

JOINT TRACY CITY COUNCIL/TRACY OPERATING
PARTNERSHIP JOINT POWERS AUTHORITY

REGULAR MEETING MINUTES

November 1, 2011, 7:00 p.m.

City Council Chambers, 333 Civic Center Plaza

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

Mayor Ives called the regular meeting of the Tracy City Council and the Tracy Operating Partnership Joint Powers Authority to order at 7:05 p.m. and led the Pledge of Allegiance.

Pastor Tim Heinrich, Crossroads Baptist Church led the invocation.

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

Leon Churchill, Jr., City Manager, presented the Employee of the Month award for November 2011, to Tony Ornellas, Public Works Department.

Mayor Ives presented a proclamation to Dave Bramell, Fire Division Chief, and Rhodesia Ransom, Sow a Seed Community Foundation, recognizing November 6-12, 2011, as "Carbon Monoxide Awareness Week" in Tracy.

Mayor Ives presented a proclamation to Kathleen Serna-Halliday, Street Outreach Program Manager, Family & Youth Services of San Joaquin County, recognizing November as "Homeless Youth Awareness and Runaway Prevention Month" in Tracy.

1. CONSENT CALENDAR - It was moved by Council Member Abercrombie and seconded by Council Member Rickman to adopt the Consent Calendar. Roll call vote found all in favor; passed and so ordered.
 - A. Minutes Approval – Closed session minutes of October 4, 2011, and October 18, 2011, were approved.
 - B. Acceptance of the Chrisman Road Widening (Eleventh Street to Brichetto Road) Project - CIP 73110, Completed by Rodgers Construction & Engineering of Stockton, California, and Authorization for the City Clerk to File the Notice of Completion – Resolution 2011-199 accepted the project.
 - C. Acceptance of the Corral Hollow Road Widening (Old Schulte Road Railroad Crossing) Project - CIP 73103, Completed by MCI Engineering, Inc., of Stockton, California, and Authorization for the City Clerk to File the Notice of Completion – Resolution 2011-200 accepted the project.
 - D. Acceptance of the Kavanagh Avenue Extension West of Corral Hollow Road Project - CIP 73097, Completed by Knife River Construction of Stockton, California, and Authorization for the City Clerk to File the Notice of Completion – Resolution 2011-201 accepted the project.

- E. Authorize Multi-Year Conveyance Agreement among the Department of Water Resources of the State of California, Kern County Water Agency, and the City of Tracy for the Semitropic Water Banking Program and Authorize the Mayor to Execute the Agreement – Resolution 2011-202 authorized the Agreement.
- F. Authorize an Appropriation of \$12,734 from the 2011 Edward Bryne Memorial Justice Assistance Grant (JAG) Program for the Purchase and Installation of a State of the Art Video Surveillance System in the Police Facility Building – Resolution 2011-203 authorized the appropriation.

Mayor Ives reminded the audience that the meeting was a joint meeting of the Tracy City Council and the Tracy Operating Partnership Joint Powers Authority.

- 2. ITEMS FROM THE AUDIENCE - Brett Morgan, a newly appointed judge for San Joaquin County, introduced himself to Council and the public. Judge Morgan stated he ruled over all criminal, domestic violence and some misdemeanor cases. Judge Morgan further stated that he enjoys his job and fellow judges. Judge Morgan stated he believed that by participating in community meetings he becomes familiar with the activities in his jurisdiction. Judge Morgan invited the Council to call upon him for any assistance they may need.
- 3. HOLD A PUBLIC HEARING, THEN ADOPT SEVERAL RESOLUTIONS OF THE CITY OF TRACY AND THE TRACY OPERATING PARTNERSHIP JOINT POWERS AUTHORITY RELATED TO THE REFINANCING OF OUTSTANDING BONDS AND THE FINANCING OF CAPITAL PROJECTS - Zane Johnston, Finance and Administrative Services Director, presented the staff report. Mr. Johnston stated that since the late 1980's the City has used Specific Plan areas to guide growth and development in Tracy. Such Plans have included the Residential Specific Plan (RSP), the I-205 Specific Plan, Plan C, the Presidio Planning Area and the South MacArthur Planning Area. Residential areas in each of these planning areas have provided for additional infrastructure improvements through the payment of in-lieu fees and by the formation of financing districts which have issued bonds the proceeds which paid for major infrastructure improvements such as sewer and water improvements.

Typically when a financing district is first formed the covered area is almost exclusively undeveloped land owned by a small number of developers. Special assessments or special taxes on the land provide the revenue to pay the debt service on the bonds. As time goes by, homes are constructed and the financing district transcends to one that has better security from a bond owner's perspective because the once vacant land under concentrated ownership is now subdivided into ownership by many different home owners. Even if prevailing interest rates were the same as when the bonds were first issued, the odds are the City could subsequently refinance the bonds at a lower interest rate once the area has been mostly developed because the bonds carry less risk and are generally considered more secure and, as a result, the bonds can be issued at a lessor interest rate.

Over the years the City has taken advantage of this improved security on many of its financing districts. The additional security has often also been coupled with a favorable interest rate environment making it possible for the City to refinance the bonds and

generate additional project funds for the community while also slightly lowering the amount of assessments or special taxes.

The RSP formed Assessment District 84-1 (City sewer) and 87-3 (City water) and formed Community Facilities District (CFD) 87-1 to provide financing for school construction through the Tracy Area Public Facilities Financing Agency (TAPFFA). The AD 84-1 bonds and the AD 87-3 bonds have been completely paid off and there is no longer any special assessments for these 7,000 plus homes. CFD 87-1 bonds were refinanced by TAPFFA when the area was completely built out.

The residential areas of the I-205 Specific Plan area formed five assessment districts. The 1,200 homes in this specific plan have all been constructed and all but two of the assessment districts as a result have been refinanced. The Plan C area formed CFD 98-1 and CFD 98-3. Virtually all of the 5,000 plus homes in this area have been built and the bonds have been refinanced.

The "Presidio Planning Area" is the area of 550 homes immediately surrounding the Tracy Sports Complex. The homes were constructed by Standard Pacific and the area was marketed as "Laurence Ranch". Community Facilities District (CFD) 2000-01 was formed with the purpose of providing for the issuance of bonds to pay for infrastructure development required for the Presidio Planning Area. The CFD 2000-01 bonds were refinanced in 2005.

In the past few years the municipal bond market has been challenging. Many of the bond insurers have disappeared leaving it difficult to obtain bond insurance which typically would allow the City to refinance bonds with an AAA rating (and, as a result, achieve a lower interest rate). Although bond insurance will not be available for this proposed refinancing, a combination of a low interest rate environment and the primarily developed status of the property will enable the City to refinance the last few remaining Assessment Districts and Community Facilities Districts which have never been refinanced.

The City, along with the City of Tracy Community Development Agency, formed the Tracy Operating Partnership Joint Powers Authority (TOPJPA) under Section 6500 of the California Government Code for the specific purpose of financing the acquisition of bonds, notes and other obligations and for the financing and refinancing public capital improvements of member agencies of the TOPJPA.

In this transaction, the City will issue one series of reassessment bonds to refinance the outstanding AD 98-4 and AD 2002-02 Bonds and one series of special tax refunding bonds to refinance the outstanding CFD 99-2 Bonds. TOPJPA will issue revenue bonds to acquire the reassessment bonds and the special tax refunding bonds from the City. The existing special taxes of CFD 99-2 and the existing special assessments of AD 98-4 and AD 2002-02 will be the source of revenue to repay the reassessment bonds and the special tax refunding bonds; the source of revenue to repay the newly issued TOPJPA bonds will be the debt service payments received from the City as a result of TOPJPA's ownership of the reassessment bonds and the special tax refunding bonds. The City will be able to slightly decrease the special taxes and assessments that property owners currently pay and the final maturity date of the existing bonds will not be lengthened.

Because of the savings anticipated as a result of the lower interest rate on the new bonds, it is anticipated that the proposed refinancing will result in a newly created project fund of approximately \$830,000. These funds will go into the City's General Project's Fund #301 to be used for a variety of capital improvement projects to be determined at a later date by the City Council. The proceeds from the bonds will be limited to capital improvement projects due to a variety of tax requirements associated with the bonds and consistent with the bond documents.

It may also be possible to use approximately \$250,000 of the proceeds of the outstanding CFD 99-2 bonds that were previously held in debt service reserve funds to finance capital projects with specific benefit to CFD 99-2. The City Engineer has identified a drainage improvement project in this regard. Whether it will be possible to use the CFD 99-2 bond proceeds in this manner is dependent upon interest rates and will be determined when the bond underwriter markets the bonds.

The TOPJPA bonds will be sold through a negotiated sale to Stone & Youngberg a Division of Stifel Nicolaus. The firm of Jones Hall will serve as Bond Counsel and Disclosure Counsel. This team has assisted the City in many financings and refinancing's in the past. It is anticipated the bonds will be priced on November 15, 2011, with the bond sale closing on December 7, 2011.

There are a variety of actions required by the Council and by the Board of Directors of the TOPJPA. Following the public hearing the Council and the TOPJPA Board of Directors must adopt the following resolutions:

City - With respect to the special tax refunding bonds and the TOPJPA bonds, a resolution making findings of significant public benefit as a result of issuance of the TOPJPA bonds, authorizing the issuance of the TOPJPA bonds and the special tax refunding bonds, approving and directing the execution of a fiscal agent agreement and an escrow deposit and trust agreement, authorizing sale of the special tax refunding bonds to TOPJPA, approving the Preliminary Official Statement (which describes the TOPJPA bonds, the special tax refunding bonds and the reassessment bonds) and other related documents.

The Preliminary Official Statement has been reviewed and approved for transmittal to the Council by City staff and its financing team. The Preliminary Official Statement must include all facts that would be material to an investor in the TOPJPA bonds. Material information is information that there is a substantial likelihood would have actual significance in the deliberations of the reasonable investor when deciding whether to buy or sell the TOPJPA bonds, and primarily consists in this case of information about AD 98-4, AD 2000-02 and CFD 99-2. Council Members may review the Preliminary Official Statement and/or question staff and consultants to make sure they feel comfortable that it includes all material facts.

With respect to AD 98-4 (Morrison Homes) and AD 2000-02 (Heartland Three):

- (i) A resolution of intention to levy reassessments and to issue refunding bonds upon the security thereof.
- (ii) A resolution adopting reassessment report, confirming and ordering the reassessment pursuant to summary proceedings and directing actions with respect thereto.

- (iii) A resolution authorizing the issuance and sale of reassessment bonds, approving and directing the execution of a fiscal agent agreement and two escrow deposit and trust agreements, authorizing sale of the reassessment bonds to TOPJPA, approving the Preliminary Official Statement and approving and authorizing related documents and actions.

