

April 19, 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 7:01 p.m., and led the Pledge of Allegiance.

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

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

Mayor Ives presented Certificates of Recognition to outgoing Transportation Advisory Commissioners Trina Anderson, and Larry Hite, Certificates of Appointment to Commissioners John Favors, Mark Gainor, Adam Duran, Shane O'Neill and Daniel Ramey, and a Certificate of Reappointment to Commissioner Joseph Orcutt.

Mayor Ives recognized D.A.R.E. graduates from Traina Elementary School and invited students and their teachers to the podium.

1. CONSENT CALENDAR - It was moved by Council Member Abercrombie and seconded by Council Member Rickman to approve the Consent Calendar. Voice vote found Council Members Abercrombie, Rickman, Mayor Pro Tem Maciel and Mayor Ives in favor; Council Member Elliott absent. Motion carried 4.0.1.
 - A. Minutes Approval – Special meeting minutes of March 15, 2011, and closed session minutes of April 5, 2011, were approved
 - B. Acceptance of the Holly Drive North of Grant Line Road Sidewalk Improvement Project - CIP 73119, Completed by Granite Construction of Watsonville, California, and Authorization for the City Clerk to File the Notice of Completion – Resolution 2011-073 accepted the project.
 - C. Acceptance of the Median Improvements at Various Arterial Streets - CIP 73113, Completed by Green Valley Group dba Green Valley Landscape of Livermore, California, and Authorization for the City Clerk to File the Notice of Completion – Resolution 2011-074 accepted the project.
 - D. Acceptance of the Sidewalk, Curb & Gutter Repairs (ADA Improvements, FY 10-11), - CIP 73122, Completed by Nor-Cal Concrete of Suisun, California, and Authorization for the City Clerk to File the Notice of Completion – Resolution 2011-075 accepted the project.
 - E. Authorize an Offsite Improvement Agreement with the Tracy Joint Unified School District and Robbelen Construction Company, Inc., for the Construction of Streets and Utilities Improvements along the Frontage of the Monte Vista Middle School on Tracy Boulevard and Lowell Avenue and Authorization for the Mayor to Execute the Agreement – Resolution 2011-076 authorized the agreement.

- F. Authorization to Enter into a Cooperative Agreement between the City of Tracy, Contra Costa County, San Joaquin County, the City of Brentwood, and the Mountain House Community Services District for the Partial Reimbursement of City of Tracy Staff Expenses Related to Development of Technical Studies and Reports Regarding the Phase I Planning Analysis of Future State Route 239 and Authorization for the City Manager to Execute the Agreement – Resolution 2011-077 authorized entering into the Cooperative Agreement.
- G. Authorization of a Professional Services Agreement with Telstar Instruments, Inc. for Preventative Maintenance and Repairs of Chemical Systems at the Wastewater Treatment Plant, and Authorization for the Mayor to Execute the Agreement and Designation of Specialized Maintenance Activities at Water and Wastewater Facilities as Professional Services – Resolution 2011-078 authorized the PSA with Telstar Instruments. Resolution 2011-079 designated specialized maintenance activities at water and wastewater facilities as professional services.
- H. Authorizing an Amendment to the Professional Services Agreement with the Boys and Girls Club of Tracy, Sutter Central Valley Hospitals doing business as Sutter Tracy Community Hospital, and Vinewood Center for Children and Families for Additional Services Associated with Proposition 63 Funding and to the City's Finance Department, appropriating \$250,000 from the San Joaquin County Behavioral Health Services Community Service Agreement and Authorizing the Mayor to Execute the Amendments – Resolution 2011-080 authorized the amendment to the Professional Services Agreement.
- I. Approve a Professional Services Agreement with RBF Consulting for the Preparation of an Environmental Impact Report for the Tracy Hills Specific Plan Amendment Project – Resolution 2011-081 approved the Professional Services Agreement.
2. ITEMS FROM THE AUDIENCE - Dave Helm, 1000 N. Central, addressed Council regarding a letter in the Tracy Press from Council Member Maciel. Mr. Helm referred to a number of newspaper articles related to activities in the downtown area, an interview with Sergeant Sheneman, and various comments from City staff and Council Members. Mr. Helm requested a future agenda item to address Police staffing, crime reporting procedures, how crime is reported, any discrepancies; standards for taking the report, status of the crime suppression unit, and accountability and professional standards.
8. Tom Benigno, 2473 Angora Court, addressed Council regarding agenda item #9 "Consider the Adoption of a Resolution Recommending the California Citizens Redistricting Commission Place San Joaquin County in One Congressional, Assembly, and State Senate District," and asked that it be moved to a future Council meeting when Council Member Elliott would be present.

Veronica Vargas, 1135 Dahlia Court, addressed Council regarding construction of sidewalks on Valpico Rd, between MacArthur and Tracy Boulevard, to connect neighborhoods in the area to the new Raley's Shopping Center. Ms. Vargas indicated she had spoken with Kul Sharma, City Engineer, prior to the meeting and had discussed a future agenda item on this subject.

