

TRACY CITY COUNCIL

REGULAR MEETING MINUTES

July 5, 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 7:00 p.m., and led the Pledge of Allegiance.

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

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

Mayor Ives presented a proclamation to Linda Jimenez, Chairperson, Parks and Community Services Commission, proclaiming July 2011 as Parks and Recreation Month in Tracy.

Leon Churchill, Jr., City Manager, presented a plaque to Ursula Luna-Reynosa, outgoing Economic Development Director, in recognition of her service to the City.

Leon Churchill, Jr., City Manager, presented a plaque to Janet Thiessen, outgoing Police Chief, in recognition of her service to the City.

1. CONSENT CALENDAR – Following the removal of item 1.C by Robert Tanner, it was moved by Council Member Abercrombie and seconded by Council Member Elliott to approve the Consent Calendar. Roll call vote found all in favor; passed and so ordered.
 - A. Acceptance of the South Area Well Demolition Project, CIP 75099A, Completed by MCI Engineering Inc., of Stockton, California, and Authorization for the City Clerk to File the Notice of Completion - Resolution 2011-130 approved the project.
 - B. Acceptance of the Tidewater Well Conversion Project, CIP 75099, Completed by Zim Industries, Inc. of Fresno, California, and Authorization for the City Clerk to File the Notice of Completion - Resolution 2011-131 approved the project.
 - D. Approve a 33-Foot Wide Public Utility Easement (PUE) Within the City Owned Parcel Located on the East Side of Tracy Boulevard North of Larch Road, for Placement and Maintenance of Electrical Service for a Meat Storage and Processing Facility to be Located on 4276 N. Tracy Boulevard, Authorize the Mayor to Execute the Grant of Easement, and Further Authorize the City Clerk to File the Easement Document with the San Joaquin County Recorder - Resolution 2011-132 approved the easement.
 - C. Adopt a Resolution Reducing the Amount of Employees' Share of Contributions to the California Public Employees Retirement System (CalPERS) Paid by the City for Department Heads - Robert Tanner, 1371 Rusher Street, inquired what the total amount of savings would be if only Department Heads agreed to contribute 1.5% of the employees' share of contributions to CalPERS, and whether the savings were anticipated in the budget. Leon Churchill, Jr., City

Manager, responded he did not have the amount of savings for Department Heads only, but would provide the Council and Mr. Tanner with the information. Mr. Churchill added no savings were anticipated in the budget.

It was moved by Council Member Abercrombie and seconded by Council Member Elliot to adopt Resolution 2011-133 reducing the amount of the employees' share of PERS contributions for Department Heads paid by the City. Voice vote found all in favor; passed and so ordered.

2. ITEMS FROM THE AUDIENCE – Duffy Ruffin, Asset Manager, Visionary Home Building, stated in conjunction with Bank of America and other agencies Visionary Homes will sponsor an event for homeowners facing difficulty paying their mortgages. The event will be held on Friday, July 8, from 4-8 p.m. and Saturday, July 9, from 10 a.m. to 3 p.m. at the Stockton Hilton, 2323 Grand Canal Boulevard, Stockton, 95207. The event is designed to provide homeowners under threat of foreclosure with access to various agencies who will offer tools and resources to the homeowners to assist them in making informed decisions. Representatives from social agencies will also be present at the event.

Dave Helm, 1,000 Central Avenue, commented on an article in a recent edition of the Tracy Press regarding clarification of speakers' time limits at City Council meetings. Mr. Helm referred to issues he had brought before the Council previously which have not yet been resolved. Mr. Helm thanked members of GNET, Police Department, for helping to make Tracy a better place to live.

3. APPROVE RESOLUTION AWARDING A FIVE-YEAR PROFESSIONAL SERVICES AGREEMENT TO MV PUBLIC TRANSPORTATION, INC., NOT TO EXCEED \$827,871 IN FISCAL YEAR 2011/2012, FOR SERVICES RELATING TO THE CITY OF TRACY'S TRACER PUBLIC TRANSIT SYSTEM; AUTHORIZE THE MAYOR TO EXECUTE THE AGREEMENT AND AUTHORIZE MV TRANSPORTATION, INC., TO ENTER INTO A CONTRACT WITH GREYHOUND LINES, INC. TO PROVIDE GREYHOUND BUS SERVICES AT THE TRACY TRANSIT STATION – Rod Buchanan, Director of Parks and Community Services, presented the staff report and stated representatives from MV Transportation were available to answer questions.

