

January 3, 2012, 7:00 p.m.

City Council Chambers, 333 Civic Center Plaza

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

Mayor Pro Tem Maciel called the meeting to order at 7:07 p.m., and led the Pledge of Allegiance.

Pastor Scott McFarland, Journey Christian Church, provided the invocation.

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

Leon Churchill, Jr., City Manager, presented the Employee of the Month award for December 2011, to Michael Riley, Public Works, and for January 2012, to Eileen Solario, Finance Department.

Leon Churchill, Jr., City Manager, introduced Carol Gorrie, Finance Department, City of Tracy's 2011 Employee of the Year.

Mayor Pro Tem Maciel presented a Certificate of Recognition to outgoing Commissioner James Atkins, and Certificates of Appointment to new Commissioners Tish Foley and Alexander Holguin, Parks and Community Services Commission.

Mayor Pro Tem Maciel stated that item 12.A would be removed from the calendar.

1. CONSENT CALENDAR - Following the removal of item 1-B by Andrew Malik, Director of Development and Engineering Services, it was moved by Council Member Abercrombie and seconded by Council Member Elliott to adopt the Consent Calendar. Roll call vote found Council Members Abercrombie, Elliott, Rickman, and Mayor Pro Tem Maciel in favor; Mayor Ives absent. Motion carried 4:0:1.
 - A. Minutes Approval – Special meeting minutes of October 18, 2011, and December 21, 2011, regular meeting minutes of October 18, 2011, and closed session minutes of December 6, 2011, were approved.
 - B. Approve Amendment 1 to the Deferred Improvement Agreement with Patillo Development Partners, LLC to Exclude Certain Improvements already Constructed by the Developer and Authorization for the Mayor to Execute the Agreement and Authorization for the City Clerk to File the Agreement with the San Joaquin County Recorder – Item to be brought back at a later date.
 - C. Acceptance of the Street Patch & Overlay (FY 2010-11) Project – CIP 73121, Traffic Signal Loop Detectors and Controllers Replacement at Various Locations in the City – CIP 72070, & 72075, Completed by Desilva Gates Construction of Dublin, California, and Authorization for the City Clerk to File the Notice of Completion – Resolution 2012-001 accepted the project.
 - D. Approve a Professional Services Agreement with West Yost & Associates, Inc., to Provide Design Support for the Potable Water Reservoir and Pump Station

Project for the Tracy Gateway Business Park – Phase 1, Tract 3659, Appropriate Funds from Tracy Gateway F356, and Authorization for the Mayor to Sign the Agreement – Resolution 2012-002 approved the agreement for a not to exceed amount of \$147,600, and the appropriation of funds.

- E. Authorization to Name the City Manager or Public Works Director as the Signing Authority for the WaterSMART Grant Program Application to the U.S. Department of the Interior – Resolution 2012-003 approved the authorizations.
 - F. Authorization to Award the Purchase of Two Heavy Duty Dump Trucks from Downtown Ford Sales, Sacramento, California – Resolution 2012-004 authorized the purchase of equipment.
 - G. Declaration and Approval of the List of Surplus Equipment for Sale at Public Auction to the Highest Bidder – Resolution 2012-005 declared the list of equipment as surplus.
2. ITEMS FROM THE AUDIENCE – Nicholas R. Boothman, 150 E. Seventh Street, addressed Council suggesting that the Transit Station be used further to link the Amtrack connection bus to the site.
- Paul Miles, 1397 Mansfield Street, expanded on his remarks read into the record at the December 6, 2011, City Council meeting regarding Mr. Churchill's investigation. Mr. Miles asked Council to consider Mr. Churchill's ability to hold staff accountable.
3. THAT COUNCIL CONDUCT A PUBLIC HEARING DECLARING THE EXISTENCE OF WEEDS, RUBBISH, REFUSE AND FLAMMABLE MATERIAL ON EACH OF THE PARCELS LISTED IN EXHIBIT "A" TO THIS AGENDA ITEM A NUISANCE; CONSIDER OBJECTIONS TO ABATEMENT OF SAID NUISANCE, AND ADOPT A RESOLUTION AUTHORIZING FIRE DEPARTMENT STAFF TO ORDER CONTRACTOR TO ABATE SAID NUISANCES - Division Chief Steve Hanlon, presented the staff report. Chief Hanlon stated pursuant to Tracy Municipal Code, a Public Hearing is required prior to the abatement of any parcels. Sections 4.12.250 through 4.12.340 of the Tracy Municipal Code set forth the procedure for the City to abate weeds, rubbish, refuse and flammable material on private property.

On November 23, 2011, and December 9, 2011, pursuant to Tracy Municipal Code, Section 4.12.280, the Fire Department sent a notice to property owners. That notice required the said owner to abate weeds, rubbish, refuse and flammable material on his/her parcel within twenty days, and informed the property owner(s) that a Public Hearing would be conducted on January 3, 2012, where any protests regarding the notice to abate would be heard. The Tracy Municipal Code provides that upon failure of the owner, or authorized agent, to abate 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.