3. PUBLIC HEARING TO APPROVE A RESOLUTION OF THE CITY OF TRACY APPROVING A SETTLEMENT AGREEMENT WITH ARMADILLO REALTY, LLC REGARDING DEVELOPMENT IMPACT FEES, A MUTUAL EASEMENT AND MAINTENANCE AGREEMENT WITH ARMADILLO, LLC, AND A DECLARATION OF RESTRICTIONS - Andrew Malik, Development and Engineering Services Director, presented the staff report. Mr. Malik stated that the Community Development Agency and Armadillo Realty, LLC, entered into a Disposition and Development Agreement on April 19, 2005 (the DDA). Armadillo Realty, LLC, (Armadillo) is the owner and operator of the Texas Roadhouse restaurant, located at the corner of Naglee Road and Grant Line Road. The Armadillo Property is approximately 1.23 acres, also referred to as Parcel A.

The City owns a parcel adjacent to and north of the Armadillo Property, formerly owned by the Agency, but transferred to the City on March 8, 2011. This City Property is approximately 1.01 acres, and is referred to as Parcel B.

The City and the Agency are involved in a dispute with Armadillo regarding the payment of certain development impact fees, which the City and Agency believe are due under the Disposition and Development Agreement dated April 19, 2005. The disputed amount is \$211,386.

Armadillo constructed certain improvements on Parcel B (excavation, utilities, parking and building pad) with the understanding that City or Agency would reimburse Armadillo for these improvements upon the sale or lease of Parcel B. The cost of reimbursable improvements to Parcel B is \$416,942. Parcel B is currently for sale.

City and Agency have considered filing a lawsuit to recover the unpaid Impact Fees. The Parties have attempted to resolve this dispute and have entered into extended tolling agreements in December 2009, March 2010, July 2010, October 2010, and March 2011, to toll the statute of limitations with respect to legal claims the City or Agency may have.

Other, more minor issues have been addressed in the negotiations between the Parties:

- (a) Armadillo constructed certain improvements just over the property line between Parcels A and B (trash enclosure and walkway) and, as part of this settlement, City will agree to do a lot line adjustment and convey a small portion of Parcel B property (.072 acres) to Armadillo; and
- (b) City has agreed to record a Declaration restricting the use of Parcel B to uses which are not steakhouses; and
- (c) The Parties wish to have a reciprocal easement and maintenance agreement for the operation and maintenance of the parking lots on both parcels.

The Parties have reached a settlement and wish to enter into a Settlement Agreement and Mutual Release, and other related documents, to reflect that settlement. The Parties wish to: (1) compromise and settle the dispute between them in order to avoid the cost and uncertainties of litigation; (2) memorialize the agreement of the Parties regarding recordation of a Grant Deed and Reciprocal Easements for the mutual benefit of Parcel A and Parcel B; (3) agree to a limitation on the steakhouse use of Parcel B; and (4) address such other outstanding matters between the Parties as are set forth in the agreement. In addition, the Parties wish to amend the DDA to reflect the terms of

the settlement. Under the terms of the settlement, City will receive a portion of the disputed development impact fees.

Staff recommended that the Council approves the Settlement Agreement and Mutual Release between the Community Development Agency of the City of Tracy, City of Tracy and Armadillo Realty, LLC in substantially the form attached as Exhibit A to the resolution.

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

It was moved by Council Member Abercrombie and seconded by Council Member Rickman to adopt Resolution 2011-082 approving the Settlement Agreement and Mutual Release between the Community Development Agency of the City of Tracy, City of Tracy and Armadillo Realty, LLC. Voice vote found Council Member Abercrombie, Rickman, Mayor Pro Tem Maciel and Mayor Ives in favor; Council Member Elliott absent. Motion carried 4.0.1.

4. THAT COUNCIL DISCUSS AND ACCEPT THIS UPDATE REPORT ASSESSING CRIMINAL CONDUCT AND QUALITY OF LIFE ISSUES IN THE CENTRAL DOWNTOWN BUSINESS DISTRICT - Lieutenant Sant presented the staff report. The community has raised concerns about criminal conduct and quality of life issues in the Central Downtown District. The Police Department has been working with the community to assess the scope of the concerns and whether perception might be exceeding the reality of the true issues. In previous meetings, the Police Department had discussed community concerns in detail and offered response strategies it would implement as part of its assessment and implementation program. Following is an update on the results of the community survey and the results of the implementation plan to date:

Since November of 2010, the Police Department has:

- Deployed two Neighborhood Resource Officers for a minimum of 12 hours each; total 24 hours per week.
- Deployed Volunteers in Police Services (VIPS) for a minimum of 10 hours of "Eyes and Ears" patrol per week.
- Directed uniformed Patrol Officers to spend a minimum of 21 hours of patrol time per week.
- Used Officers, Community Services Officers, and VIPS to make weekly, personal contacts with merchants, community members and business owners.
- Identified and diverted resources to specific crime / quality of life issues.
- Conducted two Safety Surveys of business owners to gauge their perception of safety within the downtown business district.
- Conducted a Business Watch survey to determine which educational programs interest the merchants.