Since July 2001, the City has contracted for certain operational components of the TRACER Fixed Route and Paratransit Bus services, primarily drivers, bus maintenance and dispatching. The service is a five-route system with stops at key destinations throughout the City. Currently, the fleet consists of four Compressed Natural Gas (CNG) 25' buses, six CNG 30' buses, three gasoline/electric hybrid 26' buses and two ADA accessible mini-vans. MV Public Transportation, Inc. (MV) was awarded the contract to operate the service in 2001 and again in 2006.

On March 14, 2011, a Request for Proposals (RFP) was mailed to various transportation service providers, and published on the City's website. The service requirements include providing drivers and dispatch of the TRACER Fixed Route and Paratransit Bus services and facilitating revenue service operations and maintenance of buses. MV and Storer Transportation both submitted responsive proposals. Three other companies declined to bid. While both companies have a long history of experience in transportation, and both would be able to meet the City's needs, continuing with MV will save more than \$2 million over the initial term of the agreement.

As part of the agreement, and in addition to the service levels already being provided, MV has agreed to provide additional software to manage the Fixed Route system, continue with a recently implemented secret rider program, and assist the City in marketing the Tracer system. In addition, as part of the contract, MV has agreed to be the Greyhound Lines, Inc. (Greyhound) Agent upon Greyhound operations beginning at the Tracy Transit Station. Both MV and Greyhound have agreed to use the same contract that would have been in place had the City entered into the agreement with Greyhound. Greyhound will provide all the necessary equipment to operate its service and MV will provide all the required staffing.

There will be no impact to the General Fund. Funding for the TRACER transit service is provided through County, State and Federal revenue sources, and passenger fares. The anticipated revenues of approximately \$8,500 per year from MV's contract with Greyhound will go to MV Transportation to offset their expenditures.

Staff recommended Council adopt a resolution awarding a five-year Professional Services Agreement to MV Public Transportation, Inc., not to exceed \$827,871 in Fiscal Year 2011-12, for services relating to the City of Tracy's TRACER public transit system, authorize the Mayor to execute the agreement and authorize MV Transportation, Inc., to enter into a contract with Greyhound to provide Greyhound bus services at the Tracy Transit Station.

Mayor Ives invited comment.

Council Member Abercrombie asked how soon operations would begin. Mr. Buchanan responded probably by early fall since there is quite a lot of work to be done.

Council Member Rickman inquired whether Greyhound would relocate from Grant Line/Holly to the Transit Station. Mr. Buchanan responded yes, that is the intention.

Mayor Pro Tem Maciel asked for the current hours of operation at the Transit Station and whether they would change when Greyhound begins service. Mr. Buchanan responded 8 a.m. until 6 p.m., and 9 a.m. to 5 p.m. on weekends, although the station is also open for rentals at other times. Initially those hours would not change although they could be amended in the future depending on Greyhound's requirements.

Council Member Elliott referred to a statement in the staff report regarding a \$2 million dollar savings and inquired how the City would be saving \$2 million by continuing with MV Transportation. Mr. Buchanan responded the proposal from MV came in at \$2 million less than the proposal from Storer Transportation.

Council Member Elliott asked with the increased activity anticipated at the Transit Station has the City considered how to address any nuisance activities that might arise. Mr. Buchanan responded the City has a higher level of activity at the Transit Station than was initially anticipated, but does not expect any issues with the additional service. Janet Thiessen, Chief of Police, stated the Police Department will address any nuisance activity that shows up in the downtown area.

In response to a question from Mayor Pro Tem Maciel regarding the number of daily visits by Greyhound and whether the City would be informed of the schedule, Mr.

Buchanan responded initially there would be one visit daily, although that could change. The City would be provided with a copy of Greyhound's schedule.

Council Member Rickman inquired whether MV or the City would be responsible for any vandalism or cleanup costs required at the Transit Station. Mr. Buchanan responded the costs would come from the Transit Fund as a routine maintenance item unless the City could prove who was responsible for the damage. MV occupies the dispatch area, an office and an employee lounge which staff also is able to access. Unless it could be determined who the guilty party was the City would be left with the bill.

It was moved by Council Member Abercrombie and seconded by Council Member Elliott to adopt Resolution 2011-134 awarding a five-year Professional Services Agreement to MV Public Transportation, Inc., not to exceed \$827,871 in Fiscal Year 2011-12, for services relating to the City of Tracy's TRACER public transit system, authorize the Mayor to execute the agreement and authorize MV Transportation, Inc., to enter into a contract with Greyhound to provide Greyhound bus services at the Tracy Transit Station. Voice vote found all in favor; passed and so ordered.

