held in the City on Tuesday, November 2, 2010. Pursuant to Resolution Nos. 2010-089 and 2010-130 (Exhibit A), adopted by Council on June 15, 2010 and August 3, 2010, respectively, the Registrar of Voters for San Joaquin County has canvassed the returns of the election and has certified the results (Exhibit B) per Elections Code section 10264:

- The names of the persons voted for at the election for Mayor were Linda Fairbairn Gonzalez and Brent H. Ives.
- The names of the persons voted for at the election for Member of the City Council were Robert Rickman, Nancy D. Young, Larry Gamino, Bob Elliott, Vasco Manuel Soares, Jass Sangha, Pete Mitracos, Juana L. Dement and Larry L. Hite.

Two measures were voted upon at the election as follows:

- Measure D – Shall the office of the City Clerk be appointed? – YES/NO
- Measure E – To help prevent additional budget cuts and maintain City services including: police, fire protection, emergency services, and other fire services; park/sports field maintenance; support services; senior, teen, and youth services; art programs; and other general services, shall the City of Tracy enact a ½ cent sales tax, expiring in five years, with resident oversight, annual independent audits, and all funds used for City of Tracy services only? – YES/NO

As indicated in Exhibit B, Brent H. Ives was elected Mayor for the full term of two years, and Robert Rickman and Bob Elliott were elected as Council Members for the full term of four years.

That as a result of the election, the majority of the voters voting on Measure D related to changing the City Clerk's position from an elected to an appointed position did vote in favor, and that the measure was carried, and shall be deemed adopted and ratified.

The majority of the voters voting on Measure E related to enacting a ½ cent sales tax also voted in favor, and that measure was carried, and shall be deemed adopted and ratified.

The number of precincts and the number of votes given in the City to each of the persons named above for the respective offices for which the persons were candidates, and the number of votes given for and against Measures D and E, are shown in Exhibit B.

FISCAL IMPACT

The cost for the election was included in FY 2010/11 budget.

RECOMMENDATION

That the City Council, pursuant to Elections Code section 10262, adopts a resolution reciting the fact of the General Municipal Election held on November 2, 2010, declaring the results and other matters as provided by law.

Prepared by: Carole Fleischmann, Assistant City Clerk

Reviewed by: Maria Hurtado, Assistant City Manager

Approved by: Leon Churchill, Jr., City Manager

Attachments: Exhibit A – Tracy City Council Resolution Nos. 2010-089, 2010-130
Exhibit B – Certificate of Results of the City of Tracy Municipal Election
Resolution

RESOLUTION 2010-089

REQUESTING THE BOARD OF SUPERVISORS OF SAN JOAQUIN COUNTY PROVIDE FOR THE CONSOLIDATION OF THE GENERAL MUNICIPAL ELECTION TO BE HELD WITH THE STATE GENERAL ELECTION TO BE HELD ON NOVEMBER 2, 2010

WHEREAS, The City Council of the City of Tracy called a General Municipal Election to be held on November 2, 2010, for the purpose of the election of a Mayor of said City for the full term of two years, and two members of the City Council for full terms of four years; and

WHEREAS, It is desirable that the General Municipal Election be consolidated with the Statewide General Election to be held on the same date and that within the City the precincts, polling places and election officer of the two elections be the same, and that the County Elections Department of the County of San Joaquin canvass the returns of the General and Special Municipal Election, and that the election be held in all respects as if it were only one election.

NOW, THEREFORE, the City Council of the City of Tracy, California, does resolve, declare, determine, and order as follows:

Section 1: That pursuant to the requirements of Section 10002 of the Elections Code, the Board of Supervisors of the County of San Joaquin is hereby requested to consent and agree to the consolidation of a General Municipal Election with the Statewide General Election on Tuesday November 2, 2010, for the purpose of the election of a Mayor for the full term of two years, and two members of the City Council for full terms of four years.

Section 2: That the County Elections Department is authorized to canvass the returns of the General Municipal Election. The election shall be held in all respects as if there were only one election, and only one form of ballot shall be used.