Through this initiative, the Tracy Police Department has dramatically increased its overall efforts to dissuade criminal activity and discourage unlawful conduct that interferes with the quality of life in the area.

In comparing activity levels between the first four months after the full time Downtown officer was reassigned (July through October 2010) and comparing it to the four months after the Downtown Security Initiative operational period began (November 2010 through February 2011), several significant trends have emerged.

The number of total calls for service increased significantly by 53% as did the number of activities initiated by police officer observations by 202%. The number of reports increased between the two periods by 27%. Evaluating arrest data, shows the number of arrests because of citizen initiated calls as the Department's "eyes and ears" dropped by 50%. However, the number of officer initiated arrests in the downtown area increased noticeably by 188%.

Two safety surveys were conducted in an attempt to gauge the public's perception of safety as a baseline assessment and then later to evaluate any changes after full response strategy implementation. The first downtown safety survey was conducted from November 29 through December 3, 2010, and netted 89 businesses responding. The same questionnaire was given in the second survey and only 52 businesses elected to participate.

Regarding the perception of safety since the merchants opened their businesses, the November survey listed 56% as feeling safety had improved while 19% perceived no improvement. The March survey revealed 62% of responding merchants said that improvement was noted while 19% felt there was none. Between surveys the Police Department was able to positively improve the business community's perception of safety by 6%.

Regarding the question on whether respondents felt that the Downtown was a safe place to shop and walk around, the November and March surveys respectively reiterated that the overwhelming majority (64% and 62%, respectively) believed it was safe.

The surveys continue to show a strong level of confidence in the safety of the Downtown area. Both surveys indicate a significant percentage of satisfaction with Downtown safety, 72% and 71%, respectively. Those dissatisfied fell from 7% to 4%.

The Crime Prevention Specialists conducted a Business Watch interest survey with the merchants. Of the 71 responsive merchants, several requested training on the topics of Personal Safety, Robbery Prevention and Identity Theft. Merchants preferred the training be held in or close to Downtown because of their businesses and that the classes be conducted before or after business hours or on a regular basis.

Tracy Police Department staff will continue building and maintaining relationships with the residents and business people in and near the Downtown area. The Police Department will continue partnering with other City departments, such as code enforcement, public works, and fire when issues emerge that can best be handled by their expertise and unique resources. Over the course of the next six months the Downtown area can expect the Police Department at least to maintain and, hopefully to improve the perception of public safety in the Downtown by:

- Enforcing violations of law (crimes) and abating nuisance activity.
- Providing preventative patrols using Neighborhood Resource officers, patrol officers and volunteers.

- Using crime analysis to collect, analyze and interpret data from calls for service and crime statistics to better direct resources as needed.
- Adjusting strategies and tactics based upon crime analysis.
- Providing crime prevention information specific to businesses through educational venues such as Business Watch, Chamber of Commerce meetings, Tracy Civic Center Association and other interested community groups.
- Maintaining regular contacts with individual business representatives and through associations serving merchants and property owners in Downtown Tracy.
- Continuing “Eyes and Ears” patrol by the Tracy Police Department’s Volunteers in Police Service (VIPS) through December 31, 2011.
- Monitoring areas bordering the downtown area and promptly addressing any “spillover” problems that emerge as a result of increased presence and enforcement in Downtown.

While pursuing this Downtown Security Initiative has not cost the City any additional funding beyond the allocated operating budget, the Police Department has diverted a significant amount of staff resources to this initiative. The minimum cost calculation for officers during this five month period has been \$54,513, and amortized on a yearly basis, the cost would be \$130,831. While it may appear that the cost would be the same as reinstating the Downtown Officer position, the Police Department’s current initiative provides greater value and hours of coverage than any solo officer assignment could.

Staff recommended that the Council discuss and accept this updated report related to activities in the Central Downtown Business District and discuss whether it wants any further update briefings and at what frequency.

Council Member Maciel thanked Lt. Sant for the report and asked for clarification regarding the category “gang offense.” Lt. Sant stated it included any crime where a gang member or gang affiliate was involved, or contact with a gang member in the Downtown.

Council Member Abercrombie asked if surveys were taken of the Downtown patrons. Lt. Sant stated no.

Council Member Abercrombie stated he had heard that residents do not feel safe Downtown at night, and asked if there were any trends of criminal activity during the day vs. night. Lt. Sant stated vandalism has occurred late in the evening for the most part.

Council Member Abercrombie stated he was concerned with the perception of safety Downtown at night. Chief Thiessen stated that the data could be polled on a 24 hour basis although it was very quiet downtown after 9 p.m., with most activity occurring outside the Great Plate and Helm’s Ale House. Chief Thiessen added another business had opened downtown that will generate additional traffic after 9 p.m.

