

February 21, 2012, 7:00 p.m.

City Council Chambers, 333 Civic Center Plaza

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

Mayor Ives called the meeting to order at 7:00 p.m., and led the Pledge of Allegiance.

The invocation was offered by Pastor Timothy Heinrich of Crossroads Baptist Church.

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

Stephen Qualls, League of CA Cities, provided a presentation on the 2011 Legislative Session.

1. CONSENT CALENDAR - It was moved by Mayor Pro Tem Maciel and seconded by Council Member Rickman to adopt the Consent Calendar. Roll call vote found Council Member Elliott, Rickman, Mayor Pro Tem Maciel and Mayor Ives present; Council Member Abercrombie absent. Motion carried 4:0:1.
 - A. Minutes Approval – Regular meeting minutes of November 15, 2011, and Closed Session minutes of February 7, 2012 were adopted.
 - B. Acceptance of the Widening of Grant Line Road Project (between Bessie Avenue and Macarthur Drive) - CIPs 73052, 74057, 75A0, & 72067, Completed by Desilva Gates Construction of Dublin, California, and Authorization for the City Clerk to File the Notice of Completion – Resolution 2012-031 accepted the project.
 - C. Approve an Offsite Improvement Agreement (OIA), for the Construction of Public Improvements along the Frontage of the Proposed RV Storage Facility to be Located on 4180 North Tracy Boulevard, and Authorization for the Mayor to Execute the OIA - Resolution 2012-032 approved the agreement.
 - D. Approve Amendment 7 to the Professional Services Agreement with RBF Consulting, for the Ellis Specific Plan Project – Resolution 2012-033 approved the amendment.
 - E. Approving the 2012 Calendar Year Budget for the Operation of the Tracy Material Recovery Facility and Solid Waste Transfer Station – Resolution 2012-034 approved the budget.
 - F. Authorize the Mayor to Execute a Cooperative Agreement with SJCOG for Proposition 1B PTMISEA Funds in the Amount of \$55,531 for the Purchase of a Transit Bus and Appropriate the Funds to CIP 77542 – Resolution 2012-035 authorized the Mayor to execute the Agreement.

2. ITEMS FROM THE AUDIENCE - Ray Morales, President of the Southside Organization, introduced Jass Sangha, Mercedes Silveira, Rhodesia Ransom, and Walter Goveia, who thanked Captain Espinoza for his service to the community. Mr. Morales presented Captain Espinoza with an award from the Southside Organization.

Leon Churchill, Jr., City Manager, requested that Item 5 be pulled from the agenda at the request of the applicant.

3. PUBLIC HEARING TO CONSIDER A PRELIMINARY AND FINAL DEVELOPMENT PLAN APPLICATION FOR A CALIFORNIA HIGHWAY PATROL FACILITY AND A CONDITIONAL USE PERMIT APPLICATION FOR A TELECOMMUNICATION FACILITY ON A SITE TOTALING APPROXIMATELY 4.7 ACRES ON PESCADERO AVENUE, APPROXIMATELY 2,100 FEET EAST OF MACARTHUR DRIVE, ASSESSOR'S PARCEL NUMBER 213-070-75. APPLICANT IS KIER & WRIGHT CIVIL ENGINEERS & SURVEYORS AND PROPERTY OWNER IS PONY UP TRACY, LLC. APPLICATION NUMBERS D11-0007 AND CUP11-0005 - Council Member Rickman excused himself from consideration of the item due to a possible conflict of interest and left the dais.

Kimberly Matlock, Assistant Planner, presented the staff report. In 1996, the Council adopted the NEI Concept Development Plan within which the project area is located. The site is zoned Planned Unit Development (PUD), is designated Industrial by the General Plan, and Light Industrial by the NEI Concept Development Plan. In accordance with Tracy Municipal Code (TMC) Section 10.08.1830, the Planning Commission and the City Council shall review all Planned Unit Development Preliminary and Final Development Plans (PDP/FDP).

The project site is one parcel of approximately 4.7 acres located on the south side of Pescadero Avenue, approximately 2,100 feet east of MacArthur Drive and directly north of the Home Depot distribution center. A storm water detention basin and dirt stock pile that serves the site will be developed on an approximately 0.9 acre parcel immediately to the east. The basin and pile will remain until permanent storm water infrastructure is constructed to serve the NEI area and the project site.

The proposed project is a CHP facility, comprised of a 16,367 square foot office building, a 4,793 square foot automobile service building, a patrol car fueling station, storage buildings totaling 1,951 square feet, carports with solar panels, and associated onsite parking and landscaping improvements. The proposal includes a 140-foot tall four-legged lattice telecommunication tower with associated antennas, microwave dishes, and ground equipment. In accordance with State requirements, the project has been designed to comply with the Essential Services Seismic Safety Act (ESA) regulated by the California Health and Safety Code. Although not a City requirement, the project is also aiming to achieve Leadership in Energy and Environmental Design (LEED) Gold standard from the United States Green Building Council (USGBC). According to the applicant, the existing CHP office on Grant Line Road will close upon the opening of the new facility.

The proposed CHP facility meets the City's Design Goals and Standards for commercial development. The office and auto service buildings are located adjacent to Pescadero Avenue, which results in a strong architectural presence on the street. A majority of the parking area is located behind the office and auto service buildings so that it is not readily visible from the street. The storage buildings and telecommunication tower are located along the rear of the site. Aside from the telecommunication tower, all ground-mounted equipment will be screened from public view with walls or landscaping. Onsite security fencing, which encloses employee parking areas, CHP vehicle storage areas, auto service areas, equipment storage areas, and the telecommunication tower, is proposed to be constructed of metal posts and masonry columns and walls to match and compliment the building architecture.