Under the provisions of Tracy Municipal Code, Section 4.12.290, the Fire Department will proceed at Council's direction with instructing the City's contractor to perform weed, rubbish, refuse and flammable material abatement on the parcels.

Per the Tracy Municipal Code, property owners are liable for the cost of abatement and will be billed for the actual cost of the City contractor's services, plus a twenty-five

percent administrative charge. All unpaid assessments will be filed with the San Joaquin County Auditor Controller's office to establish a lien on the property.

The budgeted amount for Fiscal Year 2011-12 is \$10,496, Grounds and Maintenance account 211-52150-252-00000, to be used for contracting the abatement of weeds, rubbish, refuse and flammable material. There are sufficient funds at this time to accomplish abatement services.

Staff recommended that Council conduct a Public Hearing to hear and consider any and all objections to the proposed abatement, and by resolution, declare the weeds, rubbish, refuse, and flammable material located at the parcels to be a nuisance, and authorize the Fire Department to direct the City's contractor to abate such nuisance.

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

It was moved by Council Member Abercrombie and seconded by Council Member Rickman to adopt Resolution 2012-006 declaring the existence of weeds, rubbish, refuse and flammable material on the parcels listed in Exhibit "A", a nuisance, and authorizing Fire Department staff to order contractor to abate. Voice vote found Council Member Abercrombie, Elliott, Rickman, and Mayor Pro Tem Maciel in favor; Mayor Ives absent. Motion carried 4:0:1.

4. CONDUCT A PUBLIC HEARING TO HEAR OBJECTIONS TO AND APPROVE THE FINAL COSTS OF WEED ABATEMENT - Division Chief Steve Hanlon presented the staff report. Chief Hanlon stated pursuant to Tracy Municipal Code Section 4.12.260, property was identified by the Fire Department that required weed abatement. The property owners were given notice to abate and a public hearing was conducted on July 19, 2011. The Tracy Municipal Code provides that upon failure of the owner, or authorized agent, to abate 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. The City Council authorized the abatement.

The Fire Department designated 4 parcels that required abatement by Baylor Services, the contractor for the City of Tracy. The abatement was completed at a cost to the City of \$1,603.75.

Fire Department staff notified the affected property owners of this public hearing where Council will consider the report of costs for abatement and any objections of the property owners liable for the cost of abatement. The cost of abatement assessed to the property owner is the actual cost of the City contractor plus a 25% administrative charge, per Resolution 2003-059.

The Fire Department budgeted \$12,100 for weed abatement services in FY 2011- 2012. The Fire Department has \$10,496 remaining. The department has expended \$1,603.75 for the work performed by Baylor Services. Expended funds were within the identified budget for FY 2011-2012.

Staff recommended that City Council conduct a public hearing to hear objections to the costs of abatement and authorize, by resolution, approval of the final abatement costs.

Mayor Pro Tem Maciel opened the public hearing.

Robert Tanner, 1371 Rusher Street, asked how many times the Chevron property has been abated by the City. Division Chief Hanlon indicated he did not know but could research the answer.

Mayor Pro Tem Maciel closed the public hearing.

Council Member Elliott asked if City staff received any communication from the property owners listed in the Exhibit.

Mayor Pro Tem Maciel asked if the City receives reimbursement of the abatement costs. Chief Nero indicated the owners are billed for the abatement and if not paid, a lien is placed against the property.

It was moved by Council Member Abercrombie and seconded by Council Member Elliott to adopt Resolution 2012-007 approving the final costs of weed abatement. Voice vote found Council Member Abercrombie, Elliott, Rickman, and Mayor Pro Tem Maciel in favor; Mayor Ives absent. Motion carried 4:0:1.

5. PUBLIC HEARING TO AUTHORIZE AMENDMENTS TO THE FINANCE AND IMPLEMENTATIONS PLANS OF THE PLAN C, SOUTH MACARTHUR AND PRESIDIO DEVELOPMENT AREAS TO REIMBURSE THE GENERAL PROJECT FUND 301 FROM THE BUILDING IMPACT FEES COLLECTED FROM THESE AREAS FOR CONSTRUCTION OF MEETING SPACE IN THE CITY HALL/COUNCIL CHAMBER BUILDING (CITY HALL) - Kuldeep Sharma, City Engineer, presented the staff report. Development in Plan C, South MacArthur, and Presidio areas created a need for additional community meeting space in the Civic Center area. The approved Finance and Implementation Plans for these development areas requires payment of Development Impact Fees for Public Buildings; a portion of that fee covers the cost of the additional meeting space in the Civic Center area.

Since the Civic Center Master Plan was not finalized at the inception of these new development areas, a portion of the building development impact fees to be collected from these development areas was allocated to construct the required meeting space in the existing Community Center building. However, during the planning process for the new City Hall project, it was ascertained that it would not be cost effective to expand the existing Community Center for additional meeting space due to the building's age and layout. It would be less expensive and more functional to provide the required community meeting area in the new City Hall.