4. APPROVE AMENDMENT NUMBER 1 TO THE MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF TRACY AND THE TRACY UNIFIED SCHOOL DISTRICT PERTAINING TO THE WEST HIGH SCHOOL SWIMMING POOL AND AUTHORIZE THE MAYOR TO EXECUTE THE AMENDMENT ON BEHALF OF THE CITY – Rod Buchanan, Director of Parks and Community Services, presented the staff report.

On February 6, 2007, the City entered into a Memorandum of Understanding (MOU) with the Tracy Unified School District (TUSD) pertaining to the construction, maintenance and operation of a 52-meter competitive swimming pool at West High School. The term of the MOU was set at 30 years. Included in the MOU were stipulations that the City would pay \$44,895 annually into a Capital Maintenance Fund (CMF) and TUSD would pay \$134,683 into a CMF. The CMF was established to accumulate the funds over 30 years which would be necessary to replace the pool and to fund major repairs that may be needed during the MOU period. To date, funds have been used on two occasions to make repairs to the pool or pool equipment.

The City and TUSD have a mutual interest to institute a two-year hiatus from the CMT obligation (*Section 6C of the MOU*). Representatives from both agencies believe there are ample monies in the CMT to cover any short term capital maintenance or repair needs. The balance through 6/30/11 would remain intact for its intended use, less any agreed upon expenses that have been, and will be, charged to the fund. At the present time, a total of \$718,309 is available in the fund, less any agreed upon expenses. Consequently, representatives of the two agencies have suggested suspending payments for a period of two years without impacting the ability to fund any capital maintenance and repair needs that might arise during that time. Amendments to the MOU require mutually written agreement by both parties. Specifically, Amendment 1 would suspend payment by both parties into the CMT for a period of two years from FY 2011-12 through FY2012-13. TUSD staff will seek approval for this item from the TUSD School Board.

As a result of this action, an additional \$44,895 will be available annually to the General Fund for the next two years.

Staff recommended that the Council approve Amendment 1 to the Memorandum of Understanding between the City of Tracy and the Tracy Unified School District pertaining to the West High School pool and authorize the Mayor to execute the amendment on behalf of the City.

Council Member Elliott stated that because the pool is relatively new additional maintenance is not anticipated. Mr. Buchanan stated that was correct. Council Member Elliott asked how much had been spent so far on maintenance. Mr. Buchanan responded a heat pass assembly had cost \$9,577, and repair to the pool sweeps had cost \$3,239. Council Member Elliot asked if the savings of \$44,000 had been accounted for in the budget for 2011-12. Mr. Buchanan stated the savings were included in the budget.

Mayor Ives asked if there was an automatic restart in 2013-14. Mr. Buchanan stated yes, unless it is agreed to by both agencies. The City Manager and the TUSD Superintendent can extend the hiatus for an additional three years.

Mayor Ives invited public comment.

George Riddle, 1950 Harvest Landing Lane, inquired as to the status of the swimming pool at Doctor Powers Park. Mr. Buchanan responded the pool is being maintained at a minimum level in case there is an opportunity to re-open it.

It was moved by Council Member Abercrombie and seconded by Council Member Elliott to adopt Resolution 2011-135 approving Amendment 1 to the Memorandum of Understanding between the City of Tracy and the Tracy Unified School District pertaining to the West High School pool and authorize the Mayor to execute the amendment on behalf of the City. Voice vote found Council Members Abercrombie, Elliott, Rickman, and Mayor Pro Tem Maciel in favor; Mayor Ives opposed. Motion carried 4:1.

5. RECEIVE AN UPDATE ON PLANNED USE OF TRACY POLICE PERSONNEL TO ASSIST IN THE DARE CLASSROOM; AUTHORIZE A PROFESSIONAL SERVICES AGREEMENT IN THE AMOUNT OF \$45,000 BETWEEN THE CITY OF TRACY AND THE TRACY UNIFIED SCHOOL DISTRICT TO PROVIDE 5TH GRADE DRUG ABUSE RESISTANCE EDUCATION (DARE) SERVICES FOR FISCAL YEAR 2011-2012 AND AUTHORIZE THE MAYOR TO EXECUTE THE AGREEMENT – Council Member Abercrombie recused himself from consideration of the item and left the dais. John Espinoza, Police Captain, presented the staff report.