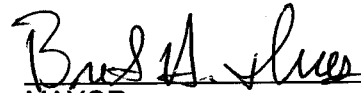
Section 3: That the Board of Supervisors is requested to issue instructions to the County Elections Department to take any and all steps necessary for holding of the consolidated election.

Section 4: That the City of Tracy recognizes that additional costs will be incurred by the County by reason of this consolidation and agrees to reimburse the County for any costs.


Section 5: That the City Clerk is hereby directed to file a certified copy of this resolution with the Board of Supervisors and the County Elections Department of the County of San Joaquin.

The foregoing Resolution 2010-089 was passed and adopted by the Tracy City Council on the 15th day of June 2010, by the following vote:

AYES:	COUNCIL MEMBERS:	ABERCROMBIE, MACIEL, TOLBERT, TUCKER, IVES
NOES:	COUNCIL MEMBERS:	NONE
ABSENT:	COUNCIL MEMBERS:	NONE
ABSTAIN:	COUNCIL MEMBERS:	NONE


MAYOR

ATTEST:


CITY CLERK

RESOLUTION 2010-130

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TRACY CALLING FOR A MUNICIPAL ELECTION TO SUBMIT TO THE VOTERS A LOCAL BALLOT MEASURE ADOPTING A ONE-HALF CENT TRANSACTIONS AND USE (SALES) TAX TO FUND TRACY CITY SERVICES, REQUESTING THE BOARD OF SUPERVISORS OF SAN JOAQUIN COUNTY TO CONSOLIDATE A MUNICIPAL ELECTION ON THE LOCAL MEASURE WITH OTHER ELECTIONS TO BE HELD ON THE NOVEMBER 2, 2010 REGULAR ELECTION DATE; DIRECTING THE CITY ATTORNEY TO PREPARE AN IMPARTIAL ANALYSIS OF THE MEASURE; AND SETTING DATES FOR ARGUMENTS ON THE MEASURE

WHEREAS, Pursuant to Resolution No. 2010-089, the City Council ordered a Municipal Election to be held on Tuesday, November 2, 2010 to fill municipal offices and to consolidate this election with other elections that may be held in whole or in part within the City, and

WHEREAS, The recession and state takeaways have reduced the City's funding and revenue, and

WHEREAS, The City has cut spending by \$5 million, eliminating 16% of the workforce, including police officers, firefighters, parks, recreation, and maintenance staff, and

WHEREAS, Money from this measure is legally required to be spend for Tracy on City of Tracy needs and none of the money can be taken or borrowed by the State, and

WHEREAS, Without additional revenue the City will have to cut another \$4.8 million to close its current budget gap which will significantly affect its ability to continue proving services at the level that residents desire, and

WHEREAS, Police and fire protection comprise over 80% of the City's General Fund tax revenue including Police patrol, 9-1-1, police command, gang/narcotics enforcement, crime investigations, fire protection and emergency services some of these and other general services may need to be cut to balance the budget, and

WHEREAS, Polling results show that a majority of Tracy residents have identified public safety and economic development as top priorities, and

WHEREAS, A five-year, temporary revenue measure would assist the City in maintaining current levels of services, and

WHEREAS, The measure includes the establishment of a Resident Oversight Committee by March 1, 2011, and

WHEREAS, the City Council deems it advisable to submit to the voters a ballot measure to approve a one-half cent transactions and use (sales) tax to fund all Tracy city services, including police; fire and emergency services; parks and sports field maintenance; youth, teen and senior services; support services; art programs and other general services, and

WHEREAS, the City Council is authorized to request an order that the ballot measure election be consolidated with other elections to be held on the same day and in the same territory (California Elections Code 10400 *et seq.*), and

WHEREAS, Section 9282 of the Elections Code of the State of California authorizes the City Council by majority vote to adopt provisions to provide for the filing of arguments for city measures submitted at municipal elections;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TRACY:

1. Call for Election. The City Council hereby calls a municipal election on Tuesday, November 2, 2010 for the purpose of submitting to the voters a ballot measure to approve a one-half cent transactions and use (sales) tax to fund all Tracy city services, including police; fire and emergency services; parks and sports field maintenance; youth, teen and senior services; support services; art programs and other general services. A majority vote is required for the passage of the ballot measure.