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

Carolyn Landin, 1596 Gentry Lane, addressed Council indicating there appeared to be a discrepancy between businesses and residents and the efforts to ensure the quality of life downtown. Ms. Landin suggested Downtown residents and businesses should receive equal support.

Mayor Ives asked Lt. Sant to discuss security checks. Lt. Sant indicated the term is used when officers are checking various areas; checking alleys, looking for problematic areas and issues etc., and did not necessarily mean "checking doors." Steven Ho, 1685 Foxwood Drive, addressed Council regarding suppression vs. demotivating individuals from doing crime. Mr. Ho suggested creating job opportunities decreases criminal activity.

Paul Miles, 1397 Mansfield, indicated the definition of Downtown used for the report was primarily businesses. The statistics appeared to show citizen initiated calls were flat, suggesting the statistics were confusing.

Robert Tanner, 1371 Rusher Street, asked what constituted a service call to a report, and stated that it appeared fewer reports resulted in arrests. Lt. Sant indicated he would have to pull individual reports.

Mr. Tanner asked how many of the surveys were handed out vs. mailed out. Lt. Sant stated over 100 surveys were handed out downtown.

Dave Helm, 1000 Central Avenue, stated he appreciated everything the Police Department had done although he was concerned about the boundaries shown for Downtown. Mr. Helm also asked if the security checks were performed by officers. Lt. Sant stated the majority of security checks were performed by uniformed officers.

Ray Morellos, a Downtown business owner, thanked the Police Department for being Downtown, and stated he felt safe Downtown. Mr. Morellos stated he would like to see more businesses involved with the Tracy City Center Association.

Mayor Pro Tem Maciel asked Lt. Sant to respond to the survey numbers. Lt. Sant stated there were a variety of events or concerns available per survey.

Mayor Pro Tem Maciel commended the Police for their responsiveness and encouraged the Police Department to respond to residents' concerns.

Council Member Rickman thanked staff for the detailed report.

Council Member Abercrombie also thanked staff for the report and encouraged them to keep up the good work.

Mayor Ives asked for clarification regarding the map and the Downtown area. Lt. Sant indicated the lines were drawn from where the data was derived.

Mayor Ives referred to the etchings of windows that occurred Downtown and asked if there had been any arrests. Lt. Sant indicated 26 businesses were victimized on March 29. Evidence has been gathered and forwarded to the detectives.

Mayor Ives asked if there was voracity to the decrease in events taking place Downtown and the increase in policing. Lt. Sant stated the increase in the number of reports is related to the increase in police presence in the Downtown. Mayor Ives stated at some point the City would need to begin polling the residents' perception of Downtown.

Council accepted the report.

5. CITY COUNCIL'S APPROVAL OF A PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF TRACY AND YMCA OF SAN JOAQUIN COUNTY FOR PROVIDING AQUATICS PROGRAMMING SERVICES TO THE TRACY COMMUNITY AT THE PINKIE PHILLIPS POOL AT WEST HIGH SCHOOL AND AUTHORIZE THE MAYOR TO EXECUTE THE AGREEMENT ON BEHALF OF THE CITY – Rod Buchanan, Parks and Community Services Director, presented the staff report. Mr. Buchanan stated that in response to the City's ongoing efforts to improve efficiency and reduce allocations of general funds for operations, the Parks and Community Services Department has undertaken a systematic review of all programming areas, evaluated the cost effectiveness of these programs and explored methods to continue to offer popular programs while reducing the financial impact of the programs. During this process, City staff realized that potential for savings exists by contracting out to a qualified entity to conduct the City's aquatics services.

On March 8, 2011, the City issued a Request for Proposals/Qualifications (RFP) to provide aquatic services at the Pinkie Phillips Pool at West High School. The deadline to submit proposals was March 27, 2011. YMCA of San Joaquin County submitted the only proposal. Staff evaluated YMCA's proposal and concluded that YMCA of San Joaquin County was qualified to offer well rounded, quality aquatics programming. The YMCA's proposed programming offers the same level of programmed services the City has offered in the past, and includes new and expanded programming which is anticipated to increase use of the facility. Additionally, the YMCA's suggested fees are similar to those the City has charged for similar programming. As an example, for swim classes and other training programs, the YMCA is planning to charge a fee of \$60 per participant (\$55 with resident discount), while in the 2010 season the City charged a fee of \$55 (\$50 with resident discount). The fees YMCA has suggested for other activities (such as water exercise, recreation swim, etc.) are the same as the City charges. Rental fees will remain the same.

YMCA of San Joaquin County also agreed to provide these services while being paid 94% of all revenues received for the programming for the first \$150,000 collected, and 70% of any revenues collected over \$150,000.

Staff estimated that contracting for the provision of these services will reduce the allocation of general funds to the Parks and Community Services Department annual operating budget by a minimum of \$65,000 while maintaining at least the existing level of services.

