

January 4, 2011, 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 7:04 p.m. and led the Pledge of Allegiance.

The invocation was given by Pastor Scott McFarland, Journey Christian Church.

Roll call found Council Member Abercrombie, Elliott, Rickman, Mayor Pro Tem Maciel and Mayor Ives present.

Leon Churchill, Jr., City Manager, presented the Employee of the Month award for January 2011, to Gilbert Banales, Maintenance Work II, Public Works.

Mayor Ives and City Manager, Leon Churchill, Jr., swore in Alford Nero, Fire Chief.

1. CONSENT CALENDAR - Following the removal of items 1-I and 1-J by Kuldeep Sharma, City Engineer, and item 1-L by a member of the audience, it was moved by Council Member Abercrombie and seconded by Mayor Pro Tem Maciel to adopt the Consent Calendar. Roll call vote found all in favor; passed and so ordered.
 - A. Minutes Approval – Regular meeting minutes of November 3, 2010, and November 16, 2010, and closed session minutes of December 21, 2010, were approved.
 - B. Award a Construction Contract to Goodland Landscape Construction of Tracy, California, for the Lincoln Park and Gazebo Renovation Project - CIP 78123 & 78126, and Authorize the Mayor to Execute the Contract – Resolution 2011-001 awarded a construction contract in the amount of \$1,014,758.49 to Goodland Landscape.
 - C. Award a Construction Contract to Martin General Engineering of Rancho Cordova, California, for the Parks Hard Courts Resurfacing Project - CIP 78111 & 78121, and Authorize the Mayor to Execute the Contract – Resolution 2011-002 awarded a construction contract in the amount of \$175,475 to Martin General Engineering.
 - D. Authorization of Cell Phone Allowances and Temporary Use of City Cell Phone Instruments by Employees – Resolution 2011-003 authorized a cell phone allowance and temporary use of City supplied cell phones.
 - E. Authorization of Amendment No. 1 to Professional Services Agreement with West Yost Associates for Aquifer Storage and Recovery Demonstration Project – Phase 1, Approval of a Negative Declaration and Authorization for the Mayor to Execute the Amendment – Resolution 2011-004 approved the amendment and the Negative Declaration and directed staff to file a Notice of Determination with San Joaquin County.

- F. Authorize the Appointment of Five Youth Commissioners to the Youth Advisory Commission – Resolution 2011-005 authorized the appointments.
- G. Authorization to Enter into Cost-Sharing Agreement Between the City of Tracy and the California Department of Transportation for the Maintenance of California State Highway Electrical Facilities; and Authorization for the Mayor to Sign the Agreement – Resolution 2011-006 authorized entering the agreement.
- H. Authorization of a Supplemental Appropriation in the Amount of \$28,382 from the Sewer Fund for the City's Share of Costs for Preparation of a Basin Plan Variance for Salinity – Resolution 2011-007 authorized the appropriation.
- K. Adoption of a Resolution Authorizing the Execution of Two Agreements with the State Board of Equalization for the Administration of the City's Special Half Cent Sales Tax and Approval of a Supplemental Appropriation of \$40,000 from the General Fund to Cover the Board's Expense in this Regard – Resolution 2011-008 authorized execution of the agreements.
- L. Adoption of a Resolution Approving First Amendment to Retail Incentive Program Agreement with General Growth Properties – Robert Tanner, 1371 Rusher Street, asked why the credit was only \$5,000 if GGP could not satisfy the November 14th conditions. Leon Churchill, Jr., City Manager, indicated that although the deadline was missed, General Growth was ready in November, so the delay was relatively small and that was taken into consideration. Mr. Churchill added it is the City's desire to pursue economic development and this transaction achieves such.

It was moved by Council Member Abercrombie and seconded by Mayor Pro Tem Maciel to adopt Resolution 2011-009 approving the first amendment to the retail incentive program agreement with General Growth Properties. Voice vote found all in favor; passed, and so ordered.