2. Form of Measure. The full text of the proposed ordinance / measure to be submitted to the voters is attached as Exhibit "A" to this resolution. The exact form of the ballot label to be voted on is as follows:

To help prevent additional budget cuts and maintain City services, including: police (patrol, 911, command, gang/narcotics enforcement, crime investigations, other police services); fire protection, emergency services, and other fire services; park/sports field maintenance; support services; senior, teen, and youth services; art programs; and other general services, shall the City of Tracy enact a ½ cent sales tax, expiring in five years, with resident oversight, annual independent audits, and all funds used for City of Tracy services only?	YES
	NO

The measure shall be designated on the ballot by a letter printed on the left margin of the square containing the description of the measure, as provided in California Election Code section 13116.

3. Transmission to the City Attorney. The City Clerk is directed, pursuant to Elections Code section 9280, to transmit a copy of the measure to the City Attorney for the purpose of preparing an impartial analysis of the measure.

4. Full Text of the Measure. The full text of the "Ordinance of the City of Tracy Imposing a Transactions and Use Tax to be Administered by the State Board of Equalization," which would add Chapter 6.28 to Title 6 of the Tracy Municipal Code enacting a one-half cent Transactions and Use (Sales) Tax for five years to fund Tracy city services is available at no cost from the City Clerk's Office at 333 Civic Center Plaza, Tracy, California or on the City's website: www.ci.tracy.ca.us. A statement about how to obtain the full text of the Ordinance will be included in the Voter Information Pamphlet below the Impartial Analysis.

5. Consolidation of Election. The City Council requests that the Board of Supervisors of the County of San Joaquin, State of California, order the consolidation of the election in the City of Tracy to be held on November 2, 2010, with any other election(s) to be held on the same regular election date, under California Election Code sections 10400 *et seq.*

6. Deadline for Submittal of Arguments. Pursuant to Section 9282 of the Elections Code of the State of California the deadline for submitting arguments not to exceed 300 words for and against the measure to the City Clerk for transmittal to the Registrar of Voters is hereby

set for August 13, 2010 at 5:00 pm. The provisions of this Section shall apply only to the election to be held on November 2, 2010 and shall then be repealed.

7. Conduct of the Election. The consolidated election shall be held and conducted, election officers appointed, voting precincts designated, ballots printed, polls opened and closed, ballots counted and returned, returns canvassed, results declared, certificates of election issued, and all other proceedings incidental to and connected with the election shall be regulated and done by the County Clerk in accordance with the provisions of law regulating a regularly scheduled election. The Board of Supervisors is hereby requested to issue all officers of the County charged with duties pertaining to the November 2010 election instructions to take any and all steps necessary for the holding of such consolidated election. (California Elections Code 10418.)

8. Costs. The City will reimburse the County for the actual cost incurred in conducting the City's municipal election upon receipt of a bill stating the amount due as determined by the Election Official as indicated in Resolution 2010-089.

9. Filing with County. The City Clerk is directed to file with the Board of Supervisors and the County Clerk of San Joaquin County certified copies of this resolution.

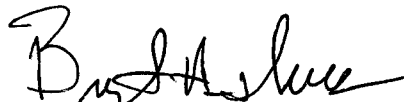
The foregoing Resolution 2010-130 was adopted by the Tracy City Council on the 3rd day of August, 2010, by the following vote:

AYES: COUNCIL MEMBERS: ABERCROMBIE, MACIEL, TOLBERT, IVES

NOES: COUNCIL MEMBERS: TUCKER

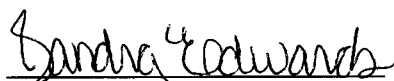
ABSENT: COUNCIL MEMBERS: NONE

ABSTAIN: COUNCIL MEMBERS: NONE



Mayor

ATTEST:



City Clerk

REGISTRAR OF VOTER'S
CERTIFICATE OF RESULTS
OF THE
CITY OF TRACY MUNICIPAL ELECTION
AND
CITY MEASURES D, E

EXHIBIT B

HELD ON TUESDAY, NOVEMBER 2, 2010

I, AUSTIN G. ERDMAN, Registrar of Voters of the County of San Joaquin, State of California, do hereby certify that this office has completed the canvass of the City of Tracy Municipal Election and City Measures D, E held on Tuesday, November 2, 2010, and that the following are the results of said election:

City of Tracy Mayor – (One Elected)

Linda Fairbairn Gonzalez	5,887	33.37%
*Brent H. Ives	11,643	65.99%
Unqualified Write-in Votes	113	0.64%

City of Tracy Council Members – (Two Elected)

*Robert Rickman	7,015	23.47%
Nancy D. Young	3,300	11.04%
Larry Gamino	2,187	7.32%
*Bob Elliott	5,650	18.91%
Vasco Manuel Soares	1,192	3.99%
Jass Sangha	1,152	3.85%
Pete Mitracos	2,590	8.67%
Juana L. Dement	2,242	7.50%
Larry L. Hite	4,486	15.01%
Unqualified Write-in Votes	70	0.23%

MEASURE - D City Clerk's Position – Changing the City Clerk's Position from an elected to an appointed position.

Shall the office of the City Clerk be appointed?

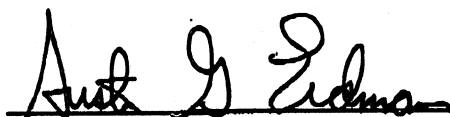
Yes	8,841	52.93%
No	7,861	47.07%

MEASURE - E Half-cent sales tax measure to maintain city services

To help prevent additional budget cuts and maintain City services, including: police (patrol, 911, command, gang/narcotics enforcement, crime investigations, other police services); fire protection, emergency services, and other fire services; park/sports field maintenance; support services; senior, teen, and youth services; art programs; and other general services, shall the City of Tracy enact a ½ cent sales tax, expiring in five years, with resident oversight, annual independent audits, and all funds used for City of Tracy services only?

Yes	10,553	58.31%
No	7,546	41.69%

IN WITNESS WHEREOF, I have hereunto set my hand and official seal this 23rd day of November 2010.


AUSTIN G. ERDMAN
Registrar of Voters

Election Summary Report
General Election
Summary For Jurisdiction Wide, All Counters, All Races
San Joaquin County
November 2, 2010
Official Final Results

Date: 11/23/10
 Time: 13:19:09
 Page: 7 of 10

Registered Voters 269777 - Cards Cast 161514 59.87%

Num. Report Precinct 496 - Num. Reporting 496 100.00%

MANTECA CITY COUNCIL		
	Total	
Number of Precincts	38	
Precincts Reporting	38	100.0 %
Vote For	2	
Total Votes	22751	
RICHARD W BEHLING	5244	23.05%
SAMUEL ANDERSON	4664	20.50%
VINCENT HERNANDEZ	6472	28.45%
JOHN W. HARRIS	6267	27.55%
Write-in Votes	104	0.46%

TRACY CITY COUNCIL		
	Total	
Number of Precincts	41	
Precincts Reporting	41	100.0 %
Vote For	2	
Total Votes	29884	
ROBERT RICKMAN	7015	23.47%
NANCY D. YOUNG	3300	11.04%
LARRY GAMINO	2187	7.32%
BOB ELLIOTT	5650	18.91%
VASCO MANUEL SOARE	1192	3.99%
JASS SANGHA	1152	3.85%
PETE MITRACOS	2590	8.67%
JUANA L. DEMENT	2242	7.50%
LARRY L. HITE	4486	15.01%
Write-in Votes	70	0.23%