The parking area has been designed to provide adequate vehicular and pedestrian circulation as well as security of employee-only areas. The proposed parking area meets the minimum parking and landscaping requirements established in the TMC and NEI plan. Landscaping of parking areas is required for customer and employee parking areas, but is not required for facilities and equipment storage areas, including automobile service areas and storage of CHP vehicles.

The TMC Telecommunications Ordinance defines new freestanding telecommunication facilities as major facilities. Approval of a Conditional Use Permit (CUP) granted by the Planning Commission is required for major facilities. The Development Review for the facility requires Council approval as part of the project PDP/FDP. The Telecommunications Ordinance requires telecommunication facilities taller than thirty-five feet to be monopoles or guyed towers to minimize visibility of the tower from adjacent properties. However, if a self-supporting tower, such as a lattice tower, is required for the capacity or height of the telecommunication use, and evidence is submitted to demonstrate such need, a self-supporting tower may be approved.

The tower is proposed to be a four-legged lattice tower with a total height of 140 feet. The tower has been designed to ESA standards and to accommodate antennas and microwave dishes for CHP and other local, state, and federal agency use. According to the applicant, this can only be achieved with the design and rigidness of a four-legged freestanding tower. Additionally, the microwave dishes operate by line of sight, which is dependent upon strategic vertical and horizontal separation between dishes. A monopole, by comparison, does not provide the rigidity or antenna space needed for CHP's antennas and microwave dishes.

While a freestanding lattice tower of this height and size is not preferred over monopoles, CHP has deemed it necessary for the operation of the CHP facility. On January 11, 2012, the Planning Commission granted a CUP for the telecommunication facility contingent upon Council approval of the PDP/FDP for the facility.

On December 7, 2011, the Planning Commission reviewed and discussed the proposed applications. Planning Commission was generally in favor of the proposed building and site improvements and welcomed CHP to Tracy. The Commission questioned the necessity for the telecommunication tower to be so large and what the tower and site would look like once it is built. The applicant was unable to answer the Commission's questions regarding the technical reasons for the size of the tower. The Commission discussed the aesthetic impact of the telecommunication tower on Tracy and considered the need for a peer review. The agenda item was continued until photographic

examples, photo-simulations, and more information from CHP regarding the tower size could be made available.

The item was heard for a second time on January 11, 2012. CHP staff and engineering consultants were present and provided information on the telecommunication tower. The Tracy CHP facility is part of a statewide public safety network and CHP engineers recommended the proposed tower size to meet the operational needs of the microwave network. They also stated that future telecommunication towers will be built and existing towers will be retrofitted to this height and size. The applicant provided a photographic example and photo-simulations of the proposed tower in the context of the site from multiple perspectives, which some Commissioners felt did not clearly demonstrate how the tower would look once built. After discussion, the Commission voted unanimously to recommend approval of the PDP/FDP to the Council and to approve the CUP application subject to Council approval of the PDP/FDP.

The proposed development is consistent with the Environmental Impact Report (EIR) 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 no significant on or off-site impacts will occur as a result of this particular project that were not already discussed in the Northeast Industrial Areas Concept Development Plan EIR.

The proposed telecommunication facility is categorically exempt from the California Environmental Quality Act pursuant to CEQA Guidelines Section 15332, which pertains to certain in-fill development projects. Because the project is consistent with the General Plan and Zoning, no further environmental assessment is necessary.

Staff and the Planning Commission recommended that the Council approve the PDP/FDP for the CHP facility and telecommunication tower located on a 4.7 acre site on Pescadero Avenue, Application Number D11-0007, subject to the conditions and based on the findings contained in the City Council resolution dated February 21, 2012.

Council Member Elliott stated he understood that the telecommunications tower planned for this site would be the model for all future CHP offices. Ms. Matlock indicated that was correct.

Mayor Ives opened the public hearing.

Dave Henderson, Principal of Henderson Architecture, indicated he and others were available for questions and thanked staff for their efforts during the process.

It was moved by Mayor Pro Tem Maciel and seconded by Council Member Elliott to adopt Resolution 2012-036 approving the PDP/FDP for the CHP Facility and Telecommunication Tower on Pescadero Avenue, Application Number D11-0007, subject to the conditions and based on the findings contained in the City Council Resolution dated February 21, 2012. Voice vote found Council Member Elliott, Mayor Pro Tem Maciel, and Mayor Ives in favor; Council Member Abercrombie and Council Member Rickman absent. Motion carried 3:0:2.

Council Member Rickman rejoined the Council at 7:27 p.m.

4. PUBLIC HEARING TO ADOPT TAXI RATE FEES EFFECTIVE MARCH 1, 2012 AS RECOMMENDED BY STAFF - Ed Lovell, Management Analyst, presented the staff report. On June 21, 2011, the City Council adopted Ordinance 1160 which updates the City's existing taxi ordinance. As part of the new ordinance, Council must approve the fees that each company may charge. Currently each taxicab company has their own fee that was previously approved by Council. Some existing companies are requesting to be able to increase their fees. Establishing a maximum rate that applies to all taxicab companies provides the flexibility for taxi companies to adjust their fees as necessary in order to remain competitive, without having to go back to Council for approval. In addition, new companies will also have set limits already approved so they can start their business sooner. Currently, each taxi company doing business in Tracy charges \$2.50 for flag drop, \$2.50 per mile, and between \$16 and \$25 for the hourly waiting fee. Staff has researched fees charged by other companies in neighboring cities. Below is a summary of what other cities charge and what is being recommended for Tracy.