As a result, a total of 7,370 square feet of area for community use was added to City Hall. These areas include the main lobby (foyer), meeting rooms adjacent to the Council Chambers on the first and second floors, balcony, stairs and restroom facilities. Construction of these areas was initially funded from the General Project fund for timely completion of the City Hall.

Since completion of City Hall, these additional areas have been rented for community use. A majority of the development areas listed above (Plan C, South MacArthur and Presidio) are now built. There are sufficient funds available from the public building development impact fees to reimburse the fair share cost of these meeting space areas in the City Hall that were initially paid by General Project funds. Staff proposed that the Finance and Implementation Plans for Plan C, South MacArthur, and Presidio area be

amended to reimburse the General Project fund with the fair share cost of these developments that were originally paid for out of these community areas as follows:

REIMBURSEMENT TO GENERAL PROJECT FUND 301

<u>FROM DEVELOPMENT AREA</u>	<u>FOR CONSTRUCTED COMMUNITY AREA (sq. ft.)</u>	<u>IN THE AMOUNT OF</u>
Plan C	5,084.0	\$ 784,100
South MacArthur	955.6	\$ 164,000
Presidio	<u>924.0</u>	<u>\$ 129,576</u>
Total	6,963.4 sq. ft.	\$1,077,676

The recommendation to Council, if approved, will result in the following changes to the approved Finance and Implementation Plans (FIP):

<u>FIP</u>	<u>CHANGES</u>
Plan C Adopted in June 2007	Page 12 – Item 5 – Public Meeting Facilities: Delete the existing paragraph and replace it with a new paragraph as shown on Page 1 of Attachment A
South MacArthur Adopted in September 2005	Page 11 – Item 5 – Public Meeting Facilities: Delete the existing paragraph and replace it with the new paragraph as shown on Page 2 of Attachment A
Presidio Adopted in February 2004	Page 11 – Item 5 – Public Meeting Facilities: Delete the existing paragraph and replace it with the new paragraph as shown on Page 3 of Attachment A

The proposed reimbursement will result in an increase to the City's General Project Fund 301. This reimbursement was listed in the staff report submitted to City Council at the November 1, 2011, meeting regarding the status of the General Project Fund.

Staff recommended that the Council authorize amendments to the Finance and Implementation Plans of Plan C, South MacArthur, and Presidio development areas to reimburse the General Project Fund 301 from the building impact fees collected from these areas for construction of meeting space in the City Hall/Council Chamber building.

Council Member Elliott asked how the reimbursements would be used. Andrew Malik, Director of Development and Engineering Services, indicated the reimbursement would go into Fund 301, General Projects Fund.

Mayor Pro Tem Maciel opened the public hearing. Since there was no one wishing to address Council on the item the public hearing was closed.

It was moved by Council Member Abercrombie and seconded by Council Member Elliott to adopt Resolution 2012-008 authorizing amendments to the Finance and Implementation Plans of the Plan C, South MacArthur and Presidio Development areas to reimburse the General Project Fund 301 from the building impact fees collected from

these areas for construction of meeting space in the City Hall/Council Chamber building. Voice vote found Council Member Abercrombie, Elliott, Rickman, and Mayor Pro Tem Maciel in favor; Mayor Ives absent. Motion carried 4:0:1.

6. ACCEPT A REQUEST FOR WITHDRAWAL OF THE BID FROM O. C. JONES & SONS, INC., AWARD A CONSTRUCTION CONTRACT TO DESILVA GATES CONSTRUCTION OF DUBLIN CALIFORNIA, FOR THE HOLLY SUGAR SPORTS COMPLEX PROJECT - CIP 78115, AUTHORIZE A TRANSFER OF \$660,000 FROM CIP 73127 TO CIP 78115, AUTHORIZE AMENDMENT 2 TO THE PROFESSIONAL SERVICES AGREEMENT WITH NOLTE ASSOCIATES TO PROVIDE DESIGN SUPPORT DURING CONSTRUCTION, AND AUTHORIZE THE MAYOR TO EXECUTE THE CONTRACT AND AMENDMENT 2 TO THE PSA - Kuldeep Sharma, City Engineer, presented the staff report. Mr. Sharma stated that on November 18, 2008, Council approved a conceptual design for approximately 166 acres of the Holly Sugar Youth Sports Complex (Complex) and directed staff to prepare a Request for Proposals to obtain the services of a qualified consultant to design the first phase of the Complex, which encompasses approximately 72 acres.

On July 20, 2010, the Council approved a Professional Services Agreement with Nolte Associates to complete design and construction documents for the Complex for a not to exceed amount of \$1,716,741. The scope of work included preparing the conceptual master plan design for the entire 166+/- acre site to size the infrastructure, and to prepare specifications and contract documents to construct infrastructure within the first 72-acre area west of Tracy Boulevard. The consultant scope of work also included completion of improvement plans for the 20 sports fields to be constructed by various youth leagues.