Dan Sodergren, City Attorney, indicated for the record, that Council Member Rickman did not have a conflict with item 1-G of the consent calendar.

- 2. ITEMS FROM THE AUDIENCE - Tim Case, 10906 W. Larch Road, addressed Council regarding formation of the Measure E Residents' Oversight Committee. Mr. Case indicated he was opposed to the requirement that a committee member must live within the Tracy City limits. Mr. Case stated those living in the Sphere of Influence will be purchasing within the City limits, but will be excluded from serving on this committee.
- 3. CITY COUNCIL'S INPUT AND APPROVAL OF THE FINAL DESIGN DEVELOPMENT PACKAGE FOR THE AQUATIC CENTER - CIP 78054, APPROVAL OF AMENDMENT 1 TO THE PROFESSIONAL SERVICES AGREEMENT WITH RJM DESIGN GROUP, INC. FOR ADDITIONAL DESIGN AND CONSTRUCTION RELATED SERVICES FOR THE AQUATIC CENTER, AND AUTHORIZATION FOR THE MAYOR TO EXECUTE THE AMENDMENT - Rod Buchanan, Parks and Community Services Director, presented the staff report. Mr. Buchanan stated that on March 2, 2010, the Council approved a conceptual design for the Aquatic Center and directed staff to design the Center in its entirety. The Council also directed staff to include five amenities in the base bid and provide additive bid items for three extra amenities.

- Base Bid: Lazy River, Waterslides, Activity Pool, Wet Play Structure, and Sprayground.
- Bid Additives: Flow Rider, 52-Meter Competitive Pool, and Recreation/Swim Lesson Pool.

On July 6, 2010, the Council approved a Professional Services Agreement with RJM to complete the design and construction documents for the Aquatic Center for a not to exceed amount of \$1,197,550. Since then RJM has conducted meetings with staff, the Parks and Community Services Commission and representatives of the Ellis development to receive input on the Design Development Package. The design was presented to the Parks and Community Services Commission at its October 7, 2010 meeting. Based on input from the stakeholders, RJM has completed the proposed Center Design Development Package.

The following Center enhancements and adjustments have been proposed by the consensus input of stakeholders primarily for the purposes of revenue generation, functionality, convenience, and physical constraints of the utility infrastructure:

Base Bid

1. Add retail building for a limited line of accessories;
2. Add high-velocity waterslide to appeal to teenagers;
3. Reduce the footprint of the main pump room and restrooms by adding to the recreation pool bid additive;

Bid Additives

1. Add multi-purpose/party rental room for programming, activities and private functions;
2. Add restroom building to the south end of the project for convenience water infrastructure

Additionally, the water connection to the Center and the adjacent Ellis Development are proposed from the existing Corral Hollow water line installed in 1992 to serve the Patterson Pass Industrial area. Additional on-site water infrastructure improvements are necessary to serve these two concurrent projects. RJM's original scope of work was to identify fair share costs of such improvements required for development of the Center. The water analysis has been completed for different scenarios of development of these two concurrent projects. The Center is responsible for its fair share cost of \$1.59 million toward these improvements. The breakdown of costs for designing the additional buildings and water supply is as follows:

Base Bid

1. Retail Building: \$ 15,283
2. High-velocity Waterslide: \$ 5,000
3. Recreation Pool Pump Room and Restrooms: \$ 26,823
4. Water Supply Infrastructure: \$ 42,787

Bid Additives

1. Multi-purpose/rental room: \$ 47,540
2. Volleyball Restrooms: \$ 18,129

Total Additional Design Services: \$155,562

The updated design and construction cost estimates including the Aquatic Center's fair share cost of water infrastructure improvements are as follows:

- Planning and design including Amendment 1 to the PSA \$1,353,112
- Base Bid (Phase 1) construction costs \$12,793,333
- Fair Share cost of water infrastructure improvements \$1,590,000
- Total Base Bid (Phase 1) Project Cost \$15,736,445
- Total Project Budget \$13,241,000