TOPJPA - A resolution of the Board of Directors of the TOPJPA authorizing the issuance and sale of its revenue bonds in one or more series, approving and directing the execution of an Indenture of Trust, approving the purchase of the reassessment bonds and the special tax refunding bonds from the City, approving the sale of the TOPJPA bonds to the underwriter, approving the Preliminary Official Statement and approving related agreements and actions.

There is no General Fund impact except to the extent the transaction will make funds available for City capital projects. The TOPJPA bonds are payable from debt service received by the Authority as a result of its ownership of the reassessment bonds and the special tax refunding bonds. The reassessment bonds are payable from assessments levied in AD 98-4 and AD 2000-02. The special tax refunding bonds are payable from special taxes levied in CFD 99-2. Bond issuance costs are paid from bond proceeds.

Staff recommended that the City Council hold the public hearing then adopt four resolutions and that the TOPJPA adopt the resolution which will enable the refinancing of CFD 99-2, AD 98-4 and AD 2002-02 bonds.

Mayor Ives opened the public hearing.

Paul Miles, 1397 Mansfield Street, asked who was taking the risk if the bonds are not sold. Mr. Johnston stated it would be the risk of the underwriter.

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

Council Member Elliott asked if there was any reason for the Council to add anything to the report. Mr. Johnston stated that staff and the consultants had worked meticulously to ensure that all the pertinent information was in the preliminary report.

It was moved by Council Member Abercrombie and seconded by Council Member Elliott to adopt Resolution 2011-204 authorizing the issuance and sale of special tax bonds, approving financing of Public Capital Facilities and approving and authorizing related documents and actions. Voice vote found all in favor; passed and so ordered.

It was moved by Council Member Abercrombie and seconded by Council Member Elliott to adopt Resolution 2011-205 of Intention to levy reassessments and to issue refunding bonds upon the security thereof. Voice vote found all in favor; passed and so ordered.

It was moved by Council Member Abercrombie and seconded by Council Member Elliott to adopt Resolution 2011-206 adopting reassessment report, confirming and ordering the reassessment pursuant to summary proceedings and directing actions with respect thereto. Voice vote found all in favor; passed and so ordered.

It was moved by Council Member Abercrombie and seconded by Council Member Elliott to adopt Resolution 2011-207 authorizing the issuance of Refunding Bonds, approving and directing the execution of a Fiscal Agent Agreement and an Escrow Deposit and Trust Agreement, authorizing sale of bonds, and other related documents and actions with respect thereto. Voice vote found all in favor; passed and so ordered.

It was moved by Board Member Abercrombie and seconded by Board Member Elliott to adopt Resolution 2011-002 of the Board of Directors of the Tracy Operating Partnership Joint Powers Authority authorizing the issuance and sale of its local agency revenue bonds in one or more series, and approving related agreements and actions. Roll call vote found all in favor; passed and so ordered.

Mayor Ives requested a deviation in the agenda moving item 6 forward.

6. AMEND RESOLUTION NO. 91-344 TO SPECIFY THAT THE TRACY WAR MEMORIAL FOUNDATION, INC. (COMMONLY KNOWN AS THE TRACY WAR MEMORIAL ASSOCIATION) SHALL DETERMINE WHICH TRACY VETERANS, IF ANY, HAVE BEEN KILLED IN ACTION IN WAR, WARS, OR FUTURE WARS FOR THE PURPOSES OF PLACING THEIR NAMES ON THE WAR MEMORIAL - Rod Buchanan, Parks and Community Services Director, presented the staff report. Mr. Buchanan stated that on November 5, 1991, per Resolution 91-344, the City Council accepted the War Memorial under certain conditions. Those conditions include a provision that the City will permit no alterations to the War Memorial except adding names of Tracy Veterans who are killed in action in war.

Since that time, the Tracy War Memorial Foundation, commonly referred to as the Tracy War Memorial Association, (Association) has played an active role in deliberating on, and recommending to the City, which names should be added to the memorial and has formally requested, by a resolution of their board, that the above condition of acceptance be revised to allow the Association to determine which Tracy Veterans have been killed in action in war.

At the October 18, 2011 City Council meeting, staff requested that the Council approve the Association's request to amend the conditions of acceptance of the War Memorial. After receiving input from James Corso, the Council directed staff to complete further investigation as to the current status of the Association. Staff has met with Mr. Corso and representatives of the Association and has determined the following information regarding the Association's current status.

The actual name of the Association is the Tracy War Memorial Foundation, Inc. According to members of the Foundation, the organization has always been called the Tracy War Memorial Association. The Association is in the process of bringing its non-profit corporation into active status with the State of California. Representatives from the Association have also indicated that its original by-laws have only been updated once with a couple of administrative changes only. The Association meets on a regular basis and its membership includes members from the American Legion and Veterans of Foreign War. In light of this information, staff believes that the Tracy War Memorial Foundation, Inc. is the Tracy War Memorial Association.

The Articles of Incorporation of the Foundation indicate that the Foundation will continue to maintain the War Memorial. The Foundation would need to continue to exist to

maintain the War Memorial. Additionally, as a condition of acceptance by the City, the Association is required to light the flame during events and replace the flags on an as needed basis.

In reviewing relevant documents, it was mentioned that a copy of the Articles of Incorporation was previously provided to the City. The language in the Articles appears to be standard "wind up and dissolve" provisions for non-profits. The City is not involved in the operation of the Association which staff is informed is a 501(c)(3) non-profit. However, after the dedication of the Memorial, the Association donated funds to the City to purchase street signs with the names of veterans killed in action. Street names have been assigned to represent all such veterans. The City and/or developers have installed the signs and the City maintains the signs. The City has not been involved in the operation or funding of the Association. Oversight of non-profits is done by state and/or federal agencies such as the Franchise Tax Board, the Internal Revenue Service and the Secretary of State. Staff was informed that Association funds are used for replacement flags and to light the flame, as well as for gatherings at the Memorial on Memorial Day and Veteran's Day.

The Association has always recommended whose names are placed on the War Memorial. The City pays tribute to those who have made the supreme sacrifice to protect our freedoms and way of life, and recognizes the efforts of all those currently serving in the military. Staff recommended that the War Memorial Association is best suited to determine the selection of names to be placed on the War Memorial.

Since acceptance of the War Memorial, the City has funded the costs for maintenance of the War Memorial as well as inclusion of additional names. There is no additional fiscal impact.

Staff recommended that City Council amend Resolution 91-344 to specify that the War Memorial Association shall determine which Tracy Veterans, if any, have been killed in action in war, wars, or future wars for the purpose of placing their names on the War Memorial.

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

John Serpa, 511 Belmont Lane, a WWII marine veteran, complimented staff on the information provided. Mr. Serpa stated Mr. Gomes approached Mr. Corso and asked him if he would assist him in raising funds for a Vietnam Veterans War Memorial. Mr. Corso stated he would help raise funds for a Veterans War Memorial for all wars. Mr. Serpa provided a history of the formation of the Association as well as the formation and amendment to the bylaws.

Mayor Ives asked Mr. Serpa if it was his understanding that the organization was never set up on as a temporary organization. Mr. Serpa stated no.

John Treantos, 1304 Marlin Place, President of the Tracy War Memorial Association, outlined some of the responsibilities of the organization including hosting two events each year - Memorial Day and Veterans Day, as well as some of the expenses the Association incurs including replacing the flags yearly.

Mr. Treantos asked for the status of the November 11th event and if the name of David Senft would be added. Mayor Ives indicated he hoped that question would be resolved at this meeting.

Mr. Corso stated he thought he had 30 days to sort out the issues and talk with the organizations. Mr. Corso indicated David Senft's name should not be added to the memorial because of the circumstances of his death, and that all other names represent those who were killed in action. Mr. Corso suggested Council make the decision and not leave it up to the Association.

Mr. Treantos provided a copy of the condolence letter sent by President Obama to the family of David Senft, in honor of his memory, and a letter from the Department of Defense, which stated two investigations were held into the death of Mr. Senft. Mr. Treantos read the conclusion of the letter which stated ". . . David Senft committed suicide and died in the line of duty". Mr. Treantos stated because of those letters he believed the Association made the right decision and requested that they may be able to add Mr. Senft's name to the memorial.

Mr. Corso questioned the Association's tax exemption status of 501C3 and suggested it should not come under that classification. Mr. Corso suggested the War Memorial Association be dissolved.

A gentleman from the audience asked if David Senft was serving in the military when he committed suicide. Mr. Treantos stated it occurred while he was serving.

Mayor Ives asked what action Council was being asked to consider. Mr. Buchanan stated the agenda item was geared toward a request from the Association to identify the names which should appear on the memorial.

Mayor Ives asked how the names have been chosen in the past. Mr. Buchanan stated Council chose one name, and seven other names had been added without Council consideration. Mr. Buchanan stated the practice of adding names has been done by the Association since 1993.

Mr. Sodergren stated the War Memorial was gifted to the City in 1991, and as part of that gift, there were certain conditions included in the resolution, one of which was that the City was not to permit alterations to the Memorial except that names be added. Mr. Sodergren stated the City has to follow that duty and the only way it can be changed would be for the gifting party and the City to agree to amend that condition. Mr. Sodergren further stated the Association has asked that the condition be amended to allow the Association to choose the names that are added.

Council Member Abercrombie asked if staff had confirmed with the State that the Association is legitimate. Mr. Buchanan stated staff checked on line. The organization is currently suspended, but has not been dissolved.

Council Member Abercrombie asked Mr. Treantos who was on the committee that selected Mr. Senft's name. Mr. Treantos stated the decision was made on May 9, 2011, and the decision was unanimous.

Council Member Elliott asked that as a condition of receiving the gift, are we not fulfilling our responsibility if we delegate that decision to the committee. Mr. Sodergren stated that would be an amendment to the condition.

Mayor Ives asked what the City's responsibility was. Mr. Sodergren stated the City was to make no alteration except to add the names of those killed in the line of duty. Mr. Sodergren clarified that the Association had asked that the condition be amended to allow the Association to add the names.

Mayor Ives asked for clarification regarding staff's recommendation.

Mayor Pro Tem Maciel stated Council should not lose sight of the reason for the Memorial and added he believed a group of veterans and other interested citizens should make the decision. Mayor Pro Tem Maciel stated the criteria needs to be clarified and clearly defined as to whose names are added to the wall.

Council Member Elliott stated he believed the decision was best left in the hands of an organization made up of veterans.

Council Member Rickman stated he believed it was appropriate for the War Memorial Association to make the decision.

Council Member Abercrombie indicated he respected several members of the Association and believed they were best equipped to make such an important decision.

Mayor Ives stated he believed the Association was a trustworthy group and able to decide whose names should be added to the War Memorial.