On March 1, 2011, the Council approved a Memorandum of Understanding with Tracy Little League, Tracy Babe Ruth, Tracy Youth Soccer League, and the Tracy Futbol Club, for construction and maintenance of sports fields and related amenities within the 72-acre site of the Holly Sports Complex.

This construction project only provides construction of infrastructure and site grading on 72 acres including improvements on Tracy Boulevard. The improvements include four unpaved parking lots (786 parking stalls) with landscaping and lighting, entrance road, widening of Tracy Boulevard, grading and drainage improvements, site drainage including storm drain channels, sanitary sewer system, water systems (fire and domestic), a sewer lift station at the intersection of Tracy Boulevard and the entrance road, chain link fencing, directional signage, soil preparation, landscaping, irrigation system and conduit for future lighting. The scope of work also includes construction of a storage pond and pump station for irrigating the sports fields. Irrigation water is available on site from Sugar Cut.

The project improvement plans and specifications were completed by Nolte Associates of San Jose, California. The project was advertised for competitive bids on November 5, and November 12, 2011. Twelve bids were received and publicly opened at 2:00 p.m. on December 15, 2011. O.C. Jones & Sons, Inc., of Berkeley, California, the lowest monetary bidder, has given the City written notice that it made a clerical mistake in its bid and requested to withdraw its bid.

Staff, in consultation with the City Attorney's office, has reviewed the withdrawal request from O.C. Jones & Sons, Inc. and determined it is reasonable and was received within the five working days as required by the project specifications and contract documents.

DeSilva Gates Construction of Dublin, California, is the next lowest monetary bidder with a total bid amount of \$6,966,966 which is \$443,378 higher than the bid received from O.C. Jones & Sons, Inc. However, the bid from DeSilva Gates Construction is below the engineer's estimate and the bid analysis indicates that the bid is responsive and the bidder is responsible.

DeSilva Gates Construction has good references and has completed similar projects for the City of Tracy and other public agencies. Staff recommended that the construction contract for the project be awarded to the second lowest bidder, DeSilva Gates Construction of Dublin California for \$6,966,966.

It is customary to retain the services of a design consultant on projects of this nature and to provide design support during construction. Since Nolte Associates of San Jose, California, prepared the project plans and specifications, staff recommended that their services be retained during construction of this project. Services will be needed for review of shop drawings, design clarifications, potential changes, and soils and concrete testing. Nolte Associates submitted a proposal to provide Design Support Services for the above work during construction on an as needed basis on an hourly basis not to exceed \$70,000.

The total estimated costs of this project are as follows:

• Bid Amount	\$6,966,966
• Contingency Amount (8%)	\$ 557,357
• Design Cost (Consultant)	\$1,900,180
Including utility permits	
• EIR Cost	\$ 195,524
• Design Cost City staff including City	\$ 107,210
Wide project management	
• Design support during construction	\$ 70,000
• Inspection and Construction management	\$ 400,000
• SJ COG Habitat Fee	\$ 930,992
• City-wide Project management (Estimated)	<u>\$ 600,000</u>
• Total Cost	\$11,728,229

Total Available Budget CIP 78115	\$11,729,630
After transfer of funds from CIP 73127	

Construction of this project will start immediately after execution of the contract documents and is scheduled for completion by the end of November 2012 (weather permitting).

The Holly Sugar Sports Complex Project - CIP 78115, is an approved Capital Improvement Project with total funding in the amount of \$11,069,630. A transfer of funds in the amount of \$660,000 from the Corral Hollow Road Widening Project - CIP 73127, to the Holly Sugar Sports Complex Project - CIP 78115, is needed to complete construction of the Holly Sugar Sports Complex. The Corral Hollow Road Widening

fronting the proposed Aquatic Center is not needed within the next couple of years due to delays in the Aquatic Center project.

Staff recommended that Council accept the request for withdrawal of bid from O.C. Jones & Sons, Inc., award a construction contract to DeSilva Gates Construction of Dublin, California, in the amount of \$6,966,966 for the Holly Sugar Sports Complex - CIP 78115, authorize a transfer of funds in the amount of \$660,000 from CIP 73127, to CIP 78115, authorize Amendment 2 to the Professional Services Agreement with Nolte Associates to provide design support during construction, and authorize the Mayor to execute the construction contract and Amendment 2 to the Professional Services Agreement.

Council Member Rickman asked when construction could begin and when completion was expected. Mr. Sharma responded construction could begin next month and completion was expected in November.

Mayor Pro Tem Maciel asked what would be the new funding source for the aquatic center. Mr. Sharma stated the City receives roadway funding annually and it was expected to come from those funds.

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

Council Member Elliott asked why the City needed to appropriate funds if the second lowest bidder was still below the Engineer's estimate. Mr. Sharma explained that the scope of the project was expanded from 60 acres to 75 acres, but staff was still hopeful bids would come in well below the Engineer's estimate.