Due to the favorable construction bidding environment, the City may realize savings in construction costs and the final project costs may be within the budgeted amount. However, additional funding would be required to award the construction contract if the bids received reflect the estimated construction costs. Furthermore, if the Council awards any or all additive bid items listed below with the base bid, more funding will be needed. Since the extent of additional funding and the Council's decision of award of additive bid items will not be known until the opening of the construction bids, staff recommends deferral of a decision on the funding options until that time. The Design Development Package estimated construction cost for additive bid items is as follows:

Original Bid Additives

1. Flow Rider \$1,770,515
2. Recreation Pool \$3,005,375
3. Competition Pool Area \$7,448,730

Recommended Bid Additives

As a result of input received during the Design Development Package process, the following two new bid additives are also recommended:

1. Beach Volleyball/Soccer inc. Restrooms \$1,929,924
2. Multi-purpose Building \$1,018,781

Currently, the overall project is on schedule. The design completion milestone has been delayed by a month; however, the duration of the bidding period and construction can be shortened by the same amount of time to avoid an impact on the overall schedule for completion.

There is no impact to the General Fund. The cost of Amendment 1 to the agreement with RJM will be paid from the project budget. The current available funding for this project is \$13,241,000. This includes the future receipt of \$10 million from the developer per the Ellis Development Agreement. At present the construction estimate for the base bid amenities, water supply, design costs (but not construction) of the three original bid additives (Flow rider, recreation pool and 53 meter competition pool), and this proposed PSA for necessary changes and the addition of two bid additives (multi-purpose building and sand volleyball/restroom area) is expected to cost \$15,736,445. There is no current identified funding for this projected project budget shortfall of \$2,495,445. Due to the favorable construction bidding environment the final project costs may be within the budgeted amount. The original three bid additives if constructed are expected to add \$12,224,620 to the cost of this project (\$1,770,515 Flow Rider, \$3,005,375 Recreation Pool, \$7,448,730 Competition Pool). The bid additives proposed to be designed by this request would add another \$2,948,705 to the construction cost (\$1,929,924 Beach Volleyball, \$1,018,781 Multipurpose Room). The total construction project estimate to

construct all base bid items, original bid additives and these proposed additional bid additives totals \$30,909,770, at full build out.

The estimated operating expenses required by the various amenities in the base budget are expected to be within the projected revenue from admission and rental fees. The additional base bid design elements included in this proposed Amendment are anticipated to increase revenue generating potential for the long term operation of the Center.

Staff recommended that the Council approve the revised final design development package for the Aquatic Center, approve Amendment 1 to the Professional Services Agreement with RJM for additional design and construction related services in the amount of \$155,562, and authorize the Mayor to execute the Amendment.

Mr. Buchanan introduced the consultant who provided a visual presentation of the proposed swim center.

Council Member Abercrombie asked what was plan B if competitive construction bid prices were not received.

Zane Johnston, Finance Director, stated there was the possibility of constructing the project with the base budget. The plan was to go forward with the base bids and address any budget shortfall at that time. Mr. Johnston added it would also depend on Council's priorities.

Mayor Pro Tem Maciel asked about the school district construction and if staff was aware of how the district fared. Kul Sharma, City Engineer, stated it was safe to expect between 15% and 20%, along with the contingency.

Council Member Elliott asked if additional funds would come out of development funds and not from the general fund. Mr. Johnston stated approximately \$3 million was available from Plan C capital development fees, and a \$10 million contribution from developer fees. Beyond that there are capital dollars that do not have a current source. Mr. Johnston added that Fund 301, a capital project fund, is currently allocated to other projects. However, as those projects go forward some funds may remain. Mr. Johnston indicated he anticipated approximately \$1 million to \$1.5 million may be available for other projects including this one.