It was moved by Council Member Abercrombie and seconded by Council Member Rickman to adopt Resolution 2011-208 amending Resolution No. 91-344 to specify that the War Memorial Foundation, Inc., commonly known as the War Memorial Association, shall determine which Tracy veterans, if any, have been killed in action in war, wars, or future wars for the purpose of placing their names on the War Memorial. Voice vote found all in favor; passed and so ordered.

4. **THAT CITY COUNCIL CONDUCT A PUBLIC HEARING DECLARING THE EXISTENCE OF WEEDS, RUBBISH, REFUSE AND FLAMMABLE MATERIAL AT 1690 WEST DUNCAN DRIVE A PUBLIC NUISANCE; CONSIDER OBJECTIONS TO ABATEMENT OF SAID NUISANCE, AND APPROVE A CONTRACTOR TO ABATE SAID NUISANCES** - Ana Contreras, Code Enforcement Manager, presented the staff report. On April 7, 2011, Code Enforcement staff arrived at the home of the property owner of 1690 Duncan Drive, in response to a complaint regarding the issue of unsanitary conditions associated with the property. These nuisances included an excessive amount of garbage, debris, overgrown vegetation, rodents, vermin, and an overall accumulation of items both inside and outside the structure. On April 7, 2011, the property owner was issued her first criminal citation for violation of Tracy Municipal Code Section 5.20.050.

A second follow-up inspection was performed at the property on April 14, 2011. No progress was noted and an administrative citation was issued on April 20, 2011, for continuing violation of TMC Section 5.20.050. A third follow-up inspection was done

on May 27, 2011, and no progress was observed. A second Administrative Citation was issued. To date, the property has accrued \$400 in administrative citations, all of which are past due.

On June 29, 2011, an Order to Abate or Show Cause listing the above mentioned violations was served and posted at the property and a copy mailed to the property owner. Subsequent inspections on August 10, 2011, and September 9, 2011, revealed that violations still exist on the property. The property owner was issued a second criminal citation for violation of TMC Section 5.20.050. The property owner was also provided with copies of Administrative Citations issued on May 27, 2010, and June 29, 2010, for violation of the same Municipal Code section listed above which she claimed she never received.

On September 21, 2011, pursuant to Tracy Municipal Code, Section 4.12.280, the Code Enforcement Division sent a notice to the property owner, requiring the abatement of weeds, rubbish, refuse and flammable material on the parcel within 20 days of receipt of the notice, and further advised the owner of the City's intent to abate the nuisance following Council's consideration of the matter during a public hearing. The Tracy Municipal Code provides that upon failure of the owner, or authorized agent, to abate the nuisance within 20 days from the date of notice, the City will perform the necessary work by private contractor and the cost of such work will be made a personal obligation of the owner, or become a tax lien against the property. All unpaid assessments will be filed with the San Joaquin County Auditor Controller's office to establish a lien on the property.

As of the date of writing this report, the property owner was working to abate the weeds, rubbish and refuse in the front yard area; however, staff was denied access to the rear yard and the inside of the structure by the property owner. Therefore, in order to verify the continued existence of the nuisances described herein, staff is moving forward with an inspection warrant for judicial review and consideration to allow staff to gain entry into the rear yard and the inside of the structure to substantiate the existence of a fire hazard.

Tumbleweeds, weeds, rubbish, refuse, and/or flammable materials have the potential of becoming a fire hazard and constitute a public nuisance under Tracy Municipal Code section 4.08.260. After issuance of violation notices, administrative and criminal citations, the City has no option other than to move forward with forced compliance remedies.

Abatement fees are calculated based on the labor involved and the amount of weeds, rubbish, refuse, and/or flammable materials removed from the property. Staff estimates the cost to abate this property to be approximately \$10,000 to \$11,000. The property owner will be billed for all costs associated with the abatement, including contractor's charges plus a 25% administrative fee. The City will be reimbursed the cost of the abatement once the property is sold, transfers ownership, or is refinanced.

Staff recommended that the Council conduct a Public Hearing to consider any and all objections to the proposed abatement, and by resolution, declare the existence of weeds, rubbish, refuse, and flammable material located at 1690 West Duncan Drive to be a nuisance, authorize the Code Enforcement Division to direct a contractor to abate

such nuisances with the total cost for abatement to be placed with the San Joaquin County Auditor Controller's Office as a tax lien against the property.

Mayor Pro Tem Maciel asked if the property was vacant. Ms. Contreras stated yes.

Council Member Elliott asked if any progress has been made by the owner to clean the property, any whether any volunteer groups had been asked to help. Ms. Contreras stated some outdoor clean-up had occurred, but because of the level of refuse, potential illness and exposure a bio-hazard company would be required to assist with the abatement.

Council Member Rickman asked how long this problem had gone on. Ms. Contreras stated it has been going on longer than five months. Ms. Contreras stated that once staff realized the problem extended to the rear yard and the inside of the house further action was taken.

Mayor Ives opened the public hearing.

Marla Israel, 1682 Duncan Drive, neighbor of the subject property, and representative of the Neighborhood Watch Group, stated the property had been an issue since 2005. Ms. Israel indicated the former Fire Chief also dealt with part of the problem. Ms. Israel thanked Ms. Contreras for her efforts and stated she agreed with the recommendation. Ms. Israel further stated the solution has taken too long and that something has to be done to shorten the procedure.

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

Council Member Rickman thanked Ms. Contreras for her efforts.

It was moved by Council Member Abercrombie and seconded by Council Member Rickman to adopt Resolution 2011-209 declaring the existence of weeds, rubbish, refuse and flammable material at 1690 West Duncan Drive a public nuisance; consider objections to abatement of said nuisance, and approving a contractor to abate said nuisances. Voice vote found all in favor; passed and so ordered.

Mayor Ives asked how long it might take to get the problem resolved. Ms. Contreras stated staff needs to send warrants to the judge.

Mayor Ives called for a recess at 8:39 p.m. The meeting was reconvened at 8:50 p.m.

5. PUBLIC HEARING TO CONSIDER THE FILIOS/DOBLER ANNEXATION AND DEVELOPMENT PROJECT WHICH INCLUDES A GENERAL PLAN AMENDMENT (GPA09-0002) TO RE-DESIGNATE THE SITE FROM URBAN RESERVE 2 TO COMMERCIAL; I-205 CORRIDOR SPECIFIC PLAN AMENDMENT (SPA10-0002) TO ADD THE SITE TO THE SPECIFIC PLAN AREA, DESIGNATE THE SITE GENERAL COMMERCIAL, AND ADD DEVELOPMENT STANDARDS REQUIRED BY EIR MITIGATION MEASURES; ANNEXATION OF THE 43-ACRE PROJECT SITE TO THE CITY OF TRACY AND PREZONE THE SITE PLANNED UNIT DEVELOPMENT (A/P09-0002); AND CERTIFICATION OF THE ENVIRONMENTAL IMPACT REPORT

FOR THE PROJECT – THE APPLICANTS ARE BILL FILIOS FOR GRANT LINE APARTMENTS, LLC AND GARY DOBLER FOR DOBLER FAMILY TRUST – Alan Bell, Senior Planner, presented the staff report. Mr. Bell stated the proposal was to annex approximately 43 acres of unincorporated land to the City for future commercial development. The Project site is located on the south side of Grant Line Road, north of Byron Road and the Union Pacific rail lines, and west of the Tracy Marketplace Shopping Center. The Project includes a General Plan Amendment to re-designate the site from Urban Reserve 2 to Commercial; an amendment to the I-205 Corridor Specific Plan to add the site to the Specific Plan area and designate the site General Commercial within the Specific Plan; Annexation of the Project site to the City limits and Prezone the site Planned Unit Development (PUD); and certification of an Environmental Impact Report (EIR) for the Project. The Project also includes the addition of a new section to the Specific Plan containing standards that would apply only to this Project site. These proposed standards are required by EIR Mitigation Measures that were not otherwise included in existing City standards.

The proposed General Commercial designation of the Project is the same Specific Plan designation and zoning as the nearby Tracy Pavilion center (containing Home Depot) and the adjacent Tracy Marketplace Shopping Center. No specific land uses, buildings, site, or other improvements are proposed at this time. Instead, the property owners are seeking annexation with commercial zoning to attract future commercial tenants to the site. Yet, the EIR analysis assumes the construction of 466,000 square feet of retail and office development in order to form the basis of analysis and identification of potential environmental impacts. If a project is proposed that exceeds 466,000 square feet of floor area or otherwise exceeds the impacts analyzed in the EIR, additional CEQA review may be required at that time.

The Project area is currently used for non-irrigated farming. Three residences are located on the Project site and would eventually be removed as the site experiences commercial development. City utilities (sewer, water, and storm drainage) will serve the Project. Utility lines will be extended to the site and the developer will pay development impact fees for their proportionate share of system-wide improvements to serve the Project. The developer will also be responsible for widening the portion of Grant Line Road fronting the Project, installation of traffic signals adjacent to the Project, and for the payment of traffic impact fees to help mitigate impacts on the City's roadway system.

When buildings are proposed, their design (including the site plan, landscaping, and other details of the project) will be submitted to the Planning Commission and City Council for review through the PUD Preliminary and Final Development Plan process, which is the same process for all of the I-205 Specific Plan area buildings and sites. This annexation request will set the stage for expansion of the I-205 regional commercial corridor in the future. Although the market demand for commercial space at this time is relatively low, the large size of this site provides an opportunity for one or more commercial anchor tenants who would seek direct freeway exposure to locate in Tracy. Construction of new or expanded retail stores, consumer services, or business offices would contribute to shopping opportunities for residents, employment opportunities, sales tax to support City services, and other benefits.

On September 28, 2011, the Planning Commission conducted a public hearing to review the Project, including the Final EIR. Project owner representatives, who spoke in favor of the Project, were the only ones to address the Planning Commission. After closing the

public hearing, the Planning Commission recommended that the City Council certify the EIR and approve the Project.

In accordance with the California Environmental Quality Act (CEQA) an EIR was prepared to analyze the potential environmental impacts of the Project and to evaluate and recommend mitigation measures to reduce the effects from potentially significant impacts. Exhibit K is the proposed Resolution to certify the EIR. The Resolution contains findings related to significant impacts of the Project, findings related to Project alternatives, findings related to a statement of overriding considerations for impacts that are not fully mitigated, and a mitigation monitoring and reporting program. All items are required by State law.

After the close of the Draft EIR public comment period and during the week preceding the September 28, 2011 Planning Commission hearing, three comment letters were submitted. The Planning Commission made copies available to the public on the night of the hearing. The letters do not change any of the mitigation measures or recommendations from staff or the Planning Commission for the Project.

This agenda item will not require any specific expenditure from the General Fund. Staff and consultant costs to process the application are recovered through a Reimbursement Agreement with the Developer.