<u>FEE TYPE</u>	<u>Pleasanton</u>	<u>Livermore</u>	<u>Stockton</u>	<u>Manteca</u>	<u>Modesto</u>	<u>Tracy</u>
Flag Drop Fee	\$2.50	\$2.50	\$2.50	\$3.50	\$3.75	\$2.50 max
Per Mile Fee	\$2.50	\$2.50	\$2.00	\$2.00	\$2.50	\$2.50 max
Hourly Waiting Fee	\$35.00	\$20.00	\$22.00	\$25.00	\$25.00	\$25.00 max

In order to implement the fees, the Council must first conduct a public hearing. Notice of this hearing was published twice in the Tri-Valley Herald newspaper. The proposed fees are proposed to go into effect March 1, 2012.

There is no impact to the General Fund for this item. The fees listed are collected solely by the taxicab companies.

Staff recommended that City Council conduct a public hearing and adopt the Taxi Rate Fees effective March 1, 2012.

Council Member Elliott asked why the City needs to set fees for taxis. Dan Sodergren, City Attorney, stated that under state law every city is required to have an ordinance that regulates taxis and fees.

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

It was moved by Council Member Rickman and seconded by Council Member Elliott to adopt Resolution 2012-037 approving the Taxi Rate Fees effective March 1, 2012. Voice vote found Council Member Elliott, Rickman, Mayor Pro Tem Maciel and Mayor Ives in favor; Council Member Abercrombie absent. Motion carried 4:0:1.

5. CITY COUNCIL DIRECTION RELATED TO AMENDING A DEVELOPMENT AGREEMENT WITH SURLAND COMMUNITIES, APPLICATION DA11-0002

Item was rescheduled to March 6, 2012, at the request of the applicant.

6. ACCEPT THE GENERAL FUND FY 11-12 MID-YEAR FINANCIAL REPORT -

Leon Churchill, Jr., City Manager, provided an introduction to the report. Zane Johnston, Finance and Administrative Services Division, presented the staff report. Mr. Johnston stated the purpose of the mid-year review is to determine if after 6 months of actual experience, whether General Fund budget assumptions related to revenues are holding firm, or whether budget assumptions have eroded to the point that the Council would need to take budget cutting actions to return the budget to its originally adopted status. The mid-year analysis is limited to this sole purpose and, is more conservative and less comprehensive than the annual budget setting process.

The FY 10-11 adopted budget anticipated revenues of \$42,465,470 and expenditures of \$47,277,540 resulting in a deficit of \$4,813,000. The actual budget deficit (to the General Fund) was \$2,548,958. At first glance it appears that the budget deficit was considerably overestimated. However, upon further examination the actual deficit (expenditures over revenues without Measure E) for FY 10-11 was \$4,545,000 – a difference to budget of just \$268,000. Prior to Measure E – and after having cut 90 positions and reduced expenditures by approximately \$5 million – the City was clearly operating in the range of \$4.5 million annual deficits. The first year estimate for Measure E revenue was \$4.6 million thereby stabilizing the City's fiscal situation and avoiding further cuts or substantial additional annual (and unsustainable) draws on reserves.

The budget anticipated yet another year of declining assessed value and the resulting loss to property taxes. This was projected to be a decline of about 2.5% but will be closer to 5% resulting in nearly \$300,000 less in property tax revenue than the FY 11-12 adopted budget. In the past four years property tax revenue to the City has declined a total of 32%. Property tax revenue has historically been the primary source of revenue to pay for public safety services.

Although the FY 11-12 budget was fairly aggressive in anticipating a 6.3% increase to sales tax resulting in anticipated revenues of \$10,927,000, sales taxes have substantially rebounded. It is now estimated that the City will receive \$11,733,770 in sales tax this fiscal year, an increase of \$806,000 over budget.

The increase in sales tax is due to several factors. First auto sales have rebounded. The average vehicle on U.S. roads is now 11 years old, and that is helping boost new-car sales. The low interest rate environment has also helped auto sales. There are eight new car dealers among the City's top 25 sales tax producers. Secondly, gas prices have remained high (\$3.50 per gallon and up) for a substantial period of time. There is a general sales tax on gasoline in addition to gasoline taxes which are restricted to transportation related expenses. Many motorists stop in Tracy to take advantage of the relatively affordable gas prices as compared to Bay Area locations. Six of the top 25 sales tax producers are gas stations. Unlike Safeway, Costco does not break out fuel sales but it is safe to assume that if it did Costco would be in the top 25.

A final leading cause of increased sales tax results from distribution. Although the vast majority of Tracy's many distribution centers do not have an accompanying sales desk, one such facility does and is in the City's top 25. The Crate and Barrel Distribution Center processes on-line orders for one of its catalog departments through the Tracy center. As such, Tracy receives the one-cent share of the tax that goes to point of sale from any California customer ordering such product through this on-line catalog. This center is new within the past 18 months.

The City's sales tax per capita now stands at \$124, compared to Manteca's \$109 and the statewide average of just \$99.

The original first year revenue resulting from Measure E was estimated by the City's sales tax consultant/auditor to be \$4.65 million. After six months of data and extrapolating through the Christmas quarter, FY 11-12 Measure E revenue can be estimated at \$5.53 million, an increase of \$880,000. The original estimate was difficult to compute due to the fact that not all sales transactions occurring in Tracy are subject to Measure E and data did not exist to make other important projections about this tax. One cannot simply take the sales tax coming to the City through the standard local one-cent point of sale share and multiply this by 50% to get the estimate for the City's temporary half-cent sales tax (Measure E).

The half cent temporary sales tax levied by Measure E is not applicable to all auto sales sold by Tracy auto dealers; only for sales in which the car will be registered in Tracy. No data was available prior to Measure E which identified the percentage of overall car sales attributable to a car subsequently registered to an address in Tracy. Conversely, an auto dealer outside of Tracy selling a car to be registered within the City must also collect the half cent tax.

