

September 20, 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 Brian Clark of Journey Christian Church.

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

Mayor Ives presented a Certificate of Commendation to Tyler Romero for rescuing a small child from drowning.

Mayor Ives presented a Certificate of Recognition to outgoing Arts Commissioner Michael Hays, and a Certificate of Appointment to incoming Commissioner, Patricia Hand.

Rupi Gill, San Joaquin Valley Air Pollution Control District, provided a presentation regarding Healthy Air Living Program.

1. **CONSENT CALENDAR** - It was moved by Council Member Abercrombie and seconded by Council Member Elliott to adopt the consent calendar. Roll call vote found all in favor; passed and so ordered.
 - A. Minutes Approval – Regular meeting minutes of June 21, 2011, July 19, 2011, and August 2, 2011, and closed session minutes of September 6, 2011, were approved.
 - B. Authorize Federal Fiscal Year 2011 Grant Application for Section 5307 U.S. Department of Transportation Federal Transportation Administration Funds in the Amount of \$1,121,400 for Tracer Public Transportation Services and for Replacement Fixed Route Buses; Certification of Application Assurances; and the City Manager or Designee to Execute the Grant Documents – Resolution 2011-175 authorized the grant application.
 - C. Award a Bid in the Amount of \$101,642 to Zoll Medical Corporation for the Purchase of Four Advanced Life Support Cardiac Monitors – Resolution 2011-176 awarded the bid.
 - D. Award a Construction Contract for Installation of a Traffic Signal at the Intersection of Byron Road and Lammers Road – CIP 72041 (Federal Project No. CML 5192-032), to Pacific Excavation, Inc., of Elk Grove, California, and Authorize the Mayor to Execute the Contract – Resolution 2011-177 awarded the construction contract in the amount of \$188,096.
 - E. Adopt a Resolution Regarding the Internal Revenue Code 414(H)(2) to Tax Defer Employee Paid Portions to the California Public Employees Retirement System – Resolution 2011-178 was adopted.

2. ITEMS FROM THE AUDIENCE - Wanda Elostein, 4782 Willow Court, addressed Council with a plea to end racial biases and hatred among one another.
3. RECEIVE REPORT IDENTIFYING THE COSTS OF PROVIDING TWO YEARS ADDITIONAL SERVICE CREDIT WITH THE CALIFORNIA PUBLIC EMPLOYEES RETIREMENT SYSTEM TO ELIGIBLE EMPLOYEES IN ACCORDANCE WITH CALIFORNIA GOVERNMENT CODE SECTION 7507 AND DIRECT STAFF TO PRESENT REQUIRED RESOLUTION AND CERTIFICATIONS OF COMPLIANCE TO THE CITY COUNCIL FOR ADOPTION ON OCTOBER 4, 2011 PURSUANT TO CALIFORNIA GOVERNMENT CODE SECTION 20903 - Maria Hurtado, Assistant City Manager, pointed out the relationship between the presentation given and the structural deficit. Maria Olvera, Human Resources Director, presented the staff report. The City has addressed its structural budget deficit of the past several years by utilizing various workforce reduction principals. Actions taken to date have resulted in a 16% reduction of the workforce as well as reduced personnel expenditures by over \$5 million dollars. Despite these efforts, personnel expenditures continue to inhibit long-term and sustainable fiscal health. Consequently, additional actions to reduce the workforce are necessary.

An employee workforce survey was conducted to provide employee feedback on a number of workforce planning and development issues. In particular, the survey measured employee interest in the offering of CalPERS Two Years Additional Service Credit benefit. The survey also provided the desired window within which an employee wished to retire in order to assist the City in developing a pool of talent within the organization to prepare for the skill sets needed as individuals depart.

The additional service credit offering is one of several policy strategies that would help stabilize the City's financial condition as personnel costs are reduced. Such costs are the most significant expenditure for the City's annual operating budget. The Two Year Additional Service Credit would support fiscal sustainability goals.

Under California Government Code Section 20903, an agency may provide the Two Years Additional Service Credit Program to members who retire during a designated period because of impending mandatory layoffs, transfers, or demotions. To be eligible, participating employees must be at least 50 years of age, have at least five years of service with CalPERS, and retire within the window period(s) established by the City. The intended effect of offering this incentive must be an overall reduction in workforce.