The DARE program is taught to 5th grade students in classes within the school districts of Tracy Unified, Jefferson, Banta, New Jerusalem, and Lammersville, as well as three private schools. The cost to teach the program in all the aforementioned school districts is \$105,000; however, the Council has appropriated \$45,000 to be paid to the Tracy Unified School District (TUSD) for DARE classes taught in public schools within the City limits. The City's funds do not include compensation to instructors. The balance of DARE's operating expenses is covered by the DARE Advisory Board's fundraising efforts.

The DARE curriculum takes 10 weeks to complete and concludes with a DARE graduation ceremony where dignitaries are invited to participate and disperse various

awards to the students. Tracy police command staff members have attended every DARE graduation within the City limits during the current school year.

At the May 3, 2011 City Council meeting, the Council approved a Professional Services Agreement (PSA) with TUSD for the provision of DARE services with allowable expenses up to a maximum amount of \$45,000 for FY 2010-2011, payable to the TUSD. That payment has been made. A new PSA for FY 2011-12 to provide DARE services with allowable expenses up to a maximum amount of \$45,000 for FY 2011-12, payable to the TUSD, needs to be approved.

The Tracy City Council has stated it wants to see more Tracy Police Department (PD) involvement in the DARE program, beyond just supporting it through attending DARE graduations. The DARE Advisory Board has stated they are willing to invite the Tracy PD staff to present some aspects of the curriculum. Consequently, Police command staff has worked with the DARE Advisory Board on how to best use Tracy Police personnel in the program.

For the upcoming 2011-12 school year, Tracy PD sworn personnel will assist the trained DARE instructor in the presentation of some components of the DARE curriculum. With the understanding that some adaptations in how Tracy Police personnel will be used to maximize the educational value to the students, the initial idea is to use staff during the introduction meeting and the lesson on gangs, and have staff attend the graduation. In this way, DARE students will have an opportunity to interact with their assigned Tracy PD sworn personnel at least three times so a positive police to student relationship can be forged. The PD hopes the positive interaction with students in a non-enforcement setting will foster greater trust with police and serve as a preventative effort against criminal conduct rather than require an enforcement only contact.

Since the TUSD is on summer break no concrete schedule of classes or graduation dates can be set. Once the dates and times of classes are known, this information will be used by the PD to schedule Tracy police personnel to attend certain portions of the DARE program in fulfillment of its commitment to actively participate in the Tracy DARE program and to offer a unique Tracy PD perspective with gang information. The sworn Tracy Police personnel assigned will include representatives of the Command Staff, sergeants, detectives, patrol officers, Neighborhood Resources Officers and Gang Narcotics Enforcement detectives.

A subsequent report will be offered in January or February of 2012 which will include a mid-year assessment of the DARE program and an evaluation of how Tracy police officers are being used in the program and to which classes police personnel is assigned.

There is no immediate impact to the City's FY 2011-12 budget as \$45,000 has already been approved for the DARE program. The funds are placed in the Police Department's Operating Budget for payment to the TUSD. Every effort will be made to use on duty personnel to attend the DARE classes so overtime costs can be avoided.

Staff recommended that the City Council approve the Professional Services Agreement between the City of Tracy and the TUSD for an amount not to exceed \$45,000 for providing DARE services to 5th Grade students in public schools within the City limits for FY 2011-12 and authorize the Mayor to execute the Agreement.

Mayor Ives invited public comment.

It was moved by Mayor Pro Tem Maciel and seconded by Council Member Rickman to adopt Resolution 2011-136 approving a Professional Services Agreement between the City of Tracy and the TUSD for an amount not to exceed \$45,000 for providing DARE services to 5th Grade students in public schools within the City limits for FY 2011-12 and authorize the Mayor to execute the Agreement. Voice vote found Council Members Elliott, Rickman, Mayor Pro Tem Maciel and Mayor Ives in favor; Council Member Abercrombie absent. Motion carried 4:0:1. Council Member Abercrombie rejoined Council at the dais.

6. SECOND READING AND ADOPTION OF ORDINANCE 1161 AN ORDINANCE OF THE CITY OF TRACY AMENDING SECTIONS 11-12.060 and 11-12.080 OF THE TRACY MUNICIPAL CODE REGARDING DELINQUENT ACCOUNTS AND ADVANCE DEPOSITS - Ordinance 1161 was introduced at the Council meeting held on June 21, 2011, to amend Sections 11-12.060 (Delinquent accounts), and 11-12.080 (Advance Deposits). The penalties and costs for delinquent accounts have not been updated since 1994. The advance deposit amount has not been updated since 2007. The proposed amendments to Sections 11-12.60 and 11-12.080, will update these fees to reflect current costs. Ordinance 1161 is before Council for a second reading and adoption.