Mayor Pro Tem Maciel asked if the situation was due to the anticipation of receiving low bids. Mr. Sharma stated roadway bids are normally low, but specialized projects are receiving competitive bids.

Council Member Rickman thanked Mr. Sharma for bringing this item to Council and stated he was looking forward to enjoying the facility.

It was moved by Council Member Abercrombie and seconded by Council Member Rickman to adopt Resolution 2012-009 accepting a request for withdrawal of the bid from O.C. Jones & Sons, Inc., awarding a construction contract to Desilva Gates Construction of Dublin, California, for the Holly Sugar Sports Complex project – CIP 78115, authorizing a transfer of \$660,000 from CIP 73127 to CIP 78115, authorizing Amendment 2 to the Professional Services Agreement with Nolte Associates to provide design support during construction, and authorizing the Mayor to execute the contract and Amendment 2 to the PSA. Voice vote found Council Member Abercrombie, Elliott, Rickman, and Mayor Pro Tem Maciel in favor; Mayor Ives absent. Motion carried 4:0:1.

7. CONSIDERATION OF A MINOR AMENDMENT TO A FINAL DEVELOPMENT PLAN TO PERMIT THE DEVELOPMENT OF A SECOND FINAL DEVELOPMENT PLAN CONSISTING OF A 1,505-STALL PARKING LOT TO SERVE A 490,920 SQUARE FOOT INDUSTRIAL BUILDING ON A 30.66-ACRE SITE, LOCATED AT THE SOUTHWEST CORNER OF PESCADERO AVENUE AND PARADISE ROAD - APPLICANT IS KIER & WRIGHT; OWNER IS PROLOGIS LOGISTICS SERVICES, INC. - APPLICATION D11-0011- Bill Dean, Assistant DES Director, presented the staff report. In 1996, City Council adopted the Northeast Industrial Areas Concept

Development Plan (NEI) within which the project area is located. The site is Zoned Planned Unit Development (PUD), and is designated Industrial by the General Plan, and Light Industrial by the Concept Development Plan.

On February November 1, 2006, the Planning Commission met and reviewed an application for four industrial warehouse buildings on this site for a total square footage of 1,361,130 across four buildings, to be constructed in multiple phases. The Council, with the recommendation of the Planning Commission approved that project on March 20, 2007. Building 2 was constructed in 2008 and is currently occupied by two tenants. Buildings 1, 3 and 4 have not yet been constructed.

The current proposal is a minor amendment to the Final Development Plan (FDP) to allow for an alternative site plan configuration to be constructed, with a large parking area in place of the originally approved Building 4. This would equate to two different FDPs permitted on the site, allowing the property owner to choose between the two plans at the time of construction. This adds additional flexibility and the ability to be more nimble and competitive in attracting users with a wider range of building needs.

The project site is located at the southwest corner of Pescadero Avenue and Paradise Road, north of the existing Building 2 (2795 Paradise Road). The site is designated Light Industrial by the Northeast Industrial (NEI) Concept Development Plan. The adjacent parcels to the north, east and south are also designated Light Industrial by the Concept Development Plan. To the west of the project is land outside of the current City limits, and is designated Industrial by the General Plan. The adjacent properties are mostly undeveloped, and are currently agricultural uses.

The proposed project would amend the existing FDP approval in order to allow for a large parking lot with approximately 1,500 spaces to be located north of and adjacent to Building 3 on the existing site plan. The original project approval consists of four industrial buildings with office areas and other accessory uses, totaling 1,361,130 square feet. Building 2 was constructed in 2008 and contains warehouse and distribution facilities and office area. Building 2 is 532,932 square feet and currently houses two industrial tenants. Buildings 1, 3 and 4 have not yet been constructed, and this minor FDP amendment would allow for the expanded parking area to be constructed in lieu of Building 4, and that parking area would serve Building 3.

With the need for greater flexibility, the property owner has proposed an amendment to the FDP in order to allow for a larger parking lot than previously proposed to be improved, which could serve a more employee-intensive user to occupy Building 3. The proposed revision to the FDP would not replace the 2007 approval, but rather be an alternative Final Development Plan approval for the project site. The applicant may then determine which approved project to construct at the time they apply for building permits.

The proposed additional FDP for the project site is well suited for the location, as the site is located within the Light Industrial area of the NEI Concept Development Plan in an area where roadways and infrastructure have been designed for industrial development. The surrounding sites are planned for or have existing similar uses.

The total square footage of the first PDP/FDP approval is 1,361,130, and the total square footage for this alternate FDP is 1,211,040.