Staff and the Planning Commission recommended that the City Council take the following action:

1. Certify the Final EIR for the Filios/Dobler Annexation and Development Project
2. Approve the General Plan Amendment from Urban Reserve 2 to Commercial
3. Approve the Specific Plan Amendment to add the site to the Specific Plan, designate the site General Commercial, and add a new Section 4.1.2.2 K regarding standards for the Project area
4. Prezone the Project site PUD
5. Authorize an application to LAFCo for annexation of the Project site to the City limit

Mayor Ives opened the public hearing.

Mike Souza, 105 E. Tenth Street, stated they have been working on the project for 13 years with Bill Filios. Mr. Souza provided an outline of Mr. Filios' experience in the development business and thanked staff for their efforts on the project. Mr. Souza stated he agreed with Planning Commission and staffs' recommendation.

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

It was moved by Council Member Abercrombie and seconded by Council Member Elliott to adopt Resolution 2011-210 certifying the Final Environmental Impact Report for the Filios/Dobler Annexation and Development Project, applicants are Bill Filios (for Grant Line Apartments, LLC) and Gary Dobler (for Dobler Family Trust), Application Numbers GPA09-0002, SPA10-0002, and A/P09-0002. Voice vote found all in favor; passed and so ordered.

It was moved by Council Member Abercrombie and seconded by Council Member Elliott to adopt Resolution 2011-211 approving a General Plan Amendment (GPA09-0002), I-205 Corridor Specific Plan Amendment (SPA10-0002), and Annexation (A/P09-0002, for the Filios/Dobler Annexation and Development Project. Voice vote found all in favor; passed and so ordered.

The Clerk read the title of proposed Ordinance 1164.

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.

It was moved by Council Member Abercrombie and seconded by Council Member Elliott to introduce Ordinance 1164. Voice vote found all in favor; passed and so ordered.

7. ACCEPT A STAFF REPORT REGARDING GENERAL PROJECTS FUND 301- Zane Johnston, Finance and Administrative Services Director, presented the staff report. Mr. Johnston stated that many capital improvement projects are paid for by restricted funds. For example, developer impact fees have constructed many capital items such as City Hall and expansions to the water and wastewater treatment plants, as well as new roadways. Gas tax is also restricted to capital use regarding roadway improvements. In addition to capital projects funded from restricted funds, the City is also in need of capital funds from its own discretionary (unrestricted) funds.

In the past, the City has accumulated discretionary capital funds from two sources. In years when the City had General Fund revenues greater than operating expenses, these "budget surpluses" were used to pay for capital items through the City's General Projects Fund 301. Some of these budget surpluses were also used to increase the City's reserve levels. In the past, Fund 301 has also received funding via the refinancing of bonds. Taking advantage of lower interest rates and improved security (level of development of property), the City has refinanced many of its bonds and used the savings generated from refinancing to pay for capital projects. The fiscal policy the City has used as guidance is that one-time revenue (like a budget surplus or proceeds from a bond refinancing) should be used for one-time expenditures such as capital items. The City has not had the financial ability to regularly budget for capital items (like it does for equipment replacement) directly from its operating budget. Instead the City has had to rely on the periodic use of one-time funds for capital projects.

In FY 10-11 most of the available money in Fund 301 had been allocated to a series of capital improvement projects. The Council approved the allocation of these funds to various projects with the adoption of the CIP budget. As a result the FY 11-12 CIP budget had very few new Fund 301 appropriations.

In FY 10-11 the City spent more in General Fund operating expenditures than it had revenue. This was the fourth year in a row of having a budget deficit which required a draw on reserves. The FY 11-12 budget also anticipates a budget deficit. As such, there have not been budget surpluses to provide capital funding. However, a number of onetime revenues have been identified that can provide funding for capital improvement

projects via Fund 301. Following is a summary of likely revenues that will be available for appropriation for capital projects in the upcoming FY 12-13 CIP process.

The \$900,000 fund balance of Fund 301 is discretionary funds of the City which represents left over (uncommitted) money in the fund derived from cash contributions to Fund 301 from previous budget surpluses.

In September 2011, the final bonds of AD 87-3 were paid. At this time, all funds associated with paid off assessment districts were reviewed including that of AD 84-1 and the City's prior land Certificate of Participation (a form of bond financing). Assessment levies to properties in AD 84-1 and AD 87-3 were eliminated a year earlier than the amortization schedules for these districts by using some of the surplus funds. Over the course of the 25 years of these bond districts, it is likely surplus funds accumulated due to the City purchasing excess Equivalent Consumer Units (ECU). An ECU was the basis by which the assessments were allocated in these districts. An ECU represented one single family home's capacity in the wastewater and water treatment plants – capacity that was created by the plant expansions funded via these districts. However, actual development was less dense than planned thereby creating "excess ECUs" that the City purchased and later resold (for the same price) to subsequent development. The payoff of an excess ECU by the City thereby reduced outstanding principal of the bonds and therefore resulted in less interest paid on the bonds than anticipated. The City may use these funds for general purposes including capital. The City may use these funds for general purposes including capital.

The City is currently refinancing CFD 99-2 bonds. Like the City has done in the past, as a financing district has reached mature development status, the improved security for the bonds as well as favorable interest rates have resulted in the ability of the City to refinance the bonds and create additional project funds. The estimated project fund of \$830,000 is expected with the bond refinancing to close on December 7, 2011. These funds must be used for capital items of Fund 301 specified in the bond documents. Plan C, South MacArthur, and Presidio Development areas all adopted development impact fees to mitigate impact to City infrastructure and facilities. One item called for in the impact fees of these areas is the expansion of the City's Community Center. Total fees are \$1,077,000. The impact fee documents specify an expansion to the existing Community Center in order to provide additional space that can be used by the community. At the time the new City Hall was constructed a grand lobby was included in the plans and the building was designed to be used for a variety of events even when City offices are closed. The grand lobby of City Hall can be rented by the community just like space in the adjacent Community Center. As such, the grand lobby is expanded community center space and upon adoption of amending clarification language to the development impact fees, Fund 301 money used for the grand lobby construction can be released.

Finally, Staff has reviewed a variety of engineering fee deposits from a 15-year period and has concluded \$1,207,646 represents services rendered by the Development and Engineering Services Department which can now be transferred to revenue. Use of such funds for capital projects is appropriate in that there are substantial engineering charges for project management for all City capital projects. This transfer does not include current engineering deposits for which there is active development or known developers.

If the matters discussed conclude as anticipated (i.e. bond financing and development fee impact update), the City should have approximately \$8.1 million available for new capital improvement projects in Fund 301. From this amount, there is currently one obligation (\$250,000 for West High pool replacement) and one anticipated loan (to Tracy Rural for Station 92 construction but also repaid to Fund 301) thereby leaving \$7,375,000 available for appropriation in the upcoming CIP cycle.

The CIP project prioritization process was developed several years ago due to the increase in the number of CIP project requests and the reduction of Fund 301 money available to fund those projects. Because there are many competing priority projects with limited funds available, each CIP project is ranked based on how well that project supports each of the nine criteria. The criterion include: (1) Public Safety, (2) Neighborhood/Community Impact, (3) Legal Requirements, (4) General Plan, (5) Population Served by Project, (6) Fiscal Impact, (7) Life Expectancy, (8) Economic Development, and (9) Sustainability.

Staff is currently identifying various capital improvement projects for funding from Fund 301. The Engineering Division will review all project submissions and provide cost estimates during December and January. The City's interdepartmental CIP review team will meet in February 2012 to review and rank all projects. The final prioritized list of CIP Projects with cost estimates will be presented to the Council at a CIP workshop in March. At the CIP workshop, the Council will review the recommended priority projects and direct staff as to which final projects to include in the FY 12-13 CIP. The CIP will be officially adopted along with the City's operating budget in June 2012. This includes adoption of Fund 301 monies and CIP Projects.

Staff recommended that the Council accept the status report on Fund 301.

Council Member Elliott asked why remaining funds for a project are not automatically transferred when the project is completed. Mr. Johnston explained the process.

Mr. Churchill added that the bond covenants direct how the money is to be spent and it takes Council action to spend it in another area.

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

Robert Tanner, 1371 Rusher Street, stated it was his understanding that the two new fire stations were fully funded. Mr. Johnston stated it was envisioned that Tracy Rural would be responsible for \$1 million of the \$4 million needed, and it appeared that they will need an interim short-term loan.

Mr. Tanner asked if funds were put aside for the West High pool. Mr. Johnston stated he had talked with the school district and they were willing to suspend the current amount that should be put into the fund this year, and this amount represents contributions that should be there per the agreement. Mr. Johnston added it was similar to a capital replacement fund.

George Riddle, 1850 Harvest Landing, asked Council if any of this money could be used to cover other projects. Mayor Ives stated as he understood it, there is approximately \$900,000 for capital specific reasons which should be used for capital specific projects.

Mr. Riddle stated Measure E taxes also go into the General Fund which means Measure E funds more than fire and police.

It was moved by Council Member Abercrombie and seconded by Council Member Elliott to accept the report regarding General Projects Fund 301. Voice vote found all in favor; passed and so ordered.

8. AMEND THE CITY MASTER FEE SCHEDULE TO INCLUDE FIREARMS TRAINING FACILITY USER FEES, ACCEPT REPORT ON HISTORY AND USE OF THE TRACY FIREARMS TRAINING FACILITY, AND PRESENT THE COST ESTIMATE FOR CAPITAL IMPROVEMENTS TO THE TRACY FIREARMS TRAINING FACILITY – Lt. Wade Harper presented the staff report. Lt. Harper stated that since the firearms training facility was established over 60 years ago, the facility has helped train generations of Tracy police officers in basic shooting skills and other types of training. Currently, no regional firearms training facility exists within the region and requests to use the Tracy facility have increased in the last few years, particularly as local agencies evaluate the costs for overtime to send their officers long distances to train.

Due to aging, the firearms training facility needs basic repairs, and improvements to keep pace with current technology, legal mandates and best practices. Since the establishment of the firearms training facility, the City has invested approximately \$100,000 for repairs and has received various donations of materials and services from local businesses.

Early firearms training consisted of little more than a remote area where targets were placed in a stand and officers fired at paper targets. Today, varying degrees of technology are incorporated into training to recreate the realism of actual armed encounters that may be experienced by officers - this is consistent with the Commission on Peace Officer Standards and Training (POST) mandate that police departments conduct training that is "reality-based." The police department is considering including Force Options Simulators in firearms training. The Force Options Simulator uses a high definition video footage for a variety of interactive video scenarios. With the use of the Force Options Simulator, a diverse and inclusive range of use of force responses can be taught and evaluated. The value in simulation, based on use of force training, is the ability to allow the training to go beyond the point of mastering specific skills and focus on teaching the appropriate application of these skills under realistic field conditions.