LODI CITY COUNCIL		
	Total	
Number of Precincts	36	
Precincts Reporting	36	100.0 %
Vote For	3	
Total Votes	42458	
TIMOTHY "TIM" REED	4312	10.16%
PHIL KATZAKIAN	6621	15.59%
JOHN E. JOHNSON	6009	14.15%
JAY PATEL	4545	10.70%
ALAN NAKANISHI	9730	22.92%
TONY AMADOR	5003	11.78%
LARRY D. HANSEN	6110	14.39%
Write-in Votes	128	0.30%

RIPON CITY COUNCIL		
	Total	
Number of Precincts	9	
Precincts Reporting	9	100.0 %
Vote For	2	
Total Votes	8799	
CHUCK WINN	2601	29.56%
CAROLYN S. JENSEN	2233	25.38%
DAN PRINCE	1625	18.47%
DEAN D. UECKER	2299	26.13%
Write-in Votes	41	0.47%

TRACY MAYOR		
	Total	
Number of Precincts	41	
Precincts Reporting	41	100.0 %
Vote For	1	
Total Votes	17643	
LINDA F GONZALEZ	5887	33.37%
BRENT H. IVES	11643	65.99%
Write-in Votes	113	0.64%

LATHROP MAYOR		
	Total	
Number of Precincts	10	
Precincts Reporting	10	100.0 %
Vote For	1	
Total Votes	3065	
KRISTY SAYLES	979	31.94%
J. "CHAKA" SANTOS	1129	36.84%
STEPHEN A. DRESSER	944	30.80%
Write-in Votes	13	0.42%

Election Summary Report
General Election
Summary For Jurisdiction Wide, All Counters, All Races
San Joaquin County
November 2, 2010
Official Final Results

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Registered Voters 269777 - Cards Cast 161514 59.87% Num. Report Precinct 496 - Num. Reporting 496 100.00%

25 CHGS LEGISLATIVE VOTE RQMT TO PASS BUDGET		
	Total	
Number of Precincts	496	
Precincts Reporting	496	100.0 %
Vote For	1	
Total Votes	152722	
Yes	84908	55.60%
No	67814	44.40%

G MEETING STOCKTON'S HOUSING NEEDS		
	Total	
Number of Precincts	167	
Precincts Reporting	167	100.0 %
Vote For	1	
Total Votes	54187	
Yes	40005	73.83%
No	14182	26.17%

26 REQ ST-LOCAL FEES BE APPVD. BY TWO THIRDS VOTE		
	Total	
Number of Precincts	496	
Precincts Reporting	496	100.0 %
Vote For	1	
Total Votes	149352	
Yes	83780	56.10%
No	65572	43.90%

H STOCKTON FIRE DEPT. AND CHARTER AMDMTS.		
	Total	
Number of Precincts	167	
Precincts Reporting	167	100.0 %
Vote For	1	
Total Votes	55147	
Yes	28841	52.30%
No	26306	47.70%

27 ELIMINATES STATE COMM ON REDISTRICTING		
	Total	
Number of Precincts	496	
Precincts Reporting	496	100.0 %
Vote For	1	
Total Votes	146601	
Yes	66067	45.07%
No	80534	54.93%

I STOCKTON BUSINESS TAX ON PERMTD MARIJUANA SALES		
	Total	
Number of Precincts	167	
Precincts Reporting	167	100.0 %
Vote For	1	
Total Votes	53993	
Yes	35961	66.60%
No	18032	33.40%

D TRACY CHANGING CITY CLERK FROM ELECTED TO		
	Total	
Number of Precincts	41	
Precincts Reporting	41	100.0 %
Vote For	1	
Total Votes	16702	
Yes	8841	52.93%
No	7861	47.07%

J JEFFERSON SCHOOL BOND		
	Total	
Number of Precincts	11	
Precincts Reporting	11	100.0 %
Vote For	1	
Total Votes	3500	
Bonds Yes	2354	67.26%
Bonds No	1146	32.74%