Implementation of the Program requires specific actions to be taken. The first requires public notice of prospective costs and savings, in accordance with Government Code Section 7507, at least 2 weeks prior to the adoption of a resolution. The second action requires adoption of the resolution implementing the additional service credit provision, including approving the required certifications of compliance.

The City must designate a specified time period(s) of between 90 and 180 days during which eligible employees must retire to receive the early retirement incentive. The City Manager has proposed designating three windows as follows:

Window 1: November 1, 2011 through February 29, 2012;

Window 2: April 1, 2012 through June 30, 2012;

Window 3: September 1, 2012 through January 31, 2013

To generate future budget savings, an eligible pool of 21 classifications has been identified. Following implementation, estimated savings over the next 20 years is \$41,569,408, or \$2.08 million in average annual savings. The classifications identified for public disclosure are as follows:

- Accounting Assistant
- Accounting Officer
- Accounting Technician
- Airport Coordinator
- Assistant City Clerk
- Assistant Civil Engineer
- Code Enforcement Officer
- Community Services Officer
- Crime Prevention Specialist
- Custodian
- Department Head – Finance Director
- Department Head – Public Works Director
- Engineering Technician II
- Executive Assistant
- Housing Program Inspector II
- Maintenance Worker I
- Maintenance Worker II
- Plant Mechanic II
- Police Sergeant
- Recreation Services Supervisor
- Senior Maintenance Worker

The City Manager has reviewed the proposed classifications, and eligible incumbents have been identified. A total of 28 employees are currently eligible to retire. Of the positions these employees occupy, 18 will be eliminated, eight will be downgraded to lower classifications, and two will be filled similarly. The City is committed to implementing the workforce reduction plan, which includes no rehiring of eliminated positions, no reclassifying of downgraded positions, and contracting out whenever possible. The City's adherence to the workforce reduction plan does not preclude it from addressing unanticipated staffing needs that could arise in the future should conditions change, such as service demand, population, or other external factors.

Government Code Section 7507 requires that the cost to provide this benefit be made public at a public meeting at least two weeks prior to the adoption of the resolution. The governing body satisfies this requirement by disclosing an estimate of the present value of the additional employer contribution. The estimated cost of providing the Two Years Additional Service Credit Program will be approximately \$97,685 annually or \$1,953,692 over 20 years. Following implementation of the Program, annual savings of \$2,078,470 are estimated, or \$41,569,408 over 20 years.

Staff recommended that the Council adopt, by resolution, this report identifying the costs of providing two years additional service credit with the California Public Employees Retirement System to eligible employees in accordance with California Government Code Section 7507 and direct staff to present the required resolution and certifications of compliance to the City Council for adoption on October 4, 2011, in accordance with Government Code Section 20903.

Council Member Abercrombie asked if the estimated cost of implementing the program was \$100,000 yearly. Ms. Olvera stated yes. Council Member Abercrombie stated if down the road there was a need to add a police sergeant, would the City still pay that \$100,000 per year if the position is reinstated. Ms. Olvera stated that if the retirement incentives were authorized today and that at some time in the future a new employee were hired, there is still the cost of providing the two years of additional service. Ms. Olvera added the amount is amortized over 20 years, but the cost stays with the City.

Council Member Abercrombie asked if all the employees in these positions were at least 50 years old. Ms. Olvera stated yes. Council Member Abercrombie asked if it's possible that the City just not fill them if they retired through attrition. Ms. Olvera stated that was possible. Council Member Abercrombie wondered if the City was pre-mature in offering the incentive retirements.

Maria Hurtado stated the City could get to the savings through attrition over time, but what this action guarantees is savings. Ms. Hurtado stated the City did not have any indication that any of these employees would retire in the next two years.

Council Member Abercrombie asked if the City would replace the Assistant City Clerk with a City Clerk. Ms. Olvera stated that was correct and there was a savings in that action.

Mayor Pro Tem Maciel asked if the criteria for early retirement was established by PERS. Ms. Olvera stated yes; it was the minimum established by PERS. Mayor Pro Tem Maciel asked if the City could have a stricter requirement, specifically requiring that a person was vested with a minimum of 5 years. Ms. Olvera stated it was unlikely that anyone with 5 years could retire with only a couple of years with their salary.