The Assistant City Clerk read the title of proposed Ordinance 1161. It was moved by Council Member Abercrombie and seconded by Council Member Elliott to waive reading of the text. Voice vote found all in favor; passed and so ordered.

Mayor Ives invited public comment.

It was moved by Council Member Abercrombie and seconded by Council Member Elliott to adopt Ordinance 1161. Roll call vote found Council Members Abercrombie, Elliott, Rickman, Mayor Pro Tem Maciel and Mayor Ives in favor; passed and so ordered.

7. ITEMS FROM THE AUDIENCE – None.
8. STAFF ITEMS

A. Economic Development Update – Ursula Luna-Reynosa, Director of Economic Development, used a power point presentation to provide an update on economic development for 2010. The presentation included the following:

1. Background – Ms. Luna-Reynosa included statistics on 2010 foreclosures, building permits issued and valuation, new business license data, enterprise zone voucher statistics, demographic data, and data from the Employment Development Department. Ms. Luna Reynosa stated that when compared with other cities in the county (Escalon, Lathrop, Lodi, Manteca, Ripon and Stockton) Tracy had the lowest unemployment rate at 10.2%, as of May 2011. The unemployment rate for the county was 16.2%. Ms. Luna Reynosa also pointed out that sales tax had increased 6.3% from the fourth quarter of 2009 to the fourth quarter of 2010, the largest increase since the recession.

2. Accomplishments – This section reviewed economic development related accomplishments achieved by the City which included establishing the Downtown Tracy Community Benefit District; establishing the Brand Base and Communications Strategy; assisting DES with permit streamlining; the \$500 gift card program; Shop Local Get More campaign; Grow Tracy Fund; securing Macy's as an anchor tenant for the West Valley Mall, and the ESRI Business Analyst and GIS.

3. Future – Ms. Luna-Reynosa focused on economic development related efforts that are on the cusp of being realized and other efforts that are longer term aspirations. These included redesigning the City's website; approval of the WayFinding Sign System Phasing Plan; the E.D. Strategy; Downtown, including the Plaza, creation of the Grow Tracy Fund and the first loan to Barista's, a downtown business for their business expansion, and the fact that Cordes Ranch is moving forward.

Council Member Abercrombie stated he didn't see Gateway on the list. Ms. Luna-Reynosa stated they should be listed under accomplishments. Interest on the retail side continues and Ms. Luna Reynosa added she believed once Sutter breaks ground there will be more interest in the office side as well.

Mayor Ives invited public comment

Council accepted the update.

9. COUNCIL ITEMS - Council Member Rickman stated in October 2008 the Council adopted Resolution 2008-226, which incorporates Senate Bill (S.B.) 1137, which encompasses 2929.3 of the California Civil Code, as a tool for enforcing abatement of nuisances on vacant or foreclosed properties. Council Rickman asked how effective the Bill and the section has been in addressing foreclosed properties in Tracy, how many times, if any, it has been used to gain compliance, and, what additional resources are need to address the aforementioned problems. Council Member Rickman stated section 2929.3 does not apply to properties which are vacant prior to being foreclosed and asked if the City could come up with a remedy to abate nuisances created by vacant properties. Assistant City Attorney Sartor stated S.B. 1137 applies to properties that might be more rundown than other properties in a neighborhood by virtue of the foreclosure process, and allows for a heavier fine than the Government Code allows a City to impose. Mr. Sartor added as far as any Health and Safety Code violation or violation of the Tracy Municipal Code the City has a number of tools it can use to combat nuisance activities or rundown properties. Andrew Malik, Director of Development and Engineering Services, added that Ana Contreras, Code Enforcement Manager, had indicated that S.B. 1137 had been helpful in getting compliance. Ms. Contreras is working on other things which will be brought back to Council in 30-60 days. Council Member Rickman stated he was concerned with properties which are simply an eyesore and are affecting the value of other properties in the neighborhood. Mr. Sartor responded the City does not have an Aesthetic Code, and since the Code applies only to health and safety issues, there would be no violation. Council Member Rickman added his concern was with vacant homes which would eventually become foreclosure properties, not homes currently occupied. Mr. Sartor stated that would require a City Ordinance and would apply to all properties not just vacant properties. Mr. Sartor

suggested there is a possibility the City could regulate on a non-aesthetic basis and have it apply only to vacant homes.

A discussion item will be brought back to Council.

10. 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: 8:12 p.m.

The above agenda was posted at the Tracy City Hall on June 30, 2011. The above are summary minutes. A recording is available at the office of the City Clerk.

Mayor

ATTEST:

City Clerk