The new proposed parking area will be required to meet the regulations of Tracy Municipal Code Section 10.08.3560, and the requirements of the Northeast Industrial

Areas Concept Development Plan. A recommended condition of approval requires the developer to submit a detailed landscape and irrigation plan for approval by the Development and Engineering Services Director prior to the issuance of any building permits. All landscape and irrigation improvements are to be designed and installed in compliance with the requirements of the Water Efficient Landscape Guidelines, Tracy Municipal Code, Northeast Industrial Areas Concept Development Plan, and all other applicable City standards. In addition, a recommended condition of approval requires that prior to the issuance of any building permits, an Agreement for Maintenance of Landscape and Irrigation Improvements is to be executed, and financial security submitted to the Development and Engineering Services Department. The agreement will ensure maintenance of the on-site landscape and irrigation improvements for a period of two years.

The site will utilize two access points from Paradise Road, and one from Pescadero Avenue. The new 1,505-space parking lot area is located north of and adjacent to Building 3, and would accommodate the parking needs of the future building. The project proposes 1,505 auto parking spaces to serve Building 3, which is greater than the number of parking spaces that would be required per the NEI Concept Development Plan. The larger number allows for a wider range of potential users including those with a high demand for employee parking. The site plan provides for adequate circulation movements on site for employee and customer parking, as well as truck traffic.

The project is consistent with the Environmental Impact Report (EIR) that was prepared for the Northeast Industrial Areas Concept Development Plan and certified in 1996. In accordance with CEQA Guidelines Section 15183, no further environmental assessment is required. An analysis of the project shows that there will be no significant on or off-site impacts as a result of this particular project that were not already discussed in the Northeast Industrial Areas Concept Development Plan EIR. There is also no evidence of any significant impacts to occur off-site as a result of the project, as traffic, air quality, aesthetics, land use and other potential cumulative impacts have already been considered within the original environmental documentation. No new evidence of potentially significant effects has been identified as a result of this project.

The Planning Commission discussed this item on December 7, 2011, and by unanimous vote, recommended the Council approve the project as proposed. The Commission discussed the timing of construction prior to their recommendation of approval, and noted that the flexibility gained by having options for construction may put Tracy in a better position for attracting business in the future.

Staff and the Planning Commission recommended that the Council approve an amendment to the Final Development Plan to permit the development of a second FDP consisting of the 490,920-square foot Building 3, and a 1,505-space parking lot on the 30.66-acre site, located at the southwest corner of Pescadero Avenue and Paradise Road, Application Number D11-0011, subject to the conditions and based on the findings contained in Council Resolution 2012-010, dated January 3, 2011.

Mayor Pro Tem Maciel invited members of the audience to address Council on the item. There was no one wishing to address Council on the item.

Council Member Elliott stated he believed it was good to be flexible to have companies locate to the City of Tracy.

It was moved by Council Member Abercrombie and seconded by Council Member Elliott to adopt Resolution 2012-010 approving an Amendment to the Final Development Plan to permit a second FDP approval for the development of a 1,505-space parking lot to serve the 490,920-square foot Building 3, located on the 30.66-acre site at the southwest corner of Pescadero Avenue and Paradise Road – Assessor's Parcel Numbers 213-070-77, and 78, Application Number D11-0011. Voice vote found Council Members Abercrombie, Elliott, Rickman, and Mayor Pro Tem Maciel in favor; Mayor Ives absent. Motion carried 4:0:1.

8. RECEIVE A MID-YEAR UPDATE REPORT ON THE NUMBER OF 5TH GRADE STUDENTS TAUGHT THE DRUG ABUSE RESISTANCE EDUCATION (DARE) CURRICULUM DURING FISCAL YEAR 2011-12 YEAR TO DATE; THE AMOUNT OF REIMBURSEMENTS FOR ALLOWABLE EXPENSES YEAR TO DATE; AND, THE PLANNED USE OF TRACY POLICE PERSONNEL TO INSTRUCT A SUPPLEMENTAL ANTI-GANG CURRICULUM - Council Member Abercrombie excused himself from consideration of the item due to a potential conflict of interest and left the dais.

Captain John Espinoza presented the staff report. Captain Espinoza stated the Council has concluded the Drug Abuse Resistance Education (DARE) program offers a value to the Tracy community and endorsed its continuance in the Tracy schools. In support of its commitment to the DARE program, the Council has allocated \$45,000 for FY 2011-12 to the Police Department budget for reimbursement of authorized expenses.

The DARE program is taught to 5th grade students in and around the City of Tracy. Specifically, the DARE program is taught in classes within the school districts of Tracy Unified, Jefferson, Banta, New Jerusalem, and Lammersville, as well as three private schools. While it costs about \$105,000 per year to teach in all the aforementioned schools, the Council has appropriated \$45,000 to be paid to the Tracy Unified School District (TUSD) for DARE classes taught in public schools within the city limits.

The City of Tracy's funds will not include any compensation to instructors. The balance of DARE's operating expenses is covered by the DARE Advisory Board's fundraising efforts. The DARE program is taught in three cycles over the course of the school year and the first cycle of instruction has been taught and completed. Upon completion of the DARE curriculum at each school, a DARE graduation ceremony is held and at each TUSD school, Tracy police command staff members and other dignitaries attend every TUSD graduation within the City limits during the current school year.