The City's half-cent temporary sales tax is considered a "district" tax and is not applicable when a distribution center is collecting sales tax for an on-line catalog sale from a California customer unless that customer is a City of Tracy resident. Because of these two major differences between the application of the standard one cent sales tax and the City's temporary half-cent sales tax, it was difficult to project such revenue. After receiving actual data from two quarters of the Measure E tax, it appears such tax will result in higher annual revenue than originally estimated. However, staff recommended the City receive four quarters of data before further refining this estimate on an ongoing basis. While greater than projected temporary tax revenue from Measure E is welcome, it is also that much more revenue the City must do without upon the expiration of Measure E at the end of March 2016.

The combination of investment earnings and lease of the City owner property on Schulte Road (the old "antenna farm") was expected to bring in \$990,000 in the fiscal year. Unfortunately, congressional action necessary to allow the City to lease this land has not been secured. The budget anticipated \$250,000 as revenue from such a lease. Also, investment rates have been very low for a prolonged period of time. Much of the higher earning securities in the City's investment pool have matured and the new securities have very low interest rates. As such, it is anticipated the City will receive only \$660,200 from these income sources – a reduction of \$329,800 from the adopted budget.

This revenue will be \$142,000 less than budget due to the State taking the City's portion of vehicle license fees as part of eleventh hour State budget actions. The League of California Cities notes this action is illegal under Proposition 22 but will likely have to sue the State in order to see a return of these funds.

Engineering and building charges as well as Parks and Recreation charges and Capital Improvement Program (CIP) program management charges are all projected to be lower than the FY 11-12 budgeted amounts. In total, these charges could be \$765,000 less in revenue.

The City spends about 98% to 99% of its General Fund Operating Budget. Typically this is just a normal budgeting and fiscal process that will always result in the City not spending its full budget. If the budget was balanced this means there would be some funds left as residual at the end of the year. Such funds would be returned to the General Fund balance. When the budget is not balanced and expenditures exceed revenues resulting in an anticipated draw on reserves, any unspent funds help reduce this projected deficit. In order to try to more accurately predict an actual budget deficit, the City has added a City-wide budget savings to the adopted budget.

In FY 11-12 total department expenditures are budgeted at \$50,581,150 but the City expects that actual expenditures will be \$2,000,000 less than this figure. As such, the City has a "net" expenditure budget of \$48,581,150. Using this \$48.5 million figure, the City's FY 11-12 General Fund budget anticipated a budget deficit of \$1,555,230. If the City had used normal budgeting practices the budgeted deficit would have been \$3,555,230.

There is a degree of risk associated with counting on budget savings. In FY 10-11 the City used a figure of \$1,400,000 as City-wide budget savings. This was increased to \$2,000,000 in FY 11-12 because the City anticipated some additional savings in this fiscal year due to the first wave of early retirements. When the budget was adopted the first wave was going to conclude by December 31, 2011. When adopted in the fall of 2011 however, it was necessary to change this to February 29, 2012. In addition, some employees who initially indicated they would retire in the first phase have amended plans to the second or third phase. Although the overall savings from the early retirement program are expected at full implementation of the program (Phase 3 concludes January 31, 2013), the savings realized in FY 11-12 likely will be less. Therefore, to be conservative at this time, projected City-wide savings in the mid-year budget analysis are being lowered to \$1,742,070.

Actual Fire Department expenditures in FY 10-11 were \$14,058,389. Of this amount \$3,705,230 was the responsibility of Tracy Rural Fire District. The District had just enough revenue to pay for its share. However, revenues to the District will fall slightly in FY 11-12, and the District will not have enough revenue to pay for any increase in the cost of services from what was actually spent in FY 10-11.

The City's adopted Fire Department budget for FY 11-12 was set at \$15,277,710. This was necessary because of increasing labor costs associated with a substantial increase in the PERS employer rate, the expiration of 3% employee contribution to retirement costs, increased health insurance costs and 5% pay increases for employees not yet at "E" step.

Since Tracy Rural would be unable to afford cost increases in FY 11-12 over FY 10-11, the South County Fire Authority Board adopted a FY 11-12 Fire budget "not to exceed costs of FY 10-11". In doing so it was anticipated that the costs could be controlled through a new labor contract. The previous labor contract expired June 30, 2011; however, a new contract has not been reached.

The City of Tracy's budget for the Fire Department and the South County Fire Authority's budget for Fire are in conflict with each other. Department expenditures are on target to spend the full amount of the City budget (\$15.2 million) in FY 11-12 because labor costs have not been controlled. The end result will likely be \$200,000 to \$250,000 in costs that

are the responsibility of Tracy Rural, but which exceed their available revenue for the fiscal year. Previous debt of the District (approximately \$6 million) was converted to a pre-paid service agreement between the City and the District.

In a scheme to raid local government revenue to help balance the State budget, the State ordered the elimination of all redevelopment agencies as of February 1, 2012. For Tracy there will be four impacts of varying degrees as described as follows:

1. **Projects.** Many agencies had funds on hand awaiting future projects. They will likely see the loss of these funds and be forced to abandon and scrap projects for which there is no third party contract. Fortunately, the City of Tracy was able to enter into a third party contract for the construction of the Sixth Street Plaza two days before the Governor signed the legislation to end redevelopment. This obligated most of the remaining construction funds of the City's agency.
2. **Housing.** The City has approximately \$5.2 million in low/moderate income housing set-aside funds from redevelopment. The fate of these funds is not yet known. There is some legislative effort to allow a portion of housing funds to be used for housing projects in the future. Without this, the City is likely to lose these funds.
3. **Future Revenue Stream.** The City's redevelopment agency would have received tax increment revenue in FY 11-12 in the amount of \$8,055,254. From this amount the Agency would have to set aside 20% for low/moderate income housing leaving approximately \$6.4 million for the Agency. Between direct allocations to taxing entities and pass through agreements, plus existing debt service and administrative expenses, the Agency had already tapped out this amount. All of these expenses are enforceable obligations of the Agency and must be paid on an annual basis going forward. As such, other than the housing revenue stream, there will not be any future stream of revenue to be split to taxing agencies until there is significant growth in property values/taxes in the Agency boundaries. This will likely be 5 to 10 years away.
4. **Administrative Expenses.** State legislation allocates \$250,000 a year for administrative expenses (associated with the City serving as the successor agency). In FY 11-12 the Agency had a budget of \$585,000 for all activities including housing. Currently, 4.3 full time equivalent (FTE) employees are funded from redevelopment. Unfortunately, the Housing Program Specialist will need to be laid off, and the Housing Program Inspector will retire. There an opening for an Administrative Assistant which will absorb this person. The remaining positions need to continue, including code enforcement, despite there being no redevelopment funding to cover these expenses. For FY 11-12 it is estimated the General Fund will take a hit of \$200,000. With reduced staff going forward it is estimated this can be reduced to \$100,000 annually thereafter.