Staff recommended that the Council approve a professional services agreement between the City of Tracy and YMCA of San Joaquin County for providing aquatics programming services to the Tracy community at the Pinkie Phillips Pool at West High School and authorize the Mayor to execute the agreement on behalf of the City.

Council Member Rickman asked if the schedule of classes would be somewhat the same. Mr. Buchanan stated yes.

Council Member Rickman asked about access. Mr. Buchanan stated the YMCA was looking at some new activities that have not been offered in the past.

Mayor Pro Tem Maciel asked if any of the revenue goes toward the cost of operating the pool. Mr. Buchanan stated there was a base amount of money needed to keep both pools operating, and that this amount was over and above the amount of maintaining it.

Mayor Pro Tem Maciel asked if programming revenue went towards maintenance and operation. Mr. Buchanan stated it was General Fund and was an annual set fee.

Mayor Pro Tem Maciel stated the contract provided language that the YMCA would be encouraged to hire locally. Mr. Buchanan stated the YMCA would consider local folks to fill those positions.

Council Member Abercrombie asked about lifeguard certifications. Mr. Buchanan stated the City offers a class and so did the YMCA.

Council Member Abercrombie asked how long the City would maintain the Joe Wilson pool while not using it. Mr. Buchanan stated the City wants to keep the pool for future use. Basic maintenance was being done until a final decision is made.

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

Cindy Seligman, Aquatic Instructor, YMCA, addressed Council indicating they were looking forward to working with the community to provide a fun and safe environment for residents.

Mayor Ives asked if the YMCA met all safety standards, and if they would hire local lifeguards. Ms. Seligman stated yes, and added the YMCA would work with the team to ensure cohesiveness.

Rich Good, Executive Director, YMCA of San Joaquin County, stated this would be a "Y" program. The goals would include containing the costs of the program, and employing local folks.

Carolyn Landin, 1596 Gentry Lane, stated it would be beneficial to "Think Inside the Triangle" when looking for this type of arrangement. Ms. Landin added she would like to see a stronger commitment and the permanency of the arrangements for locals.

Jacquelyn Halverson addressed Council indicating her child has been taking swim lessons through the YMCA for years and that she has learned a great deal from them.

It was moved by Council Member Abercrombie and seconded by Council Member Rickman to adopt Resolution 2011-083 approving a Professional Services Agreement between the City of Tracy and YMCA of San Joaquin County for providing aquatics programming services to the Tracy community at the Pinkie Phillips Pool at West High School and authorizing the Mayor to execute the agreement on behalf of the City. Voice vote found all in favor; passed and so ordered.

6. DISCUSS THE SALE AND DISCHARGE OF SAFE AND SANE FIREWORKS WITHIN THE CITY OF TRACY AND PROVIDE DIRECTION TO STAFF AS HOW TO PROCEED
Chief Nero presented the staff report. The current Tracy Municipal Code (TMC) prohibits the sale, transport, possession, use or discharge of any and all fireworks. The TMC does permit the public display of fireworks by a licensed pyrotechnic operator, such

as the July 4th event held at Tracy High School. In recent months, staff has received increased interest from non-profit organizations and fireworks vendors to reverse this longstanding position and to allow the sale and use of fireworks categorized as "Safe and Sane" by the Office of the California State Fire Marshal. The reason given for this request is that it provides fundraising opportunities for local non-profit organizations.

The California State Fire Marshal (CSFM) evaluates fireworks for compliance with the California Code of Regulations Title 19 and the Health and Safety Code. Fireworks that meet the standards of the CSFM are categorized as "Safe and Sane" and approved for sale and use in California, subject to approval of the local authority having jurisdiction. In San Joaquin County, several jurisdictions have reversed the ban on fireworks and have approved the sale and use of "Safe and Sane" fireworks. In fact, since 2004 the cities of Manteca, Stockton and Lodi have joined Ripon in allowing "Safe and Sane" fireworks to be both sold and discharged within their communities. These communities have determined that the fund raising opportunities generated for non-profits outweigh the safety considerations.

Each year, children and adults are injured as a result of using fireworks, including those fireworks categorized as "Safe and Sane". Each year, fires are caused by the use of fireworks, including those classified as "Safe and Sane". For example, in the City of Manteca, there have been 13 fires started by "Safe and Sane" fireworks during the past five years.

The Fire Chief does not condone in any way the sale, possession, or use of any fireworks, including those classified as "Safe and Sane." Each year, illegal fireworks are discharged throughout the City. It is the intent of the Tracy Fire Department, with assistance from the Tracy Police Department, to enforce current ordinances regarding sale, possession, and use of illegal fireworks based on the availability of staff.

There is an undetermined fiscal impact to approving the sale and use of "Safe and Sane" fireworks. Staff will make every effort to ensure that fees are established to cover the costs incurred by the City in administering and regulating sales and use.

Staff asked Council for direction as how to proceed.