What began exclusively as marksmanship and safety training in the 1950s has become a much more comprehensive training endeavor encompassing a wide variety of skills under the umbrella of firearms training. The decision-making process must be more involved than just "shoot-don't shoot" scenarios. Training must include a wide range of force options where use of firearms may not be the appropriate response.

POST sets the minimum training standards for police officers and recognizes Tactical Firearms training as a perishable skill that must be continuously refreshed. The Tracy Police Department also recognizes the need for increased training sessions. Officer involved shootings are low frequency events that represent high liability. Therefore, Tracy police officers conduct regular firearms training with on-duty weapons, off duty weapons, long rifles and shotguns. Officers carrying the long rifle must qualify once a month and must conduct weekly sight alignment checks for the purpose of validating the accuracy of the weapon. Training hours are also increased for SWAT team officers who

must maintain a high level of proficiency in the use of various weapons and physical conditioning.

The POST Administrative Manual lists and describes the myriad of legislatively mandated courses police officers must complete. The Department finds it more cost effective to train and utilize in-house instructors to conduct most courses, rather than to send officers to external training. Improved skills and sound decision-making through increased training in the application of appropriate levels of force will reduce the City's legal exposure should force be used.

As noted, greater and changing demands require a broader degree of shooting skills training and training facilities, including a range course that can accommodate the greater range of the long rifles. The current firearms training facility has undergone several incremental improvements. The facility was originally intended for the Tracy Police Department exclusively, but has grown to accommodate multiple users at any given time. Over the years, the firearms training facility has expanded and now has a training classroom and four independent firing ranges that can safely accommodate multiple users at one time. The facility can be configured for use in rifle, pistol, shotgun, and simunitions (non-lethal training ammunition) simultaneously. Additionally, the facility has a 300 yard rifle course, making it the only police range in San Joaquin County with a 300 yard capability. The outdoor facility allows for tactical and expansive training needs, such as in the case of interactive training with buses, vehicles, etc.

Currently, San Joaquin County does not maintain any regional firearms training facilities. The closest law enforcement ranges with similar capacity are the Alameda County Sheriff's Department's range in Dublin and the Santa Clara Sheriff's Department's range in San Jose. The Alameda County Sheriff's Department opens its range to other local law enforcement agencies and charges fees of \$400/range day which results in annual earnings of about \$250,000. Local law enforcement agencies pay these rates because they have no other option and the demand is such that it is difficult to schedule time at the Alameda County Firing Range.

The Santa Clara County Sheriff's Department has a "law enforcement use only" range that generated \$108,000 and \$105,000 of revenue in calendar years 2009 and 2010, respectively. Charging users to recover ongoing costs of operations and maintenance has not been considered previously in Tracy; however, with increasing demand for use of the facility and the need to address maintenance and repair needs, Staff has alerted current users that fees may be charged in the future. Currently, the U.S. Air Force has offered \$4,200 per year for use of the facility.

Given the current and expressed interest by various entities to use the Tracy facility, staff estimates that the firearms training facility could generate approximately \$50,000-\$65,000 in revenue per fiscal year from law enforcement agencies beginning in FY 12-13. Currently, the following agencies use the firearms training facility:

- San Joaquin County Sheriffs Department SWAT team.
- Defense Logistical Agency Police.
- California Highway Patrol (Valley Division).
- Brentwood Police Department/SWAT.
- San Joaquin County EOD

A demand currently exists for continued firearms training by law enforcement agencies. Law enforcement agencies that use firearm training facilities typically pay a user fee which can help offset operating costs such as routine maintenance, electricity, portable bathrooms, wear and tear of targeting systems, weapons cleaning supplies, and use of other classroom equipment. After evaluating fees charged by two local law enforcement training facilities, the proposed fees listed below are both reasonable and competitive.

The estimated capital improvement costs for the Tracy firearms training facility is \$1.8 million. This estimate includes improvements such as addressing infrastructure needs, improvements to shooting lanes, fiber optic network installation, paving of parking lot, site grading and improvements to access road, landscaping and a K-9 area designation.

The improvements can be phased over a five year period as money becomes available. Staff estimates that Phase one will cost \$425,000, Phase two will cost \$245,000, Phase three will cost \$432,000, Phase four will cost \$420,000, and that Phase five will cost \$280,000 for a total of \$1,802,000 should this become a capital improvement project.

Although the firearms training facility is currently functional, it is in need of some basic infrastructure including running water and restroom facilities. For example, donated landscape materials last for a limited amount of time due to lack of available water on site. The firearms training facility currently has a CIP funding allocation in the amount of \$43,000 for FY11-12, which will be used to repair the access road to the firearms training facility in preparation for the winter months.

A CIP request for the Tracy firearms training facility will be submitted for review through the CIP prioritization process for Council's consideration during the March, 2012 CIP workshop. This will assist Council in assessing this project against the other recommended priority projects and will determine which phases may be recommended for funding.

There is no immediate impact to the City's FY 2011-12 Budget. A CIP allocation in the amount of \$43,000 is in the current fiscal year budget (CIP 71072). If the Firearms Training Facility Fee schedule is adopted, the Police Department expects to generate about \$50,000 to \$65,000 annually in revenue beginning FY 2012-13.

Staff recommended that City Council approve the Firearms Training Facility user fee.

Council Member Abercrombie asked if other agencies were contacted regarding the fee establishment. Lt. Harper stated agencies were contacted. Council Member Abercrombie asked if any feedback was given. Lt. Harper stated no additional information was available at this time.

Council Member Abercrombie asked if Santa Clara County also had a private range. Lt. Harper stated yes. Council Member Abercrombie asked if staff knew how much their private range brings in for the County. Lt. Harper stated that was not investigated.

Council Member Abercrombie asked whose decision it was to not pursue private usage. Gary Hampton, Police Chief, responded that the decision had not been made, but foresaw major hurdles to overcome including risk management.

Council Member Abercrombie asked how many other outside organizations use Tracy's facility. Lt. Harper stated only one came to mind.

Council Member Abercrombie asked if the upgrade was not done, would this represent a substantial cost on overtime. Chief Hampton stated it was not reasonable to consider using another fire arm facility.

Council Member Abercrombie asked if Council were to look at the next fiscal year to begin phase 1, could the time line be moved up. Mr. Churchill stated the short response is that Council can do anything that is legally possible. Mr. Churchill further stated that to encourage financial discipline, the project should go through the complete process to see competing interests for capital funds. Mr. Sodergren added that because of the way the item was noticed, it would have to return to Council to allocate any funds.

Council Member Rickman suggested the City not overlook the possibility of offering the range for private use as well in spite of the hurdles.

Council Member Elliott asked if the current plan was to restrict the use to law enforcement agencies only. Chief Hampton stated his recommendation would be to restrict the use to law enforcement at this time based on current improvements needed.

Council Member Elliott asked if the City had received any other interest from government agencies using the facility. Chief Hampton stated he was not free to discuss what agencies might be interested in using the facility and for what training purposes.

Council Member Elliott asked if the proposed fee schedule is designed to recoup the City's costs. Chief Hampton stated yes, based on the current status of the range.

Mayor Pro Tem Maciel added as a historical perspective, Mr. Serpa, the first Tracy Police Captain, started the project when he purchased the property.

Mayor Pro Tem Maciel asked if RMA had an interest in participating in the funding of any of the hardware or software. Chief Hampton stated that was being pursued by every law enforcement agency in California.

Mayor Pro Tem Maciel asked what the current standards were. Chief Hampton stated the current department standards include firearm training six times per year; four of them tactical and the remaining two were for proficiency training.

Mayor Pro Tem Maciel asked if the annual costs to run the range were known. Chief Hampton stated ammunition costs run between \$8,000 and \$10,000 yearly and a general maintenance budget that provides for repairs only; no preventative maintenance funds.

Mayor Ives asked if all the State standard training was being done at the police range. Chief Hampton stated yes.

Mayor Ives asked if the proposed sewer system was septic. Chief Hampton stated yes.

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

Jennifer Garrett, Manager of Hampton Inn, asked how many agencies requested training for more than one consecutive day. Lt. Harper stated that data was not available.

George Riddle, 1850 Harvest Landing Lane, stated he believed it would be a great opportunity for the police to interact with gun owners and would be an interesting place to teach teenagers the proper use of guns.

Council Member Rickman asked how critical phase 1 was to the department. Chief Hampton stated it was extremely critical to provide training grounds that were safe and sanitary.

Council Member Rickman asked if this item should come back for Council consideration. Mr. Churchill stated based on the discussion, it would be important to have further discussion during the completion of construction of phase 1. Mr. Churchill further indicated the risk management issue would be reviewed.

Mayor Pro Tem Maciel stated he was very excited that the concept was being discussed since the primary goal was to have a facility to train Tracy police officers and to expand the use if possible. Mayor Pro Tem Maciel indicated he would like to see phase 1 expenses broken down. Chief Hampton clarified that it was critical that a plan be developed for 15 years for the facility in order to avoid the potential of putting good money after bad.

It was moved by Council Member Abercrombie and seconded by Council Member Rickman to direct staff to bring back information regarding phase 1 and a possible allocation of funds.

Mayor Pro Tem Maciel indicated the item should be discussed along with all other CIPs. Council Member Elliott stated everything should be laid out at the same time.

Voice vote found Council Member Rickman and Council Member Abercrombie in favor; Mayor Pro Tem Maciel, Council Member Elliott and Mayor Ives opposed. Motion failed 2:3.

It was moved by Council Member Abercrombie and seconded by Council Member Elliott to adopt Resolution 2011-212 amending the City's Master Fee Schedule by adding new fees for use of the Tracy Police Department Firearms Training Facility. Voice vote found all in favor; passed and so ordered.

9. **DISCUSSION AND DIRECTION REGARDING VACANT AND ABANDONED PROPERTIES, PROPERTY MAINTENANCE STANDARDS, AND PROPERTY AESTHETICS IN GENERAL** - Ana Contreras, Community Preservation Manager, presented the staff report. The Tracy Municipal Code has several provisions that address the general maintenance and safety-related issues associated with residential properties.

Vacant and abandoned properties in the City are not limited to properties in foreclosure. Many properties are vacant for various reasons; however, Code Enforcement has no exact statistics on the number of vacant, boarded-up or abandoned houses in the City. Although vacant and abandoned residences alone do not violate City ordinances, they become problematic as a result of broken windows, unsecured doors, overgrown weeds,

accumulation of garbage and junk and are conducive to criminal activity including drugs, prostitution, and vandalism. Other problems associated with these properties include arson, accidental fires, noxious odors due to sanitation issues and transients. These problems become attractive nuisances for children playing in and around the area, perpetuating neighborhood deterioration.