The mid-year budget analysis indicates that the assumptions for overall revenue and expenses in the FY 11-12 General Fund budget have not changed significantly enough to necessitate any additional budget actions by the Council at this time. Total revenues remain virtually unchanged as significant increases in sales tax and temporary sales tax have been offset by decreases in various other revenues. It remains a challenge to control expenditures to reach the overall targeted budget savings of \$2 million. Additionally, impacts to the General Fund from the State's termination of redevelopment agencies and unresolved fire services expenses may actually add to the budget deficit. Even with a full year of temporary sales tax revenue from Measure E, the City will once

again experience a General Fund deficit in FY 11-2 as expenses will likely exceed revenues. Albeit smaller than in years past, this would be the fifth consecutive year of deficit spending. It is not possible at this time to make further refinements to the FY 11-12 budget projections as the bulk of expenses are associated with the City's cost of labor. New labor agreements to replace those that expired on June 30, 2011, have not been secured.

There is no fiscal impact associated with acceptance of this report. The financial position of the City's General Fund has been described fully in this report.

Staff recommended the City Council, by motion, action accept the mid-year financial report.

Council Member Rickman inquired if the City was going out to bid for all consultant work including sub-contractors. Leon Churchill, Jr., City Manager, stated generally the City goes out to bid on all expenditures. However, in some case the City does do sole source. Mr. Johnston added not a lot of General Fund money is used on consulting contracts. Council Member Rickman stated he wanted the City to put all projects out to bid in order to get the most bang for our buck.

Council Member Elliott asked for clarification regarding Redevelopment and the ongoing administrative expenses of \$250,000 per year, and asked if it had been factored into the budget. Mr. Johnston stated the State would give the City \$250,000 to ensure bonded debt continues to be paid. However, the question remains as to whether the City gets \$250,000 for FY11/12.

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

Robert Tanner, 1371 Rusher Street, addressed Council regarding the labor contract for the South County Fire Authority and asked if other contracts had been settled. Mr. Churchill stated the contracts have not been settled, but were a priority for the City so FY12/13 can be projected accurately. Mr. Johnston stated the Teamsters, Mid Managers, and un-represented groups did agree to continue the unpaid furloughs through FY11/12.

Jim Thoming, 33600 S. Koster Road, Chairman of the Tracy Rural County Protection and on the South County Fire Authority, addressed Council regarding the shortfall on the fire budget. Mr. Thoming asked Council to get the labor negotiations settled.

It was moved by Council Member Rickman and seconded by Council Member Elliott to accept the General Fund FY 11-12 Mid-Year Financial Report. Voice vote found Council Members Elliott, Rickman, Mayor Pro Tem Maciel and Mayor Ives in favor; Council Member Abercrombie absent. Motion carried 4:0:1.

7. ACCEPT A REPORT REGARDING ASSUMPTIONS TO COMPILE A 5-YEAR BUDGET FORECAST - Zane Johnston, Finance and Administrative Services Director, presented the staff report.

A five year general fund budget forecast will be presented to Council as part of the Fiscal Year (FY) 12-13 budget adoption process. In preparation for this report, certain assumptions about revenue and future expenses are included and outlined in this report. The five year general fund budget forecast includes FY 12-13 through FY 16-17. These assumptions are based on empirical data, established policy, or trend analysis. It is highly recommend that alternatives to these assumptions be accompanied by compelling information and justification.

Property tax. Based on the (1) the continued decline in property taxes, as confirmed in the actual decline in property tax revenue in the current fiscal year, (2) remaining foreclosure activity, and (3) typical two year lag in property tax revenue as compared to current economic conditions, it is expected that property taxes will decline by 3% in FY 12-13. Because of an anticipated stabilization in home prices the year after, no growth in property taxes is projected for FY 13-14, an increase of 1% is included in FY 14-15 followed by a 2% increase projected in FY 15-16, and another 2% increase projected in FY 16-17.

Sales tax. The City uses MuniServices as its sales tax consulting and auditing firm. MuniServices has provided a 5-year sales forecast for the City's regular sales tax (1 cent) based upon recent trends. This forecast reflects increases of 4.9% in FY 12-13, 4.5% in FY 13-14, 5.9% in FY 14-15, 6.1% in FY 15-16 and 5.7% in FY 16-17.

Temporary half-cent Sales Tax: Measure E. MuniServices also audits Measure E sales tax data and has prepared a 5-year forecast for this temporary half-cent sales tax. Not all sales transactions subject to the standard 1 cent sales tax are applicable to the City's half-cent temporary sales tax. The most notable exceptions are auto sales in Tracy where the auto is not registered to an owner with a City of Tracy address, and internet catalog sales to customers outside of the City of Tracy. MuniServices five year forecast for the temporary half-cent sales tax Measure E estimates include a 7.8% increase in FY 12-13, 5% increase in FY 13-14, 5.6% increase in FY 14-15 and a decline of 20.8% in FY15-16, due to the temporary sales tax Measure E's sunset period, which ends on March 31, 2016. As such, only $\frac{3}{4}$ of one year's worth of taxes is included in that FY 15/16. Because the temporary sales tax Measure E ends in the later part of FY 15/16, no Measure E revenue is included in FY 16-17. These estimates are subject to further review as such estimates have been derived from only two quarters of actual data from Measure E (quarter ending 6/30/12 and quarter ending 9/30/12).