Mayor Ives asked if the costs associated with the design, landscaping, and supporting elements of the park were all inclusive. Mr. Buchanan stated yes, for the base bid and additives. Mayor Ives asked if the restrooms were included in the base bid. Mr. Buchanan stated yes, at the entry.

Mayor Ives asked staff to discuss the water infrastructure and fair share costs. Mr. Sharma indicated the water infrastructure for the Aquatic Center and the Ellis project are both in zone 2 and are being served from the 24 inch line on Corral Hollow Road which goes to the Patterson Pass Booster Pump Station. Mr. Sharma added in order to serve both projects a storage reservoir and booster pump station is needed. One of the tasks for the consultant was to identify the fair share costs of the Aquatic Center and for the development.

Mayor Ives asked if the pump station and reservoir were to be housed on this site. Mr. Sharma stated no.

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

Molly Lowe, 2690 Atherton Court, on behalf of the local swim teams, addressed Council regarding current swim needs. Ms. Lowe thanked Council for moving forward to design a project that meets the needs for everyone.

Michele Bazinet, 1005 Mabel Josephine, thanked staff for the design and meeting timelines. Mr. Bazinet indicated the aquatic center would put Tracy on the map and was an important milestone for the City.

Sandy Taylor, 8721 Julie Lind Circle, provided a brief history of the project for the new Council members.

Marsha McCracy 560 W. Schulte, provided a brief background on the problems encountered by residents when they rely on pools owned by the school district. Ms. McCracy asked for Council's support in bringing the Aquatic Center to fruition.

Austin Lowe addressed Council in support of the Aquatic Center.

Robert Tanner, 1371 Rusher Street, addressed Council and asked if the possibility of litigation had been eliminated. Mr. Sodergren responded the judge has taken the case under consideration and that the City expects a decision by mid February.

Mayor Pro Tem Maciel thanked those who continue to work with the City in a spirit of cooperation to bring an Aquatic Center to Tracy. The Council will be committed as it moves forward to find the funds to build the project.

Mayor Ives also thanked the group who had worked consistently on the project and added phasing has always been part of the project. Mayor Ives stated it was a great project for the City.

It was moved by Council Member Abercrombie and seconded by Council Member Elliott to adopt Resolution 2011-010 approving the design development package for the Aquatic Center, CIP 78054, and Amendment No. 1 to the Professional Services Agreement with RJM Design Group, Inc., for additional design and construction related services for the Aquatic Center in the amount of \$155,562, and authorizing the Mayor to execute Amendment No. 1. Voice vote found all in favor; passed and so ordered.

4. AUTHORIZATION TO WAIVE THE REQUEST FOR PROPOSAL PROCESS AND ENTER INTO NEGOTIATIONS WITH COMBINED SOLAR TECHNOLOGIES, INC. A FOR GREEN ENERGY AND THERMAL DESALINATION PROJECT FEASIBILITY AGREEMENT - Vanessa Carrera, Management Analyst, Public Works, presented the staff report. Staff has received many proposals related to renewable energy. The proposal from CST is different as it provides a public benefit to the ongoing challenge of reducing the salinity of Tracy's wastewater. CST operates in Tracy and specializes in creating renewable systems that support the production of clean water and green energy. The company prides itself in developing American-made systems and hiring staff locally.

CST has constructed a 100,000 gallon per day full-scale project for the Musco Family Olive facility. The Musco Olive project uses olive pits to fuel boilers that produce steam which is used to generate electricity for the olive plant, and uses the heat energy to thermal desalinate the boiler brine. The steam condensate is essentially distilled water

which is blended back into the effluent. Musco Olive received a permit from the Air Board to operate this facility.

The proposed project for the Wastewater Treatment Plant (WWTP) would utilize the same technology and would use a renewable fuel source such as the City's wastewater sludge or readily available walnut shells. The electricity generated would be used at the WWTP, the salts contained in the boiler would be evaporated into solid waste for disposal, and the condensed steam would be blended with the effluent. The Green Energy project is at the beginning stages and there is a significant amount of information needed to formulate an optimally sized project. Initial thoughts are that a 600,000 gallon per day project would provide a significant reduction of salts. A project of this size is estimated to cost \$20 million and have a seven year payback period resulting in positive cash flow in future years.