Tracy Municipal Code Section 9.60, Boarding of Buildings with Unsecured Openings, addresses vacant buildings which have unsecured windows and doors or other openings allowing entry, resulting in an attractive nuisance. This Ordinance defines what constitutes an unsecure structure, applicability, and building permit requirements for securing the structure. Once a building is boarded and in compliance with code requirements, there are no time limits specified in the code relative to how long a building can remain boarded.

Staff estimates there are approximately 15 boarded up buildings in the City. With the exception of foreclosures, enforcement powers on private property nuisances are limited to uniform statewide building codes and a variety of local nuisance laws. However, not all existing statutes work in every situation.

On October 21, 2008, Tracy City Council adopted Resolution 2008-228 approving Senate Bill 1137, enacted as an urgency measure to help lessen the negative effects of the foreclosure crisis. This bill applies only to residential mortgage loans acquired from January 1, 2003 through December 31, 2007, and sets forth the following procedures which *only* apply to residential property and are effective until January 2013.

- Requires a legal owner to maintain and secure vacant residential property at a foreclosed sale, or acquired by that owner through a foreclosure under a mortgage or deed of trust.
- Authorizes the City to impose civil fines and penalties for failure to maintain property (up to \$1,000 per day for a violation).
- Requires the City to give notice of the violation, description of conditions that lead to the violation and notice of the City's intent to assess a civil fine if action to correct the violation is not commenced within a period of not less than fourteen (14) days and completed within a period of not less than thirty (30) days.
- Allows for hearing to contest civil fines and penalties.
- Fines and penalties collected must be directed to a local nuisance abatement program.

The use of SB 1137 has been successfully used on two occasions to effectuate change in resolving code cases that fall under the authority of SB 1137 and has been effective in allowing the City to impose civil and/or administrative penalties for nuisance properties after the property has been purchased as a result of a foreclosure sale.

A subsequent bill, Assembly Bill 1427, adopted by the state legislature, requires that government agencies provide the legal owner with not less than 30 days to remedy the violation prior to imposing a civil fine and requires that the entity provide a hearing and opportunity to contest any fine imposed. The governmental entity may provide less than 30 days' notice to remedy a condition before imposing a civil fine if the entity determines that a specific condition of the property threatens public health or safety, provided that notice of that determination and time for compliance is given. AB 1427 provides greater

clarification of SB 1137 with regard to due process measures, therefore, there is no need to incorporate SB 1427 into the City's processes since our local authority already provides due process rights, administrative remedies and nuisance abatement issues.

Because there are a variety of statutes to consider when trying determining the best approach to deal with a blighted property, the City has established an interdepartmental task force to review and address blighted properties. This task force consists of a member of each City department that has a role in dealing with blighted properties. This team, known as the Inter-Departmental Enforcement Alliance (IDEA) meets on an as needed basis to discuss problem properties, share information, collaborate on best practices and solutions on how to best deal with problem properties and identify available resources. Remedies are selected, members are given assignments for their departments and progress is monitored. In addition, IDEA team members conduct walk-through inspections of neighborhoods and make contact with community organizations such as neighborhood watch groups, to help identify problem properties in the community. Using this approach has been an effective method in our goal of achieving compliance utilizing the various City disciplines available throughout the organization.

When dealing with a blighted property, the goal is to work in collaboration with the property owner for compliance. However, in many instances efforts to make an owner assume responsibility prove unsuccessful. Some properties are owned by individuals who live outside Tracy and become disinterested in the property. In some cases, properties are owned by companies or individuals that have filed for bankruptcy or do not have the financial resources to correct blighted conditions. In other instances, a property owner dies without a will and the property passes to multiple heirs who are either unknown or have such a small interest in the property that they are unwilling to assume responsibility for it.

Even with enforcement tools available that give the City the right to take certain actions to compel an owner to abate blighted conditions, there are times when compliance measures are simply unsuccessful. When this occurs, the City may move forward with managing and funding the abatement. In extreme cases, where administrative and judicial remedies prove ineffective, the City may move forward with more aggressive action, such as receivership.

Receivership is a powerful but infrequently used tool for ensuring that seriously troubled properties are repaired or rehabilitated. Receivership is used as a last resort when traditional code enforcement practices to motivate an owner to perform necessary maintenance and repairs are unsuccessful and a property is a danger to the community.

If a property is not being properly maintained, a municipality can go to court and seek to have a receiver appointed to take control of the property. If the court appoints a receiver, this third party is authorized to act as if it owns the property. The receiver can take any step the court authorizes to repair or rehabilitate the property. Receivers can finance the work with cash loans from banks or the municipality. In exchange, the receiver gives the lender a special certificate, which basically guarantees that it will get the full value of the loan back with interest. If the owner of the property doesn't pay back the receiver's loan with interest, the certificate becomes a lien on the property, which the Court may order be paid back before all other encumbrances on the property except taxes.

In response to the blighting influence and expense of vacant, foreclosed, and abandoned homes, many cities throughout the United States have begun to enact vacant property registration (“VPR”) ordinances. Registration ordinances typically require owners of properties that have become vacant or abandoned for a certain length of time to register formally with the local agency. Registration provides the local agency with a point of contact for regulation and holds the owner to certain safety and maintenance standards.

There are two types of VPR ordinances, and both approaches are generally staff intensive and would require significant City resources to implement. The first, known as The Wilmington Model, regulates all types of vacant and abandoned properties (those with structures, such as residential, commercial, industrial and those without). The second is The Home Foreclosure Ordinance (aka The Chula Vista Model). This VPR is commonly used as the best practice model, focusing on the responsibilities of the lender and mortgage servicers during the mortgage foreclosure process after the former owners and/or tenants permanently leave the property. This model may also be applied to vacant properties that are not a result of foreclosure, but privately owned properties that have been left vacant and neglected by private property owners.

Among the most important components of a successful registry program is a requirement that owners submit a “statement of intent” or vacant property plan that sets forth the expected period plans for maintaining the property during the vacancy, and a detailed plan and timeline for reoccupying, rehabbing or demolishing the property. Staff has discovered that those communities with experience in administering property registry programs believe such a requirement is particularly valuable because it provides a tool for municipal staff to engage with motivated property owners and help them to think realistically about appropriate steps that need to be taken to identify and address problems with their properties. Such plans can require an owner to have an approved vacant property plan within 30 days of filing the registration form. Failure to have an approved plan within this time period or failure to comply with an approved plan constitutes a violation, subjecting the owner to applicable penalties and remedies.

An area that staff has little authority to regulate under current codes relates to properties that do not rise to the level of a public nuisance, but are simply eyesores, as these situations are not addressed in the TMC. The City’s Code Enforcement Division regularly receives requests from the community to declare a situation as being a threat to the public health, safety or welfare when it is actually nothing more than an annoying condition. Although staff has no specific number of inquiries relative to these types of complaints, these types of enforcement requests are only permitted under an adopted policy that sets forth beautification standards. Property maintenance and image are significant when considering the community’s perception of property safety. Additionally, long term commitment to care is essential because it tells the would-be criminal that someone cares about the property and the neighborhood. Keeping property up can also set neighborhood standards and enforcement of City building and maintenance codes can discourage criminal activity, preserve neighborhood character and can have a stabilizing effect on property values.

Although some of the nuisances addressed through such standards are currently provided in the TMC, there are opportunities to expand and/or broaden these statutes to better address these issues.

Staff requests the following input from Council:

- Possible amendment to the Board Up of Open Unsecured Structures ordinance that establishes timelines that a vacant, boarded property can remain vacant and further requiring the filing of a Statement of Intent that sets forth the expected period and plan for maintaining the vacant property along with a detailed plan and timeline for reoccupying, rehabbing or demolishing the property.
- Adoption of a Vacant Building Registry for vacant residential properties as outlined above.
- Adopting additional property maintenance standards including, but not limited to:
 - *Vehicle parking on lawns and in back yards.* Restrict parking on landscaped areas within front, rear, and side yards in residential zones. Reduces the City's cost of repairing damaged curbs and sidewalks caused by vehicles driving over curbs and repaving curbs to slop upwards towards private property front yards
 - *Limit the paving of entire front yards.* Would reduce negative impacts to the community's shared environment caused by an increase in impervious land covers (i.e., reduction in water runoff into the City's storm drain system), soften visual appearances of street frontages, and reduce the creation of additional curb cuts, damaged curb cuts, and associated parking complaints.
 - *Overgrown, dying and/or unmaintained vegetation, including lawns and landscaping, especially private property landscaping that encroaches public rights of way.* Well maintained property decreases the potential for rodent harborages, ensures adequate ADA compliance and addresses visual obstruction. This section would further address neighborhood security issues, as overgrown bushes provide a location for predators in hiding.
 - *Watering and yard maintenance requirements.* Would maintain the visual integrity of a neighborhood by reducing unsightly appearances, potential fire hazards and insect/vermin infestation.
 - *Accumulation of newspapers, circulars, flyers, notices.* Requiring these items be removed would minimize the potential of blight and security related incidents in neighborhoods.
 - *Creation of a Property Maintenance section in the TMC.* Combining the various property maintenance-related sections of the TMC into one comprehensive code section would enhance the public's ability to more easily identify code requirements as they relate to private property maintenance. Currently, these sections are spread throughout the TMC and are somewhat difficult for locate.
 - *Outside Storage and Temporary Carports.* The TMC does not address storage of PODS units on private property. Incorporating language to the existing code could establish a timeframe (i.e., 30 days) that a PODS can be located on private property. Temporary carports are not specifically addressed in the code and, as such, staff has considered these carports an accessory structure, as defined in the Building Code. Prohibiting this use via a code amendment would provide clarity to the community that these units are prohibited.

While researching similar ordinances from other jurisdictions, these types of standards vary from city to city in terms of stringency. For example, the City of Brea's Beautification Ordinance closely resembles standards often found within a homeowner's

association, such as limiting on-street parking hours, established paint color palettes for residential and commercial structures, and tree species allowed in front yards.

There are several key components involved in engaging residents in public safety through education both external and internal. A graffiti abatement program, property maintenance standards considerations and a vacant building registry program have been established as part of Goal 4 of the Public Safety Strategy's overall infrastructure, supporting prevention and education and education efforts using a holistic approach using fire safety, municipal code information and crime prevention through environmental designs (CPTED).

Additionally, community partnerships with residents affected by foreclosures have and continue to be established through existing Neighborhood Watch Meetings. Code Enforcement attends these meetings with the Tracy Police Department on a regular basis to educate residents affected by foreclosed properties on how they can help keep the property from negatively impacting their neighborhoods and how to report violations.

Staff believes these alliances have a positive impact on the condition of the community's property stock and demonstrate a united commitment on the part of all stakeholders in the community, both public and private alike.