These three revenue sources (*Property taxes, sales taxes and temporary half-cent sales tax Measure E*) are the major General Fund revenue sources. All other revenue sources are assumed to have modest growth ranging from 2% to 3%. Some of these other revenue sources are reflective of population and it is not anticipated the City's population will increase substantially during this 5-year forecast.

General Fund expenses are primarily associated with labor costs. For example, Police personnel expenses make up 87% of the Police Department's budget and Fire personnel expenses about 90% of the total Fire Department budget. Given the current status of labor costs, the assumptions that will be included in the five year General Fund budget forecast are as follows:

Labor related expenses: It is assumed that:

- No cost of living adjustments will be included during this five year period through FY 16-17;
- 100% of the costs associated with the increase to the City's PERS employer rate will be included as an expense absorbed by the City for each of the five years;
- City continues to pay cost of employee's share of PERS;
- The costs associated with increases to the employees' health insurance will reflect the current respective labor contract agreements;
- The costs associated with step increases for employees not currently at Step E will be included in this five year forecast;
- The expenses associated with any certifications (i.e. POST), Master Patrol Officer, educational achievements, and others will be included in this five year forecast;
- The savings associated with the current unpaid furloughs for non-safety employees as of 6/30/12 will be eliminated and costs will be reinstated in each of the five year budget forecasts;

This five year General Fund budget forecast will also reflect the organizational changes taken to date to address the City's structural budget deficit. These steps include (1) a reduction in staff due to the early retirement incentive program, and (2) the compaction of nine City departments into six with the resulting reduction in three department director positions. No other staff reductions will be included in this five year general fund budget forecast.

Operational Expenses: Considering the above, Police and Fire and other General Fund expenses would average an increase of about 3% per year during the forecast period.

If Council concurs with these assumptions, staff will prepare a 5-year forecast which will be presented to the Council in May 2012. This forecast would indicate the status of future budgets through FY 16-17 which would be the first full year without Measure E revenue. Such a forecast would indicate what additional expense reductions would be necessary to reach the City's current budget goal of a balanced budget starting with the adoption of the FY 14-15 budget, the maintenance of a 20% General Fund balance, and the additional budgetary impacts necessary to sustain a fiscally sound position without the temporary taxes associated with Measure E.

There is no fiscal impact associated with acceptance of this report. However, the 5-year forecast is critical in establishing financial policy.

Staff recommended that City Council provide direction regarding assumptions to be considered in compiling a five year General Fund budget forecast.

Council Member Elliott asked if the City had not included anything in the assumptions to allow for uncertainty in PERS costs. Mr. Johnston stated that was correct and would be discussed further.

Council Member Elliott asked if expenses were to increase 3%, that these assumptions do not include those adjustments. Mr. Johnston stated that was correct.

Mayor Ives asked if the budget would balance at some time in the future. Mr. Churchill stated the City cannot presume that the result of these assumptions will result in a

balanced budget. However, it would provide an opportunity for Council to re-visit their policies and direct staff to take any necessary action, including action in the FY12-13 budget. Mr. Churchill stated we have to agree on the assumptions and prepare for the results.

Mayor Ives indicated there was ambiguity in the assumptions, including some things that are beyond our control, but that Council has been very direct about obtaining a balanced budget.

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

Steve Nicolaou, 1068 Atherton Drive, commended Mr. Johnston on his presentation. Mr. Nicolaou stated the City should consider the possible oil impacts and problems in Greece which could impact the U.S. economy. Mr. Nicolaou suggested the City needs to be prudent and conservative, assuming the worst.

Dave Helm asked if the Council had considered galvanizing the community to address their representatives.

Council Member Elliott stated it would be a good idea to make some projections so that the budget isn't so rosy. Council Member Elliott echoed the Mayor's comments that the budget needs to be balanced by the time Measure E ends.

Mr. Churchill stated staff could make assumptions on what Cal PERS could do in the future and present a proposal.

Mayor Pro Tem Maciel thanked Mr. Johnston for his financial presentations.

Mayor Ives stated he agreed that it would be great to have a galvanized effort of residents calling their representatives.

It was moved by Council Member Rickman and seconded by Council Member Elliott to accept assumptions related to compiling a 5-Year Budget Forecast. Voice vote found Council Member Elliott, Rickman, Mayor Pro Tem Maciel, and Mayor Ives in favor; Council Member Abercrombie absent. Motion carried 4:0:1.

8. ITEMS FROM THE AUDIENCE

Dave Helm suggested a listing of politicians representing the City be provided on the website, along with their voting record.

9. STAFF ITEMS

- A. City Council Review and Provide Direction Regarding Staff's Proposal to Expand the Provisions of the Existing Boarding of Buildings with Unsecured Openings Ordinance - Ana Contreras, Code Enforcement Manager, presented the staff report. Ms. Contreras stated that on November 1, 2011, staff provided Council with a discussion item on vacant and abandoned properties in Tracy. That report addressed current code enforcement efforts relative to vacant residential properties. In addition, the report outlined the scope of vacant building problems,

organizational efforts used in addressing vacant, blighted buildings, and innovative approaches used in other cities to address vacant buildings. At that time, staff requested policy direction from Council regarding potential code revisions that would accomplish the following:

1. Amend the existing Boarding of Buildings Ordinance, further limiting the amount of a time a building can remain in a boarded state.
2. Establish a Vacant Building Registry requiring property owners register foreclosures with the City. Such a plan would also require the submittal of a property maintenance plan that outlines a security and maintenance schedule to ensure that vacant buildings are secure and maintained in accordance with applicable state and local codes.
3. Review relevant Tracy Municipal Code sections that deal with property maintenance and consider revamping those sections to better address community values and standards that reflect Tracy's quality of livable neighborhoods.