Environmentally, the project furnishes many benefits. The electricity would be generated from renewable energy sources and would reduce reliance on fossil fuels. The reactors have near zero air emissions. The thermal desalination process reduces the amount of salinity in the wastewater effluent.

Staff believes there is the potential for grant funding for this type of renewable energy project. Project financing will take research and evaluation to determine the optimal method. Project options include the project being entirely privately owned and the City contracting to purchase the electrical power and operation of the thermal desalination, or the project could be a public/private venture.

Staff recommended that the Council waive the Request for Proposal process and authorize staff to enter into negotiations with CST for a Green Energy and Thermal Desalination Project Feasibility Agreement.

In response to a question from Council Member Abercrombie as to where the solid waste would be disposed of, Ms. Carrera responded it would be disposed of in a landfill.

Mayor Ives asked if the generation of power would be used at the plant. Ms. Carrera stated yes. Mayor Ives asked if the City had a contract with walnut farmers. Ms. Carrera stated not at this time. Kevin Tobeck, Public Works Director, stated burning would be permitted by the San Joaquin Air Pollution Control District.

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

Mayor Ives asked if the costs would be borne by the Enterprise Fund. Mr. Bayley stated staff was not sure, and that is why staff is asking Council for permission to negotiate. Mr. Bayley also stated the City was looking for grants for this type of project and that additional research needs to be done.

Mayor Pro Tem Maciel asked if the City had a small scale operation now. Mr. Bayley stated yes. Mr. Bayley stated the City would need 700,000 gallons per day, or seven times larger than the one currently used by Musco Olive.

Council Member Rickman asked of the 700,000 gallons, how much salt waste was produced and if there was a market for it. Mr. Bayley indicated it may be marketable but staff was not optimistic. Mr. Bayley further indicated at the current nine million gallons per day, the City generates approximately 10 tons of salt per day.

Council Member Rickman asked if the City could use Tracy landfill for the salt. Mr. Bayley stated that has not been determined.

Council Member Elliott inquired if staff had any ideas of what kind of grants or assistance the City could receive. Mr. Bayley stated it was hoped that information would be ascertained at an upcoming meeting.

It was moved by Council Member Abercrombie and seconded by Council Member Elliott to adopt Resolution 2011-011 waiving the request for proposal process and entering into negotiations with Combined Solar Technologies, Inc. for a Green Energy and Thermal Desalination Project Feasibility agreement. Voice vote found all in favor; passed and so ordered.

5. ITEMS FROM THE AUDIENCE – None.

6. COUNCIL ITEMS

A. Review Appointments to Council Subcommittees - Carole Fleischmann, Assistant City Clerk, presented the staff report. Ms. Fleischmann stated that appointments to Council subcommittees are reviewed on an annual basis. The appointments were last reviewed on February 16, 2010.

Council members may be reappointed to the same committees on which they are currently serving, or new assignments can be made upon request. A number of new assignments will need to be made due to the retirement of two Council Members in December 2010.

Staff and Council reviewed the current sub-committee list and made various changes.

Council Member Rickman asked that Council be provided with a gang status report. Mayor Ives mentioned that in the past Council was provided with a January public safety update. Mr. Churchill reminded Council that a retreat was scheduled for next Monday and that topic would be a part of the retreat.

7. ADJOURNMENT - It was moved by Council Member Abercrombie and seconded by Council Member Elliott to adjourn. Voice vote found all in favor; passed and so ordered. Time: 8:56 p.m.

The above agenda was posted at the Tracy City Hall on December 23, 2010. The above are summary minutes. A recording is available at the office of the City Clerk.

Mayor

ATTEST:

City Clerk