Mayor Pro Tem Maciel asked if the numbers provided were based on those 28 positions because they could either be eliminated or downgraded. Ms. Olvera stated yes.

Mayor Pro Tem Maciel asked if a significant increase in population could mean added staff. Ms. Olvera stated yes.

Council Member Elliott asked if the City would realize some immediate savings now by eliminating the positions. Ms. Olvera stated yes. Council Member Elliott asked what steps would need to be taken to re-instate or hire new people if the situation changed? Ms. Olvera stated the City would not have to go back to CalPERS; the City Council has authority over those decisions. Ms. Olvera stated after reviewing the positions and based on Council's findings, the Council would be certifying that they are attempting to reduce staff and that of the 28 positions, they are anticipating at least 1 of the 28 remain vacant. Ms. Olvera stated the City has to remain committed to not filling the eliminated positions or to keeping them down-graded.

Council Member Elliott asked if the City would only be obligated to leave one position unfilled. Ms. Olvera stated that was the minimum.

Ms. Hurtado stated that just because CalPERS allows the City the flexibility to refill 27 of the 28 positions, it did not mean it was the City's intent. Ms. Hurtado stated it is the intent of management to offer this workforce reduction with the intention of not re-filling these positions. Ms. Hurtado stated the objective is to have minimal service level impacts.

Council Member Elliott stated he understood that at the next Council meeting the department heads would present how the City can maintain the services with a smaller workforce. Ms. Hurtado stated that was correct. Council Member Elliott stated he was concerned with public safety.

Council Member Rickman asked if there is a mandated period of time that the City could not hire anybody back. Ms. Olvera stated there was a requirement that at least one position in the categories remains vacant.

Council Member Rickman asked what the negative effects were of offering this program. Ms. Hurtado stated this program gives the City a \$2 million savings with no service level impacts and had to be presented to Council. Ms. Hurtado further stated that it was important to note that there will be no service level impacts because of either contracting out or merging divisions.

Council Member Rickman asked what was being asked of the Council through this agenda item. Ms. Olvera stated Council was receiving the report and making sure that the City was complying with the Government Code. Council was also being asked for their input.

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

Mayor Ives stated he did not want Mayor Pro Tem Maciel's point regarding an individuals' number of years of service to the City to get by without consideration. Mayor Ives stated he was hearing that staff has turned over every rock to balance the budget. Mayor Ives stated it appeared that this could be done, but that levels of service are still in balance.

Council Member Abercrombie stated he was frustrated and wished that the Council had heard from the department heads on how they plan on accomplishing this.

Council Member Abercrombie stated the Council picked a random year as to when the budget should be balanced and maybe it's not realistic.

Ms. Hurtado stated that on October 4, all information would be presented. The reason this item was before Council was because of the code requirement; that the other information couldn't be presented to Council before the cost and savings is presented in a public meeting.

Mayor Pro Tem Maciel stated he understood the bottom line and that this was a tool to get there. Mayor Pro Tem Maciel asked that if the Council should choose to not exercise this option, would the City be forced to consider other options. Ms. Hurtado stated yes, either through layoffs and/or a reduction or elimination of services.

Zane Johnston, Director of Finance and Administrative Services, stated the goal was not just to get to a balanced budget; it was to get to a balanced budget without Measure E.

Council Member Elliott asked if an employee takes advantage of the golden handshake, would the employee also receive any other retirement benefits. Ms. Olvera stated no.

Mayor Ives stated that a one slide reminder of why Council was considering this action, because of our fiscal objectives, would be appropriate. Mayor Ives stated what should

also be shown is the organizational need, and how not replacing these employees will impact the level of service. Mayor Ives further stated the Council needs to understand how the loss of these employees' work will be absorbed by others.

It was moved by Council Member Abercrombie and seconded by Council Member Elliott to adopt Resolution 2011-179 identifying the costs of providing two years additional service credit with the California Public Employees Retirement System to eligible employees in accordance with California Government Code Section 7507, and direct staff to present required resolution and certifications of compliance to the City Council for adoption on October 4, 2011, pursuant to California Government Code Section 20903. Voice vote found all in favor; passed and so ordered.