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

Carolyn Landin, on behalf of two non-profits, provided a statement from Darlene Quinn, Director of Tracy Interfaith Ministries. Ms. Quinn's statement encouraged Council to approve the sale of safe and sane fireworks. Ms. Landin, on behalf of the Coalition of Tracy Citizens to Assist the Homeless, also encouraged Council to approve the request.

Paul Miles, 1397 Mansfield, stated he has seen fireworks openly used in the City without any enforcement.

Jody Price, 1321 Tulloch Drive, encouraged Council to approve the sale of fireworks for all athletic teams as well as non-profits.

Director of Operations for the Boys and Girls Club of Tracy indicated it was a great opportunity to raise funds for the organization.

Sheila Soares, Vice President of Tracy Raiders, asked Council to consider approval of the item since it is a good opportunity to keep funds in the City.

Dennis Rovellet, President of Rovellet Communications, addressed Council stated it is difficult for non-profits to raise funds to provide the services needed in the community and that many service providers are able to survive because of the sale of state approved fireworks. Mr. Rovellet stated the program has to be at a minimum, cost neutral to the City.

Council Member Abercrombie asked Mr. Rovellet how many stands he would recommend for the City. Mr. Rovellet stated an appropriate number would be 6-7 to start off, but suggested the numbers be discussed with Police and Fire.

Council Member Maciel stated he believed it was time for the City to consider the endeavor with an emphasis on safety. Council Member Maciel stated the sale of "Safe and Sane" fireworks presented a great opportunity for local non-profits and suggested safety literature be provided at the point of sale.

Council Member Rickman thanked those who provided comments stating he didn't think the City could ignore the fact that it could have a positive impact on the community.

Council Member Abercrombie indicated as a former police officer he had seen what could happen to children with "Safe and Sane" fireworks. Council Member Abercrombie indicated he had a difficult time with this proposal weighing money against safety.

Mayor Ives indicated there would be more fireworks during the July 4th holiday if the City allowed the sale of "Safe and Sane" fireworks. Mayor Ives added he didn't mind approving the request as long as the City has a clear plan on enforcement of illegal fireworks.

Chief Nero stated staff will develop an ordinance for the sale and discharge of "Safe and Sane" fireworks for consideration at the May 3, 2011 City Council meeting. Such an ordinance could be approved and effective by June 17, 2011. Staff will also develop the appropriate vehicles to administer the sale and use for implementation immediately, subject to final approval of the ordinance.

Mayor Ives called for a recess at 9:18 p.m. The meeting was reconvened at 9:24 p.m.

7. AUTHORIZATION TO ENTER INTO AN EXCLUSIVE NEGOTIATING RIGHTS AGREEMENT WITH COMBINED SOLAR TECHNOLOGIES, INC. FOR GREEN ENERGY AND THERMAL DESALINATION PROJECT FEASIBILITY STUDY - Vanessa Carrera, Management Analyst, Public Works Department, presented the staff report. On April 20, 2010, the Council authorized Combined Solar Technologies (CST) to conduct a Green Energy Pilot Project at the wastewater treatment plant (WWTP). The pilot project demonstrated how thermal desalination can be used to remove salt from Tracy's wastewater. On January 4, 2011, the Council authorized staff to negotiate with CST for a feasibility study. Meetings held with CST identified the recommended approach for the City and CST is to enter into an ENRA. The ENRA will reserve the City-owned property for use by the energy project and, in turn, the City will receive the feasibility study, valued at several hundred thousand dollars.

The first portion of the feasibility study is a "fatal flaws" analysis that is estimated to require 60 days to complete. If the fatal flaws analysis shows the project to be feasible, the detailed feasibility study will be prepared, and will lead to further negotiations and preparation of the required California Environmental Quality Act (CEQA) documents.

Also, CST will evaluate the necessary required permits such as those issued by the San Joaquin Valley Air Pollution Control District (SJVAPCD).

A separate cost recovery agreement will provide funding from CST for the negotiating, drafting, preparation and processing of various agreements and documents (including CEQA) needed for the financing of the facility and for the sale and/or lease of the property to CST.

The term of the ENRA is 18 months, which is anticipated to be adequate for completion of the feasibility study and environmental document. The CEQA document would be brought to the Council for consideration.

CST's approach, in comparison to other green energy alternatives, provides a public benefit to the daunting, ongoing challenge of reducing the salinity of Tracy's wastewater while producing renewable energy. CST operates its business 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 Tracy facility which is currently operating. The Musco Olive project uses olive pits to fuel boilers that produce steam to generate electricity for the olive plant. The heat energy is then used to thermally desalinate the boiler brine. The steam condensate is essentially distilled water and is blended back into the effluent. Musco Olive received a permit from the SJVAPCD to operate this facility. The proposed Green Energy Project for the Tracy WWTP would utilize the same technology and would use a renewable fuel source. A fuel supply analysis will be included in the feasibility study to determine the availability and long-term reliability of various fuel sources.