The fiscal impact varies depending on Council's direction. Each area of policy direction is addressed separately.

1. Update Boarding of Unsecure Buildings Ordinance to establish amount of time a property can be boarded. Continuation of existing code provisions would not result in a fiscal impact. Introduction of a time limit would have a negligible fiscal impact as current administrative support staff would be assigned the task of tracking timeframes on boarded up buildings.
2. Vacant Property Registry – Although incorporated into the City's public safety strategy, this process is staff intensive and would substantially increase the caseload. Current staffing levels are inadequate to successfully carry out such a program. However, registration fees could be imposed to help offset the cost of operating the program, and any fines and penalties received from non-compliant owners would be used towards administrative costs, field investigations. It is anticipated that a VPR program would require 1.5 to 2 FTEs at a General Fund impact.
3. Tracy Municipal Code Amendments that address additional property maintenance standards in the TMC would result in additional code enforcement cases very similar to current cases. Accordingly, the case load would increase and would require additional staff. Depending on the maintenance standards, it is anticipated that this would require between 0.5 to 1.5 FTEs funded from the General Fund.

Staff asked for Council feedback and direction in regards to definition of annoyance issues and direction on three major areas: (1) Changes to current TMC for length of time a vacant building can remain boarded; (2) the future of a Vacant Building Registry in the City of Tracy, and (3) Scope of TMC amendments that address violations of community standards and values that reflect Tracy's character and quality of livable neighborhoods.

Staff recommended that City Council, over time, include amendments listed in number 3 and coordinate the amendments based on existing Code Enforcement case load.

Mayor Pro Tem Maciel asked for clarification of the number of vacant buildings. Ms. Contreras stated there were 15 vacant boarded buildings.

Mayor Pro Tem Maciel stated he believed the most important need was to deal with the abandoned buildings; that parking on lawns was distasteful but also a slippery slope on property rights.

Council Member Elliott asked what if the City proposed a time limit on boarded buildings. Ms. Contreras stated it would require the property to be listed with the City along with a plan on how to deal with the property.

Council Member Elliott asked if staff could come up with a proposed set of guidelines. Ms. Contreras stated if that was Council's desire.

Council Member Elliott stated he liked the IDEA team as a good approach to address blight and encourage community action, and asked how often they meet. Ms. Contreras stated previously they met as needed, but would be meeting on a quarterly basis.

Council Member Rickman stated he was concerned with the vacant and foreclosed homes and that it was not his intention that Tracy become a homeowners association. Council Member Rickman asked why it takes so long to take care of these properties. Ms. Contreras stated that once a property is bank owned the problem is remedied to prepare the house for sale.

Council Member Rickman asked if the City has looked into receiverships. Ms. Contreras stated she and the city attorney have discussed it, but nothing has been done at this point.

Council Member Rickman stated receiverships would be an effective tool for properties that are in limbo. Mr. Sartor stated aesthetics alone would not get what you want; the City would have to prove that a home was being used by squatters or that it posed a health and safety issue in order for a court to act.

Council Member Rickman asked if the City just enforced what it has, could we get the job done. Ms. Contreras stated that if we can get the vacant registry, it would be a great help.

Mayor Ives referred to property owners who place concrete between one property and the other and asked if that was permitted. Ms. Contreras stated currently there was no provision to limit that from happening.

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

George Riddle, 1850 Harvest Landing Lane, stated it appeared like the beginnings of a homeowners association. Mr. Riddle suggested coming up the procedures and closing the loop would expedite resolving some of the issues.

Barbara Simpson, 1472 Lombard Court, asked how many members were on the taskforce. Ms. Contreras stated 12-13.

Ms. Simpson suggested it would be helpful if a real estate representative was part of the team. Ms. Contreras stated the City has worked with the Tracy Realtors Association, has developed partnerships and has solicited their help.

Ms. Simpson stated the Central Valley Association of Realtors would welcome the opportunity to provide input to the group.

Byron Bogard, Association Executive of CVAR, representing 1700 members throughout San Joaquin and Stanislaus Counties, stated they sent out a notice to their group indicating this item would be discussed and the sentiment was that current codes that are on the books need to be enforced. Mr. Bogard added many members would have serious concerns about the aesthetics component.

Dave Konesky 403 W. Eleventh Street, addressed Council recommending that they look into some of the problems created by the City. Mr. Konesky suggested one solution would be to work on City standards when working with the property owners. Mr. Konesky voiced caution regarding any rule concerning aesthetics, and added he hoped that the City could work within the current restrictions and not create another layer.

Patrick Lewis, Klemm Real Estate, and a member of CVAR, addressed Council regarding his concern with leaning toward a HOA atmosphere. Mr. Lewis also stated he was concerned with the idea of a vacant registry.

Council Member Rickman suggested the focus should be on vacant, abandoned, and boarded up buildings.

Council Member Abercrombie stated he agreed with Council Member Rickman, and suggested staff needs to see how the process can be sped up.

Council Member Elliott stated he agreed that the City does not want a homeowners association, but should come up with a standard for boarded up buildings.

Mayor Pro Tem Maciel asked if the vacant registry item moved forward would it have helped in dealing with the last two cases. Ms. Contreras stated it would help in locating the responsible party.

Mayor Pro Tem Maciel suggested it may be worthwhile to look at items 2 and 3 if approached carefully while focusing on health and safety.

Council Member Abercrombie stated Council may need to look at additional standards that affect property values.

Mayor Ives summarized: #1 coming back by itself; how it can be streamlined or not. #2 bring back at another time and decide if it is worth considering. #3 maybe there are some community standards that can be agreed upon. Mayor Ives suggested the items be taken incrementally.

Council Member Abercrombie suggested a minor discussion regarding property owners not taking care of commercial property.

10. DISCUSS THE CITY'S FREEWAY SIGN REGULATIONS, PROVIDE DIRECTION TO STAFF RELATED TO POTENTIAL CHANGES, AND APPROPRIATE \$25,000 TO FUND CREATION OF CITYWIDE FREEWAY SIGN DESIGN STANDARDS - Bill Dean, Assistant DES Director, presented the staff report. Mr. Dean stated that signs are intended to identify businesses and direct people to goods and services. They can also be important in promoting businesses through name recognition.

Tracy Municipal Code Section 10.08.4430 describes the purpose of signs in Tracy, but regulates only the location, size and type of signs permitted throughout the City.

There are 37 existing freeway signs within the City limits, several of which were constructed on properties within San Joaquin County that were later annexed into the City. Many signs advertise a single business, and tend to be clustered together, adjacent to freeway exits. An example is the intersection of Tracy Boulevard and I-205, where there are 21 freeway signs in the immediate vicinity; all but one advertise individual tenants. A number of these freeway signs were constructed prior to the properties becoming a part of the City and are larger and taller than the Tracy Municipal Code (TMC) currently allows.

The City's current regulations regarding freeway signs vary between three different areas abutting I-205 - the I-205 Corridor Specific Plan, the Northeast Industrial Concept Development Plan (NEI), and remaining frontage areas regulated by the Tracy Municipal Code). The TMC allows for freeway signs to be no larger than 300 square feet and no taller than 15 feet above the crown of the freeway or 45 feet, whichever is less. Any business advertised on a freeway sign must be no more than 350 feet from the freeway and a Conditional Use Permit must be approved by the Planning Commission prior to sign approval. However, the regulations in the I-205 Specific Plan area and in the NEI area differ from the TMC. Most of these variations were written to address specific projects, such as the West Valley Mall and the Outlet Center.

Overall, the freeway sign regulations relate to businesses that have a freeway presence or serve as a regional shopping destination. Billboards, which typically advertise establishments that are not within the same parcel as the sign itself, and often advertise establishments that are not within the City, are prohibited in Tracy.

Currently, the TMC prohibits any sign that "flashes, blinks, moves, changes color, appears to change color, changes intensity, or contains any part of an attachment which does the same..." The only exceptions to this are barber poles, and time and temperature signs, within the appropriate zones. Accordingly, electronic reader board signs are not currently permitted anywhere within the City.

Currently, there are no adopted citywide design standards for freeway signs. Current regulations only address sign height, size, and location. The result, over many years is a mix of signs along the I-205 corridor that serve individual establishments without regard to an overall design theme or aesthetic.

The following requests for new or enlarged freeway signs have been proposed to staff, both formally and informally, in recent months:

- Increases in amount of signage - Tracy Marketplace, Tracy Outlets, Cordes Ranch, Auto Mall, Filios Project
- Increases to TMC allowed heights - Cordes Ranch, Toste, Filios
- Electronic Reader Board - Auto Mall, Tracy Blast

Staff has received written requests from the Auto Mall and Tracy Blast. While some existing signs, such as the West Valley Mall and Outlet Center were given special consideration within the I-205 Specific Plan planning process due to them being significant regional destinations, many other projects are seeking approval to allow more signage and/or new types of signage outside the current requirements of the TMC.

With so many new or varied freeway signs proposed at the same time, staff believes it is better to discuss the I-205 corridor as a whole as opposed to bringing individual requests to the Council. Prior to approval of any of the proposed signs, TMC and/or Specific Plan amendments would need to be approved. The visual effect of these signs on the City would be cumulative, and therefore their cumulative impacts on the aesthetics of the I-205 corridor (and I-580 in the future) need to be considered.

A logical way to complete a review of all the proposed signs and sign amendments would be to complete a comprehensive review and update to the entire Zoning Code, including the Sign Ordinance. However, due to the timing of that project (2012) and the needs of the freeway sign proponents, staff proposed pulling the freeway sign section out of the Code to review and update it separately in order to expedite the process.

Both the Tracy Blast proponents and Auto Mall tenants have expressed interest in digital display (reader board) or "TV screen" signs along the I-205 corridor. Electronic reader board signs are lighted billboard displays with changing text and images. With these signs becoming more common, there have been numerous discussions statewide on these signs and the potential safety hazards and aesthetic impacts they can present. Many cities (such as Tracy) do not allow LED or digital display signs, some more recently banning them along freeways (Los Angeles) because they have declared them a nuisance or have concerns regarding their tendency to distract drivers.

These signs can be highly desirable to property owners because they can function to both advertise their on-site business or activity, and also provide an additional source of income for the property owner in the form of fees paid by others off-site to advertise on the signs. It should be noted that the City would be unable to regulate the *content* of these signs, making it possible that the signs could be used to advertise businesses outside of Tracy, as well as for the promotion of non-commercial activities, such as political campaigns. It is possible that one or more of these signs could be located on City-owned property, should they become a permitted sign type. Some nearby areas that have a number of electronic reader board signs include the 880 corridor through Fremont, Newark, Union City and Hayward, and the Sacramento and Roseville area along Interstate 80.

The City's current sign ordinance prevents these signs for four separate reasons.