In support of this venture, the DARE program has spent approximately \$30,000 to date in classroom materials, instructional aides and program specific support materials. However, no city dollars have been expended to reimburse the DARE program as of this date because no requests for reimbursement have yet been submitted for payment. All receipts will be reviewed and expenses validated as authorized, reimbursable expenses in accordance with Council direction before any requests for payment are approved.

The allowable expenses are reimbursable up to a maximum of \$45,000 for fiscal year 2011-2012 payable to the TUSD. The Council has stated it wanted to see more Tracy Police Department involvement in the DARE program, beyond just supporting it through attending DARE graduation. The DARE advisory board has stated they willingly invite the involvement of Tracy PD staff in presenting some aspects of the curriculum. Consequently, Police command staff has worked with the DARE advisory board on how to best use Tracy Police personnel in the program.

As previously reported to Council by Lieutenant Greg Farmanian on October 4, 2011, the Police Department will use the talents of the three Tracy officers who attended the G.R.E.A.T. instructor course and their own working knowledge of gangs and drugs at the street level to develop a new, Tracy specific anti-gang curriculum. These three specifically trained police officers have designed and will validate a four lesson, 45 minute per session, anti-gang program curriculum. These Tracy officers will present the curriculum to a panel of subject matter experts with experience teaching children in the classroom on December 13, 2011. Then the new curriculum will be piloted to 5th grade classes at Jacobsen Elementary in January 2012, and finally rolled out to all 5th grade classes at South West-Park School during the week of April 30, 2012.

This new Tracy specific program further solidifies the partnership between the City, TUSD and DARE, and serves as a natural continuation of the overarching community stand against gangs and violence.

Captain Espinoza stated that if the Council wishes further semi-annual reports, then a subsequent report will be presented in July of 2012 to offer an end of fiscal year review of the DARE program and an evaluation of how Tracy police officers are being used in instructional classes intended to supplement the DARE program.

There is no immediate impact to the City's fiscal year 2011-2012 budget as \$45,000 has already been approved through for the continued city funding for the DARE program. Every effort will be made to use on duty Police personnel to attend the planned classes intended to supplement the DARE classes so overtime costs can be avoided.

Staff recommended that Council accept the program update regarding the D.A.R.E. program and the associated activities designed to conclude at the end of the 2011/2012 school year.

Council Member Elliott asked for clarification of the \$30,000 that has been spent to date. Captain Espinoza stated those were estimated expenses from the school district.

Mayor Pro Tem Maciel asked if expenditures billed to the City within the fiscal year would be paid. Captain Espinoza stated yes.

Council Member Elliott asked if other officers beyond the existing three officers would receive the training. Captain Espinoza stated the objective was to bring a level of expertise to all officers to be able to communicate with youth.

Council Member Elliott stated he believed it would be beneficial to involve as many officers as possible.

Mayor Pro Tem Maciel asked if the expanded curriculum would be limited to specific schools. Captain Espinoza stated the current plan was to use public funds in public schools in the area.

Mayor Pro Tem Maciel invited members of the public to address Council on the item.

Larry Hite, Board President of D.A.R.E., provided background information on the events held by D.A.R.E.

Captain Espinoza asked Council if they would like to receive updates every six months. Mayor Pro Tem Maciel stated he believed that would be appropriate. Council Member Elliott agreed.

Council Member Rickman thanked the Captain and Chief for their practical approach in this area.

Mayor Pro Tem Maciel also thanked the Chief for his partnership with the school district.

Council Member Elliott also gave his thanks on this important opportunity to help the City's youth avoid the influence of drugs, crime, and gangs.

It was moved by Council Member Rickman and seconded by Council Member Elliott to accept the Mid-Year Update D.A.R.E Report for 2011/2012. Voice vote found Council members Elliott, Rickman, and Mayor Pro Tem Maciel in favor; Council Member Abercrombie and Mayor Ives absent. Motion carried 3:0:2.

Council Member Abercrombie rejoined the Council at 8:12 p.m.

9. ACCEPT A REPORT REGARDING THE FY 11/12 GENERAL FUND CAPITAL IMPROVEMENT PROJECT (CIP) PRIORITIZATION PROCESS AND TIMELINE AND DISCUSS, REVIEW, AND APPROVE THE PROPOSED CRITERIA AND SCORING
Kul Sharma, City Engineer, presented the staff report. Mr. Sharma stated that on November 1, 2011, Council received a report regarding the General Projects Fund 301. In that report, background information was provided on the two funding sources contributing to the accumulation of 301 capital funds, which included revenues from past budget surpluses and proceeds from bond refinancing. Additionally, a listing of the projected likely revenues totaling an estimated \$7 million that will be available for appropriation to Capital projects in the upcoming FY 12/13 CIP process. A brief description of the CIP prioritization process, criteria, and timeline for FY 12/13 was included

The General Fund CIP prioritization process was developed in 2008 due to an increase in the number of CIP project requests and the reduction of Fund 301 money available to fund those projects. Staff developed a criteria based decision making process involving all departments prior to making recommendations to the Council for approval of such projects in the City's annual budget. Since then, the City has used this process during adoption of the FY 2008-09, 2009-10 and 2010-11 budgets.