E TRACY HALF-CENT SALES TAX MEASURE		
	Total	
Number of Precincts	41	
Precincts Reporting	41	100.0 %
Vote For	1	
Total Votes	18099	
Yes	10553	58.31%
No	7546	41.69%

RESOLUTION _____

RECITING THE FACT OF THE GENERAL MUNICIPAL ELECTION
HELD ON NOVEMBER 2, 2010, DECLARING THE RESULTS
AND SUCH OTHER MATTERS AS PROVIDED BY LAW

WHEREAS, a General Municipal Election was held and conducted in the City of Tracy, California, on Tuesday, November 2, 2010, as required by law; and

WHEREAS, notice of the election was given in time, form, and manner as provided by law; that voting precincts were properly established; that election officers were appointed and that in all respects the election was held and conducted and the votes were cast, received and canvassed and the returns made and declared in time, form and manner as required by the provisions of the Elections Code of the State of California for the holding of elections in general law cities; and

WHEREAS, pursuant to Tracy City Council Resolution Nos. 2010-089 and 2010-130, adopted June 15, 2010 and August 3, 2010, respectively, the County Elections Department canvassed the returns of the election and has certified the results to this City Council per Elections Code section 10264. The results are attached and made a part hereof as Exhibit B.

NOW THEREFORE, The Tracy City Council does resolve, declare, determine, and order as follows:

Section 1: That the names of the persons voted for at the election were as follows:

- For Mayor: Brent H. Ives, and Linda Fairbairn Gonzalez
- For Member of the City Council: Robert Rickman, Nancy D. Young, Larry Gamino, Bob Elliott, Vasco Manuel Soares, Jass Sangha, Pete Mitracos, Juana L. Dement and Larry L. Hite.

That the measures voted upon at the election were as follows:

- Measure D – Shall the office of the City Clerk be appointed? – YES/NO
- Measure E – To help prevent additional budget cuts and maintain City services including: police, fire protection, emergency services, and other fire services; park/sports field maintenance; support services; senior, teen, and youth services; art programs; and other general services, shall the City of Tracy enact a ½ cent sales tax, expiring in five years, with resident oversight, annual independent audits, and all funds used for City of Tracy services only? – YES/NO

Section 2: That the number of votes given at each precinct and the number of votes given in the City to each of the persons named above for the respective offices for which the persons were candidates and for and against the measures were as listed in Exhibit B.

Section 3: The City Council does declare and determine that: Brent H. Ives was elected as Mayor for the full term of two years; that Robert Rickman and Bob Elliott were elected as Members of the City Council for the full term of four years.

That as a result of the election the majority of voters voting on Measure D related to changing the City Clerk's position from an elected to an appointed position did vote in favor, and that the measure was carried, and shall be deemed adopted and ratified.

That as a result of the election the majority of the voters voting on Measure E related to enacting a 1/2 sales tax also voted in favor, and that the measure was carried, and shall be deemed adopted and ratified.

Section 4: The City Clerk shall enter on the records of the Tracy City Council, a statement of the result of the election showing (1) the whole number of ballots cast in the City; (2) the names of the persons voted for; (3) the measure voted upon; (4) for what office each person was voted for; (5) the number of votes given at each precinct to each person, and for and against each measure; (6) the total number of votes given to each person, and for and against each measure.

Section 5: That the City Clerk shall immediately make and deliver to each of the persons so elected a Certificate of Elections signed by the City Clerk and authenticated; that the City Clerk shall also administer the Oath of Office prescribed in the Constitution of the State of California and shall have them subscribe to it and file it in the office of the City Clerk. Each and all of the persons so elected shall then be inducted into the respective office to which they have been elected.

* * * * *

The foregoing Resolution _____ was passed and adopted by the Tracy City Council on the 7th day of December 2010, by the following vote:

- AYES: COUNCIL MEMBERS:
- NOES: COUNCIL MEMBERS:
- ABSENT: COUNCIL MEMBERS:
- ABSTAIN: COUNCIL MEMBERS:

Mayor

ATTEST:

City Clerk