4. INTRODUCE AN ORDINANCE AMENDING SECTIONS 3.04.010, 3.04.020(e), 3.04.030(c), 3.04.040(a),(b),(e) and (f), 3.04.050(a) and (b), 3.04.060(a), 3.04.070(b), 3.04.080(e), 3.04.090(a) and 3.04.100(b) OF CHAPTER 3.04, ENTITLED "FIREWORKS" OF THE TRACY MUNICIPAL CODE - Dave Bramell, Division Chief, presented the staff report. Chapter 3.04 of the Tracy Municipal Code entitled, "Fireworks" was adopted by the Council on May 17, 2011 (Ordinance 1158) to allow for the sale and discharge of fireworks within the City of Tracy. At that time, staff advised Council that the ordinance would require revision after the July 4, 2011 holiday since the Ordinance contains provisions specific to calendar year 2011 which are no longer applicable. In addition, revisions are necessary to clarify requirements related to administering the fireworks program.

The amendments to Chapter 3.04 include clarified definitions of non-profit organizations, further descriptions of permit requirements, administrative citation authority and storage of fireworks. Any changes related to the fireworks lottery process or the process by which the City will issue annual permits to sell Safe and Sane Fireworks would be addressed by Council resolution and are not affected by the proposed amendments.

There is no fiscal impact related to amending Chapter 3.04 of the Tracy Municipal Code as prescribed. Permit fees associated with fireworks are established by Council resolution as described in Chapter 3.04.040(d) of the Tracy Municipal Code.

Staff recommended that Council adopt an ordinance amending sections 3.04.010, 3.04.020(e), 3.04.030(c), 3.04.040(a),(b),(e) and (f), 3.04.050(a) and (b), 3.04.060(a), 3.04.070(b), 3.04.080(e), 3.04.090(a) and 3.04.100(b) of chapter 3.04, entitled "FIREWORKS", of the Tracy Municipal Code.

Division Chief Bramell noted that a revision was made to Section 3.04.060 of the Ordinance which refers to a non-profit organization as a "501C3". Division Chief Bramell stated it should read "501C".

Mayor Pro Tem Maciel asked if the changes were driven internally upon review, or were some of the suggestions provided by the non-profits. Chief Bramell stated two meetings were held - one internal with staff and one with the non-profits which was also attended by the two wholesalers. The suggestions were derived from those meetings.

Dennis Rovelle, on behalf of TNT Fireworks, referred to a memo he had provided to staff suggesting changes to the Ordinance.

Chief Bramell stated there were some good points in Mr. Rovelle's letter, but that the language as drafted did not prohibit school organizations from participating in the

program. Bill Sartor, Deputy City Attorney, added the City prefers that an organization be a corporation for insurance purposes. The City's preference did not appear to be unreasonable because all of the applicants provided the requested information this year.

Mayor Ives asked for clarification regarding the meeting place. Chief Bramell stated the principal meeting place was to ensure that those benefiting from the proceeds would be reinvesting in the City of Tracy and was appropriate as written.

The Clerk read the title of proposed Ordinance 1162.

It was moved by Mayor Pro Tem Maciel and seconded by Council Member Abercrombie to waive the reading of the text. Voice vote found all in favor; passed and so ordered.

It was moved by Mayor Pro Tem Maciel and seconded by Council Member Elliott to introduce Ordinance 1162. Voice vote found Council Member Elliott, Rickman, Mayor Pro Tem Maciel and Mayor Ives in favor; Council Member Abercrombie opposed.

5. ITEMS FROM THE AUDIENCE – None.

6. STAFF ITEMS

A. Accept a Preliminary Fiscal Report for FY 10-11

Zane Johnston, Finance and Administrative Service Director, presented the staff report. Mr. Johnston stated that expense and revenue information for FY 10-11 had been reviewed by the City's auditors and most audit adjustments have been made.

General Fund Review:

	Budget	Actual
Revenues	\$42,465,470	\$44,069,121
Expenditures	\$47,277,540	\$46,810,346
Deficit	\$ 4,813,000	\$ 2,741,300

Revenues were better than budget by about \$1.6 million because of two main reasons. First, the budget did not anticipate revenue from Measure E for FY 10-11 as the budget was adopted well in advance of the ballot measure. Measure E provided an additional \$900,000 from April 1, 2011 to June 30, 2011. This amount has not been analyzed by the City's sales tax consultant. However, 4 x \$900,000 equals \$3.6 million, which is \$1 million shy of the Measure E budgeted revenue for FY 11-12. Since there is seasonal variation to sales tax taking this quarter and multiplying it by 4 is not accurate. The sales tax consultant has been requested to extrapolate from this quarter and provide the City a new estimate for FY 11- 12 for Measure E.