Under this process, each department identifies CIP projects and provides a brief description and initial cost estimate (if available). After receipt of the project information, the Finance Department distributes the information to the Engineering Division of Development Services and starts reconciling all available General Project funds. The Engineering Division updates the project description, scope of work involved, and the preliminary cost estimates.

After updating the project information and General Project fund status, a meeting is held with representatives from all departments to further review the projects and the City's overall needs. During this meeting, the projects are prioritized and ranked in accordance with established criteria to compete for the available General Project funds.

Each project is ranked and scored using the qualifying criteria listed in the CIP project scoring sheet. These areas range from Public Safety and Economic Development to

sustainability. Representatives of each department are involved in the scoring process. Based upon these scores, a priority list is prepared to compete for the available General Project funds.

Recommendations are then made to the Council for approval of the agreed upon prioritized project with allocated general funding for inclusion in the City's fiscal year budget. The remaining projects on the list are carried over to the next fiscal year to compete with new projects for the available funding.

The evaluation criteria introduced in 2008 have not changed since that time. Weighting of the criteria was considered, but not introduced in order to reduce complexity. Consideration to introduce weighting is logical given the Council's strong articulation of city priorities. Weighting can be as simple as adding a multiplier of "2" for fiscal impact, economic development, public safety, or livability (sustainability) scores. However, the significance of weighting would be diluted since four of the nine criteria would conceivably get the additional score. Most projects will score well in at least one of these categories.

This process is designed to eliminate overly subjective and biased evaluations. However, the quantitative component provides the foundation of the administrative staff's recommendation, and it should not be considered an overt restraint on the Council's discretion. Staff recommendations consistently lean toward efficiency and financial performance. The Council clearly has the ability to promote or demote projects as it sees fit when considering social equity and responsiveness needs in the Tracy community.

Staff recommended that Council accept the status report regarding the ranking process for general fund Capital Improvement Projects and current status of the projects.

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

Council Member Abercrombie asked if Council has the discretion to rank the items, adding he did not want a lot of staff time spent on ranking the items.

Council Member Elliott stated that although Council can select from the list, he believed it would pay to have a review and scrutiny of the projects to provide Council a suggested ranking.

Mayor Pro Tem Maciel indicated he would like to see staff's rating and information on the projects and why they were rated accordingly.

It was moved by Council Member Abercrombie and seconded by Council Member Elliott to accept the ranking process for FY 2011/2012 for General Fund CIPs and current status of projects. Voice vote found Council Members Abercrombie, Elliott, Rickman, and Mayor Pro Tem Maciel in favor; Mayor Ives absent. Motion carried 4:0:1.

10. APPOINT FOUR APPLICANTS TO THE TRACY ARTS COMMISSION - Maria Hurtado, Assistant City Manager, presented the staff report. Ms. Hurtado stated there were four vacancies on the Tracy Arts Commission due to term expirations. A recruitment to fill the vacancies was conducted from October 25, 2011, through December 15, 2011. Six applications were received.

On December 21, 2011, a Council subcommittee consisting of Mayor Pro Tem Maciel and Council Member Elliott interviewed the six applicants.

Ms. Hurtado indicated the subcommittee would make recommendations and appoint four applicants to the Tracy Arts Commission.

It was moved by Council Member Elliott and seconded by Mayor Pro Tem Maciel appoint Nicole McClain and Grace Paget, and reappoint Mercedes Gouviera-Silveria and Ann Marie Fuller to the Tracy Arts Commission to serve four year terms which expire on December 31, 2015. The subcommittee also recommended Sandhu Taranjit be placed on an eligibility list for one year. Voice vote found Council Members Abercrombie, Elliott, Rickman and Mayor Pro Tem Maciel in favor; Mayor Ives absent. Motion carried 4:0:1.

11. ITEMS FROM THE AUDIENCE - Jim Howell, 340 Hunter Trail, addressed Council regarding his frustration in trying to obtain information on-line including the schedule for trash pickup and City Council agendas.
12. COUNCIL ITEMS
 - A. Consider an Item for Discussion on a Future City Council Agenda Related to Creating a Code of Conduct for Elected Officials - The item was pulled from the calendar earlier in the meeting.
13. ADJOURNMENT - It was moved by Council Member Abercrombie and seconded by Council Member Rickman to adjourn. Voice vote found Council Member Abercrombie, Elliott, Rickman and Mayor Pro Tem Maciel in favor; Mayor Ives absent. Motion carried 4:0:1. Time: 8:30 p.m.

The above agenda was posted at the Tracy City Hall on December 29, 2011. The above are summary minutes. A recording is available at the office of the City Clerk.

Mayor

ATTEST:

City Clerk