Following staff's presentation, Council expressed concern regarding the process for abating nuisance properties and the amount of time involved in the abatement process. Council's direction was to move forward with Item No. 1, with future review of Items 2 and 3 incrementally, and at a future time. Additionally, Council requested information on the City's current Boarding of Buildings Ordinance, information on receivership, and best practices currently used by local agencies to combat the nuisances often found on these properties, all of which are addressed below.

Local governments have long standing authority to abate public nuisances. Current City ordinances and state laws allow court actions or administrative hearings to compel the clean-up of property. If the owner ignores these administrative or judicial orders, local government can abate the nuisance with City crews or private contractors and assess/lien the cleanup costs against the property.

Nuisance abatement powers are critical when addressing the community impacts caused by vacant and abandoned properties – the long term, unoccupied structures that pose threats to the public's general health, safety and welfare. Buildings that remain open, unsecured or boarded for long periods of time pose threats to the public's general health, safety and welfare. Historically, in Tracy, vacant, unattended buildings that are either open and unsecured or easily breached pose the following problems as attractive nuisances adversely impacting the quality of life of nearby residents:

- provide habitat for rodents and vermin;
- become a magnet for trash, debris, and illegal dumping; become accessible for squatters and criminal activity, resulting in sanitization concerns;
- become fire hazards due to the use of open flame for lighting, cooking and smoking;

- contribute to blight, depressed market values and drain local agency resources, such as Police, Fire, and Code Enforcement.

Vacant and unsecured properties can have the effect of dis-incentivizing investment and maintenance, which can have a deteriorating effect throughout a neighborhood if they are not effectively addressed. The City has the authority to abate these conditions, which can include removing all trash and debris, repairing, boarding and even demolition of the building (in severe cases), which also has a financial impact on the City.

In 2006, the Council added Chapter 9.60, Boarding of Buildings with Unsecure Openings to the Tracy Municipal Code, requiring temporary boarding of unsecured buildings in accordance with specific standards. This ordinance was adopted to address buildings with unsecured windows and doors and/or inadequately secured through the use insufficient materials. The Tracy Municipal Code maintains protocols for clearing and boarding vacant properties to ensure that buildings – both City and privately owned – are cleaned and boarded as necessary to minimize nuisances, and preserve the health and safety of the community. The provisions of the ordinance apply to all vacant, unsecured properties in the City and complement other requirements of state and local laws. The main provisions of the current Board-Up Ordinance are as follows:

- Windows – ¾” plywood bolted on
- Exterior doors – ¾” plywood bolted on
- Garages – secured doors by nailing them shut
- Painting of boarded surfaces – 1 coat of paint
- Alternate methods – one allows alternate methods to secure buildings

Fees associated with the boarding up of unsecured buildings were established by Council resolution with compliance inspections performed by Code Enforcement staff. This ordinance has been an effective tool in protecting the environment and the public health, safety and welfare by providing staff with the enforcement of the means by which such nuisance conditions may be prevented. Since enacting the Ordinance in 2006, approximately 17 buildings have been brought through the boarding up process.

Vacant, foreclosed properties are also addressed through the requirements of SB 1137, adopted by City Council in October 2008 and effective through January 1, 2013. This bill requires property owners who obtain their property through a foreclosure sale (including financial institutions) to maintain the properties to certain minimum standards to avoid depreciation in surrounding property values. SB 1137 authorizes local agencies to impose fines on property owners if they fail to adequately maintain the foreclosed properties, providing staff with an additional tool for addressing community impacts caused by these vacant properties.

On average, nuisance violations with voluntary compliance are resolved within 30 days. Building code violations and dangerous building cases can take anywhere

from 45 days to several months, depending on the property owner's willingness to comply.

In response to Council's concerns regarding the length of time involved in resolving egregious nuisance cases, staff is establishing internal control processes that would schedule regular, proactive inspections of recidivist properties that consistently become health and safety issues.

The following best practices have been incorporated into code enforcement activities:

- The adoption of nuisance abatement codes for boarded structures;
- Continue use of the City's anti-blight strike team known as the Inter-Departmental Enforcement Alliance, and
- Greater focus on case management of boarded buildings.

Because the current Boarding Ordinance does not impose timeframes for which boarded up properties can remain boarded up, amendments to the ordinance could strengthen the City's enforcement tools pertaining to vacant, boarded up properties. These amendments can be comprehensive in scope to include new provisions in the following areas:

- Property maintenance schedules;
- Posting of emergency contact information;
- Establishing time limits that a building can remain in a boarded up condition, and
- An affirmative accountability plan to return the property to productive use.

Such code provisions would only apply to those properties that are currently or at some point become open, unsecured nuisances. Code Enforcement staff would implement the new code provisions through current case management systems and software, possibly grouping these cases under a Boarded-Up Buildings Monitoring Program.

The City has the authority to abate nuisances under existing code standards. If the owner fails to voluntarily abate a nuisance after being provided with notice and an opportunity to contest the nuisance determination and/or the costs of abatement, the City can abate the nuisance with City crews or private contractors and then hold the property owner responsible for its abatement costs. Along with this tool, the City also has authority to use the receivership process to address boarded, derelict properties when property owners fail to comply with other enforcement measures.