The other boost to revenue was in regular sales tax. The City budgeted \$9.4 million but actual was \$10.5 million - an increase of \$1.1 million. This increase plus the Measure E revenue of \$900,000 totals \$2 million more in revenue but is offset by a variety of revenue categories that were below budget netting a reduction of \$400,000 under revenue estimates. For example, license and permits were down \$100,000 as well as fines and forfeitures, and investment earnings which were budgeted at \$1,055,000 but only totaled \$868,000.

On the expense side departments were actually budgeted to spend \$47.5 million but spent only \$45.6 million. The budget anticipated departments would save \$1.4 million and this figure was included in the adopted budget as an offset to expenditures. Including the debt service budget and this offset arrives at the figures above which show an adopted expenditure budget of \$47,277,540 with actual expenditures being \$46,810,346 – a net budget savings of \$500,000.

With the additional revenues of \$1.6 million and expenditure reductions of \$500,000 the City was able to trim the budgeted deficit by \$2.1 million bringing it down from \$4.8 to \$2.7 million.

The City's FY 10-11 budget anticipated total revenue in all funds of \$143 million but revenue was only 93.6% of budget with the actual total being \$132 million. However, this was partially offset by operating expenditures being just 95% of budget. On the low side, the Parks and Community Services Department spent just 87.4% of its budget, and on the high side the Police Department budget was 99.8% expended. .

Staff recommended that the Council accept the preliminary fiscal report for FY 10-11.

Council Member Elliott stated the fiscal impact section of the staff report incorrectly stated that it did not relate to the Council's strategic plans indicating it had everything to do with it. Mr. Johnston stated it was presented as such because the action requested was to accept the report.

Mayor Ives asked if any tax information would be ready by October 4. Mr. Johnston stated he was not sure. Mayor Ives stated he would like as much data as possible by October 4. Mr. Johnston stated that the City did not anticipate anything happening on the property tax side in the five year horizon; however, the five year forecast shows some potential on the sales tax side.

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

It was moved by Council Member Abercrombie and seconded by Council Member Rickman to accept the Preliminary Fiscal Report for FY 10-11. Voice vote found all in favor; passed and so ordered.

7. COUNCIL ITEMS

- A. Consider an Item for Discussion on a Future City Council Agenda Regarding Honoring Military Veterans - Maria Hurtado, Assistant City Manager, presented the staff report. Ms. Hurtado stated that at the City Council meeting held on September 6, 2011, Mayor Pro Tem Maciel requested that Council consider placing an item on a future City Council agenda to discuss honoring military veterans.

The purpose of this agenda item is to provide an opportunity for Council to determine whether staff time and city resources should be devoted to research and outreach, and also whether the item should be placed on a future agenda for

discussion. An item placed on a future agenda would enable the City Council to discuss in detail the procedure for honoring military veterans.

Staff recommended that City Council discuss and determine whether an item regarding honoring military veterans should be placed on a future City Council agenda for discussion.

Mayor Pro Tem Maciel stated a process was in place for people to request recognition from the City for various achievements and events. Mayor Pro Tem Maciel suggested the policy be amended to include recognition for veterans honorably separated from military service.

It was moved by Mayor Pro Tem Maciel and seconded by Council Member Elliott to bring back an agenda item for Council consideration regarding honoring military veterans. Voice vote found all in favor; passed and so ordered.

Council Member Rickman reminded everyone that on Friday, September 23, 2011, Tracy High and West High would be playing in the annual cross-town football game.

Mayor Pro Tem Maciel stated he had been approached by a constituent regarding the inability to obtain a permit for an electric sign for a private school. Mayor Pro Tem Maciel requested a future agenda item to address the issue. It was Council's consensus to bring an item back for discussion.

8. ADJOURNMENT - It was moved by Council Member Abercrombie and seconded by Council Member Rickman to adjourn. Voice vote found all in favor; passed and so ordered. Time 8:42 p.m.

The above agenda was posted at the Tracy City Hall on Thursday, September 15, 2011. The above are summary minutes. A recording is available at the office of the City Clerk.

Mayor

ATTEST:

City Clerk