The electricity generated through the green energy plant would be used at the WWTP and the excess would be sold. City energy cost savings will be explored in the feasibility study. The salts contained in the boiler would be evaporated into a solid state, and the condensed steam would be blended with the effluent. Currently, reuse of the solid salt byproduct is being evaluated as part of a CVSalts (Central Valley Salts) study.

The City is a member of CVSalts and will be given notice of the study once completed. The salinity standards for the Delta are more stringent during the months of April through August. The feasibility report will analyze the potential for solar thermal production to augment the heat produced from the green energy plant, especially during these months.

The potential for grant funding for this type of renewable energy project will be explored as part of the feasibility study. Project financing will take research and evaluation to determine the optimal method of ownership. Project options include the project being 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 has

met with Tracy Blast Development, LLC regarding the possibility that another suitable property for the Green Energy Project instead of the City-owned property identified in the ENRA may be viable, thus freeing up land along Tracy Boulevard for other uses. The proposed ENRA allows for these discussions through the term of the agreement.

The Green Energy Project is at the beginning stages and a significant amount of information is needed to formulate an optimally sized facility. Initial thoughts are that a 700,000 gallon per day project would provide significant reduction of salts. A project of this size is estimated to cost approximately \$20 to \$30 million, generate 10 to 15 megawatts of electricity, and have a seven year payback period resulting in positive cash flow in future years.

There is no fiscal impact to the City's General Fund. Professional services are anticipated for reviewing certain aspects of the project and there are adequate funds in the approved budget. For this phase of the work, the cost of professional services is estimated to be less than \$5,000. Funding will be from the Wastewater Enterprise Fund.

Staff recommended that City Council authorize the Exclusive Negotiating Rights Agreement with CST for a Green Energy and Thermal Desalination Project Feasibility Study and authorize the Mayor to execute the Agreement.

Mayor Pro Tem Maciel asked if this was for a feasibility study only. Ms. Carrera stated yes. Mayor Pro Tem Maciel asked if it comes back that this is a feasible process, would it be an open bid process. Dan Sodergren, City Attorney, stated the City could enter into a lease or sale negotiation with the company, depending on the ultimate structure.

Council Member Rickman asked if the feasibility study encompassed all 200 acres. Ms. Carrera stated yes, all 237 proposed acres. Ms. Carrera added that staff was looking at other possibilities if other projects were deemed more important for the property.

Mayor Ives asked if they could do it on less property and added the feasibility study needed to determine how much acreage is needed.

Council Member Abercrombie asked if there was some understanding that the project could move to a different portion of the property. Ms. Carrera stated yes.

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 Rickman to adopt Resolution 2011-084 approving entering into an exclusive negotiating rights agreement with Combined Solar Technologies, Inc. for green energy and thermal desalination project feasibility study. Voice vote found all in favor; passed and so ordered.

8. APPROVE AN EXCLUSIVE NEGOTIATING RIGHTS AGREEMENT WITH TRACY'S CALIFORNIA BLAST, LLC TO EXPLORE THE DEVELOPMENT OF RECREATIONAL, COMMERCIAL AND OTHER RELATED USES ON APPROXIMATELY 600 ACRES OF THE CITY-OWNED HOLLY SUGAR PROPERTY AND AUTHORIZE THE MAYOR TO SIGN THE AGREEMENT - Andrew Malik, Development and Engineering Services Director, presented the staff report. Mr. Malik stated that on March 3, and July 7, 2009,

Council approved two separate ENRAs with Jeff Macey to develop a motorsports park and bike park on approximately 300 acres of the City-owned Holly Sugar property just north of the Sports Complex. The purpose of the ENRAs was to allow Mr. Macey to form a development team and legal entity capable of developing the project, and to allow Mr. Macey the opportunity to refine his development proposal. While the timelines for both of the previous ENRAs with Mr. Macey have expired, Mr. Macey has formed a new legal entity, Tracy's California Blast, LLC (TCB), and appears to have established a development team to initiate development applications once the current ENRA is approved. The new development entity, TCB proposes to expand on the original motorsports park concept by 300 additional acres. New development ideas include expanded commercial and other recreational uses on a total of 628 acres.

Exhibit A to the staff report shows the location of Airsoft and Combined Solar Technologies (CST) which represent development of an Airsoft training/recreational area and development of an electrical generation and water desalination facility respectively. These projects are subject to separate ENRAs with the City. The Airsoft proposal is consistent with adopted City plans for a park at this location. The CST proposal is not yet fully defined in a geographic scope, but proposes uses consistent with existing Industrial designations of the City's General Plan. TCB ideas and proposal would require amendments to the General Plan. Staff would work with TCB, CST, and Airsoft on the evaluation of plans as they are developed for consideration.