1. No off-site advertising is allowed (with the exception of residential subdivision signs and real estate open house signs for directional purposes). This causes all signs for a business to be located only on the same site as the business. If the City were to simply remove this provision from the Tracy Municipal Code, it would likely cause the

proliferation of signs throughout the City, with businesses advertising on properties other than their own. It would also result in creating a market for leasing or selling sign space to the highest bidder, including out of town businesses.

2. Billboards are not allowed within the City at all.
3. The Sign Ordinance prohibits any sign that “flashes, blinks, moves, changes color, changes intensity, or contains any part of an attachment which does the same (except for barber poles and time and temperature signs)”.
4. Any sign “adversely affecting traffic control or safety” is prohibited. In order to consider allowing electronic reader board signs/billboards, the City would need to consider a number of changes to the Sign Ordinance that have the potential to affect signs in the remainder of the City, not just along the freeways.

Policy Issues/Questions

In order to proceed with consideration of these requests in a coordinated manner, staff sought direction on the following:

1. Should the City’s sign regulations be amended to allow for increased signage (height, square footage, number of signs per parcel or project)?
2. Should the City allow electronic reader boards / electronic billboards as a sign type, thus allowing for off-site signage to be permitted within the City (including signage for businesses outside of the City)? Please note that allowing off-site signage likely cannot be limited to solely freeway locations.
3. Should the City have design standards for freeway signs incorporated into the City’s Design Goals and Standards? Such standards could be a way for the City to have a more unified design theme for signs along the freeway corridors.

City Council Options

The following options have been identified for the City Council to consider. Each option is listed with its fiscal impact.

1. No Action - This option would have the effect of leaving in place current freeway sign regulations, including current size and height limitations (i.e. disallowing electronic reader boards/electronic billboards). This would require no additional staff resources, and applications for any new or changed freeway signs would be processed individually in accordance with current regulations.
2. New Freeway Sign regulations with Electronic Reader boards/Electronic Billboards - Direct staff to amend the Tracy Municipal Code, Northeast Industrial PUD, and the I-205 Corridor Specific Plan to include provisions for electronic reader board/ electronic billboard signs, new freeway size and height regulations, and create new freeway sign design standards. This option would have the effect of indicating Council’s intention to allow electronic reader board signs along the I-205 and I-580 corridors. Such amendments would propose the approval processes that would be

followed later by individual applicants. This option would require significant staff resources and would cost \$25,000 for new design standards.

3. New Freeway Sign regulations without Electronic Reader boards/Electronic Billboards - Direct staff to amend the Tracy Municipal Code, Northeast Industrial PUD, and the I-205 Corridor Specific Plan to include new freeway size and height regulations, and create new freeway sign design standards. This option would have the effect of indicating the Council's intention to NOT allow electronic reader board signs. This option would require fewer staff resources and would require \$25,000 for new design standards.
4. New Freeway Sign Regulations without Electronic Reader boards/Electronic Billboards and without design standards - This option would have the effect of directing staff to create only new regulations for the size and height of freeway signs. This option would require fewer staff resources and would not require \$25,000 for design services.

Environmental analysis and documentation through the California Environmental Quality Act (CEQA) are triggered with actions that may cause a direct or indirect physical change or impact to the environment, both at present time or in the foreseeable future. CEQA contains a checklist of factors to be considered for any project that is reviewed under CEQA, and electronic reader board/electronic billboard signs would trigger review within the aesthetics and traffic sections of CEQA. These analyses (potentially resulting in an Environmental Impact Report) would need to be conducted prior to the construction of any such signs. Moving forward with any TMC amendments however, would also require CEQA review, though it is anticipated to be more expeditious than an EIR.

Developing a freeway sign ordinance will require a significant amount of staff time, especially if it includes new provisions for electronic reader board/electronic billboard signage. Professional design services would be approximately \$25,000.

Staff recommended that the City Council discuss freeway signage and the policy issues and direct staff accordingly. Staff also recommended that if the Council desires design guidelines, it directs staff to either appropriate \$25,000 from the RSP fund or compete with other CIPs for funding from the General fund.

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

Robert Tanner, 1371 Rusher Street, asked if the City has a sphere of influence regarding property, why not freeway signs as well. Mr. Tanner also commented on the electronic reader boards that schools have. Mr. Dean stated school districts are not required to comply with local zoning ordinances.

Mary Mitracos, 363 W. Easton Avenue, suggested Council pursue option 1; no action. Ms. Mitracos stated Tracy currently has a sign ordinance as well as design standards, and suggested these items be reviewed through the zoning code update.

Mayor Ives asked if that was what staff was proposing. Mr. Dean stated staff was asking Council if the item should be brought ahead of the zoning code update based on developer requests.

Council Member Abercrombie asked when the zoning code update was scheduled to come back. Mr. Dean stated late in 2012.

Mayor Pro Tem Maciel stated Council and staff need to be listening to the business community and possibly be more liberal in the City's standards in order to help them conduct business.

Mayor Ives asked other than time and complexity, what are the downsides of bringing the item back with the zoning code update. Mr. Dean stated it was at the request of property owners (i.e., auto mall dealers).

Mr. Dean stated one outcome could be to work with the business community to identify reasonable changes to signage, especially concerning digital signage.

Council Member Elliott what effect the Council's action or inaction would have on any proposed sign application. Mr. Dean stated the effect is that they enjoy the current standards and regulations.

Mayor Ives summarized as follows:

1. Should we combine our regulations into one code. It was Council consensus to combine in one area.
2. Should we amend the regulations. Mayor Pro Tem Maciel indicated Council should consider amending them based on business needs; Council Member Rickman amend them based on what.

Mr. Sodergren asked if Council wanted staff to look at size, height and location regarding on-site signage. Mayor Ives suggested it does not address uniformity.

Council Member Rickman stated the item should not be rushed. Council Member Abercrombie stated he was good with not taking action now.

Mr. Dean summarized Council direction: Council would like staff to place code requirements in one area (Tracy Municipal Code); regarding on-site signage, Council was interested in looking at size and height, possibly amending the standards based on community input.

11. THE ADOPTION OF A LOTTERY PROCESS FOR THE SELECTION OF NON-PROFIT ORGANIZATIONS TO OBTAIN A SAFE AND SANE FIREWORKS SALES PERMIT - Division Chief Bramell, presented the staff report. Chief Bramell stated the number of Safe and Sane Fireworks Sales Permits issued to non-profit organizations is determined by the resident population of the City. The "Fireworks" ordinance specifies one Safe and Sane Fireworks Sales Permit per 10,000 residents or fraction thereof. With the City's current population in excess of 80,000 residents, nine such permits will be issued to non-profit organizations in Tracy. Due to the number of non-profits exceeding the number of permits available, it is necessary to determine an equitable, objective lottery process by which eligible non-profits may be eligible to receive a Safe and Sane Fireworks Sales Permit.

Section 3.04.050 “Maximum Number of Safe and Sane Fireworks Permits Issued” of the Tracy Municipal Code, states City Council shall provide the process, by City Council resolution, for selection of non-profit organizations that will be eligible to apply for permits to sell and store Safe and Sane Fireworks. The existing resolution was specific only to July 4, 2011. Staff proposes a new lottery process that will allow staff to process the lottery without the need to come before Council on an annual basis. The proposed lottery process identifies specific days and months in which lottery activities will occur but is not specific to a standing date each year. For example, the proposed resolution would state “the first Thursday in December” in lieu of “December 8”. This will prevent staff from returning to Council when a standing date in any given year occurs on a weekend.

The proposed lottery process includes applicants submitting completed applications with supporting required documentation, application screening, and conducting the lottery itself. This lottery process is the same as the previously adopted resolution with the exception of date specificity. The City Clerk or designee conducts the lottery in a public forum with applicants in attendance. A number is assigned and drawn for each eligible applicant regardless of the number of available permits. Drawing all numbers ensures each applicant was represented and had an equal opportunity to be drawn. The numbers drawn equaling the number of available permits are awarded permit eligibility. In addition, three alternates are selected for eligibility in the event one of the other awardees does not meet permitting requirements. There will be a two year limit for each non-profit organization drawn in subsequent years, after which the non-profit will have to sit out a year before submitting another Safe and Sane Fireworks lottery application.

The fiscal impact is limited to staff time required to review applications, determine eligibility and conduct the lottery process. The \$225 fee for a Safe and Sane Fireworks Sales Permit includes \$50 for “lottery processing”. The fees associated with the “Fireworks” ordinance are included in the City’s Master Fee Schedule.

Staff recommended that Council adopt the proposed lottery process for the selection of non-profit organizations to obtain a Safe and Sane Fireworks Sales Permit.

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

It was moved by Council Member Abercrombie and seconded by Council Member Elliott to adopt Resolution 2011-213 approving a lottery process for the selection of non-profits to obtain a Safe and Sane Fireworks Sales Permit. Voice vote found all in favor; passed and so ordered.

12. ITEMS FROM THE AUDIENCE – None.
13. COUNCIL ITEMS
 - A. Appointment of City Council Subcommittee to Interview Applicants for Two Vacancies on the Parks and Community Services Commission - Maria Hurtado, Assistant City Manager presented the staff report. Ms. Hurtado stated there were two vacancies on the Parks and Community Services Commission due to

the resignation of Commissioners Winchell and Atkins. The vacancies were advertised and the three week recruitment period closed on November 1, 2011.

In accordance with Resolution 2004-152, a two-member subcommittee needs to be appointed to interview the applicants and make a recommendation to the full Council.

Staff recommended that Council appoint a two-member subcommittee to interview applicants for the vacancies on the Parks and Community Services Commission.

Council Member Abercrombie and Council Member Rickman were volunteered.

Council Member Rickman stated there was a problem regarding the cultivation of marijuana on private property. Council Member Rickman added it involved different neighborhoods, razor wire being placed around property, increased traffic, and theft of plants. Council Member Rickman requested an agenda item for the next Council meeting regarding options to combat the problem due to safety issues.

Council Member Rickman praised the Grand Theatre staff regarding the haunted house. Council Member Rickman stated it was outstanding.

Mayor Pro Tem Maciel asked about the status of a proposal given to Council regarding a group willing to operate the Joe Wilson pool. Mr. Churchill, stated it would likely involve consideration of a capital project.

Dan Sodergren, City Attorney, asked for clarification regarding Council Member Rickman's request for an agenda item regarding cultivation of marijuana on private property. Mr. Sodergren stated the next step would be a brief staff report to allow Council to discuss whether or not to consider the item at a future meeting. It was Council consensus to have a complete report at the next meeting.

14. 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: 12:11 a.m., November 2, 2011.

The above agenda was posted at the Tracy City Hall on October 27, 2011. The above are summary minutes. A recording is available at the office of the City Clerk.

Mayor

Attest:

City Clerk