Receivership is a specialized civil remedy that allows a judge to appoint a special agent of the court or a non-profit corporation as the receiver of the property to correct the code violations and manage the property. California Health and Safety Code sections 17980.6 and 17980.7 set forth criteria as to whether a property qualifies for the receivership option.

Properties eligible for receivership are properties that show evidence of the following:

- The building is residential;
- The building is deemed unsafe or dangerous;
- The building is an attractive nuisance (e.g. drug or gang house, transients people are squatting in the building and engaging in unsafe practices, minors are using the building and engaging in unsafe practices, etc.).

The use of receivership is a powerful tool in the abatement of public nuisances. The initial appointment of a receiver by a court does not change the ownership of the property. A receiver's primary goal is to merely abate those nuisance conditions caused by derelict, abandoned and vacant properties. Under close supervision of the court, the receiver can incur costs to repair, board, or in rare cases, demolish the abandoned structure. Throughout the entire receivership process, owners are encouraged to participate in court decisions to minimize costs and even take their own abatement actions with guidance from the court. If the owner fails to repay the abatement costs, state law permits the filing of a nuisance lien that could result in foreclosure and eventual sale of the vacant property. The receivership process also allows, under certain circumstances, the receiver to obtain priority liens on the property, through a court order, to pay for the receiver's services and the costs of abatement. This priority lien ability is especially critical for properties that do not have sufficient equity remaining to conduct necessary repairs. Staff expects that cases requiring receivership would be uncommon and staff's ultimate goal will continue to be to seek voluntary compliance.

Staff recommended that Council review and comment on staff's proposal to expand the provisions of the existing Boarding of Buildings with Unsecured Openings Ordinance to control abandoned properties, to minimize the length of time properties remain boarded, and minimize the harm they do to communities.

Council Member Rickman thanked Ms. Contreras for her time and work on the project. Council Member Rickman asked how many boarded buildings were in existence. Ms. Contreras stated approximately 23 throughout the City.

Council Member Elliott asked if the best practices were working for the department. Ms. Contreras stated staff has begun entering the repeat sites into their data base so they automatically trigger an inspection. Ms. Contreras stated the IDEA team is meeting quarterly to combine efforts to deal with nuisance properties. Council Member Elliott asked if they are seeing positive effects. Ms. Contreras stated yes, except in the mobile home area due to availability of county resources.

Mayor Pro Tem Maciel asked Ms. Contreras to show the properties that were currently boarded and asked if they were eligible for receiverships.

Mayor Pro Tem Maciel asked regarding receivership, how the City can motivate some of these property owners to bring their properties into compliance. Mr. Sartor explained the remedies available if Council directed staff to amend the Ordinance.

Council Member Rickman indicated Council's concern related to vacant and boarded buildings.

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

George Riddle, 1850 Harvest Landing, indicated he agreed that the City should not have blighted buildings and stated there should be time limits.

Steve Nicolaou, 1068 Atherton Drive, asked if the receivership would be available for commercial or industrial properties. Mr. Sartor indicated it could include commercial properties if the other problems were involved too. Mr. Nicolaou indicated a time limit should be imposed, suggesting 180 days seemed reasonable.

Byron Bogard, Central Valley Association of Realtors, stated his frustration was that he was here on November 1, and extended their help with this process. Mr. Bogard stated they want to be part of the solution and want to be involved.

Dave Konesky, 403 W. Eleventh Street, asked how a priority would be determined on which properties were addressed. Mr. Konesky indicated vacant lots were also an issue and should be addressed.

Roger Birdsall, 1121 Michelle Avenue, indicated he agreed with the previous speakers and asked why anyone should have to look at an eyesore for two years. Mr. Birdsall stated a timeline was important and needed to be looked at.

Mayor Ives suggested Council direct staff to ask questions in the public workshops about time limits and vacant lots, so that when staff comes back, the proposals should be based on information provided from realtors and property owners.

Council Member Elliott indicated he agreed that community workshops were appropriate; balance property rights with others who are tired of tolerating blight. Council Member Elliott indicated appropriate time lines and general guidelines in modifying the City's Ordinance would be appropriate.

Mayor Pro Tem Maciel stated he would like staff to provide Council with a list of tools they need to do their jobs more effectively. Mayor Pro Tem Maciel stated that with any right also comes responsibility. Mayor Pro Tem Maciel further stated staff needed input and would like to have the ability to amend the Ordinance to become more aggressive.

Council Member Rickman asked how many workshops were envisioned and how long would it take. Ms. Contreras indicated she has had discussions with Mr. Bogard regarding scheduling a presentation with the Realty Association and stated staff would invite property owners of boarded buildings and neighbors of those buildings to a community workshop.

Council Member Rickman indicated he would like to see the issues separated; 1 boarded properties; 2 vacant land.

Mayor Ives summarized Council's recommendations. Mayor Ives indicated the Ordinance needed to be strengthened, identify tools necessary to implement the tools and bring them back separately. Mayor Ives asked what a reasonable time would be to return to Council. Ms. Contreras suggested the second meeting in May.

10. COUNCIL ITEMS

Council Member Rickman received confirmation that the Medical Marijuana Ordinance would be on the agenda for March 6, 2012. Council Member Rickman requested the issue of impact fees per acre be reviewed on a proportional use basis. Mr. Churchill confirmed the item would be rescheduled for a future meeting.

11. ADJOURNMENT - It was moved by Mayor Pro Tem Maciel and seconded by Council Member Elliott to adjourn. Voice vote found Council Members Elliott and Rickman, Mayor Pro Tem Maciel and Mayor Ives in favor; Council Member Abercrombie absent. Motion carried 4:0:1. Time 9:35 p.m.

The above agenda was posted at the Tracy City Hall on February 16, 2012. The above are summary minutes. A tape recording is available at the office of the City Clerk.

Mayor

ATTEST:

City Clerk