Following are the highlights from the TCB ENRA:

- 1) The Agreement for exclusive negotiating rights has a term of three years, subject to successful completion of the milestones set forth in sections 4 through 9 and 12 of the Agreement.
- 2) Provides for cost recovery for the City's time and resources through a future Cost Recovery Agreement.
- 3) Authorizes TCB to prepare and submit applications for various entitlements for the property.
- 4) Authorizes amending the ENRA when and if additional City-owned property east of Tracy Boulevard is not needed for the CST project. (Staff will continue to work with TCB, CST, and Airsoft on further defining buildout of all properties and how each project can work to complement the other.)
- 5) Allows the parties to begin discussions regarding the eventual sale or lease of the property.

There is no fiscal impact to the City's General Fund. TCB will pay an initial fixed fee of \$25,000 to cover initial staff time on this project. Within 180 days of entering into this ENRA, TCB is required to enter into a Cost Recovery Agreement to cover all staff costs. For consideration for the three-year term, TCB will pay \$1,500 per month for exclusive rights to negotiate with the City.

Staff recommended that the City Council approve the Exclusive Negotiating Rights Agreement with Tracy's California Blast, LLC for the potential development of

recreational, commercial, and other related uses on approximately 628 acres of the City-owned Holly Sugar property.

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

Robert Tanner, 1371 Rusher Street, asked for clarification regarding zoning on the property. Mr. Malik stated the area is zoned Industrial.

Marvin Rothschild, 1652 Waverly Court, indicated if the public was surveyed he didn't believe the majority of people in Tracy would want the use confined to these two specific uses.

It was moved by Council Member Abercrombie and seconded by Council Member Rickman to adopt Resolution 2011-085 approving the Exclusive Negotiating Rights Agreement with Tracy's California Blast, LLC for the potential development of recreational, commercial, and other related uses on approximately 628 acres of the City-owned Holly Sugar property. Voice vote found all in favor; passed and so ordered.

9. CONSIDER THE ADOPTION OF A RESOLUTION RECOMMENDING THE CALIFORNIA CITIZENS REDISTRICTING COMMISSION PLACE SAN JOAQUIN COUNTY IN ONE CONGRESSIONAL, ASSEMBLY, AND STATE SENATE DISTRICT
Maria Hurtado, Assistant City Manager, presented the staff report. Ms. Hurtado stated that at the April 5, 2011 City Council meeting, the Council agreed to place an item on the April 19, 2011 agenda to discuss adopting a resolution recommending the California Citizens Redistricting Commission place San Joaquin County in one congressional, assembly, and state senate district.

In 2008, Proposition 11 established an independent Citizens Redistricting Committee, made up of California residents to configure state assembly and senate districts. In 2010, Proposition 20 was approved which granted the Citizens Redistricting Committee the authority to configure congressional district lines as well.

Currently, San Joaquin County is represented by two congressional districts, four state assembly districts, and two state senate districts. The districts encompass Alameda, Amador, Contra Costa, El Dorado, Fresno, Madera, Mariposa, Merced, Sacramento, Solano, Santa Clara, Stanislaus, Tuolumne and Yolo counties.

However, the population of San Joaquin County continues to grow at a faster pace than the rest of the state. Therefore, it is important that San Joaquin County be placed into one congressional, assembly, and state senate district to provide a unified voice on issues affecting the County, and to better serve the needs of the entire constituency.

There will be no fiscal impact to the General Fund.

Staff recommended that the Council consider the adoption of a resolution recommending the California Citizens Redistricting Commission place San Joaquin County in one congressional, assembly, and state senate district, and direct staff to forward the resolution to the Redistricting Commission.

Mayor Ives stated that earlier, under Items from the Audience, Mr. Benigno had suggested the item be moved to a future Council meeting when Council Member Elliott

would be present. Council Member Maciel indicated the item was pretty straight forward.

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

George Riddle, 1850 Harvest Landing, encouraged Council to move forward.

It was moved by Council Member Abercrombie and seconded by Council Member Rickman to adopt Resolution 2011-086 recommending the California Citizens Redistricting Commission place San Joaquin County in one congressional, assembly, and state senate district. Voice vote found all in favor; passed and so ordered.

10. ITEMS FROM THE AUDIENCE – None.
11. COUNCIL ITEMS - Mayor Ives reported he had been in Washington D.C. last week attending the One Voice trip sponsored by the San Joaquin Council of Governments. Mayor Ives stated it was interesting to talk with representatives who were trying to figure out the edicts that have come down from the state and federal offices. Mayor Ives indicated he spent a lot more time with federal officers trying to understand what their formulas were for earmarking funding.

Mayor Ives wished his wife a happy 36th wedding anniversary.
13. ADJOURNMENT - It was moved by Council Member Abercrombie and seconded by Mayor Pro Tem Maciel to adjourn. Voice vote found all in favor; passed and so ordered. Time: 9:47 p.m.

The above agenda was posted at the Tracy City Hall on April 14, 2011. The above are summary minutes. A recording is available at the office of the City Clerk.

Mayor

ATTEST:

City Clerk