

March 20, 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 7:03 p.m., and led the Pledge of Allegiance.

The invocation was given by Pastor Tim Heinrich of Crossroads Baptist Church.

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

Mayor Ives presented a proclamation to Liza Cruz, Regional Manager, San Joaquin American Red Cross, recognizing March 2012 as Red Cross Month.

Mayor Ives presented, a Certificate of Appointment to the Planning Commission to Jass Sangha, a Certificate of Reappointment to Pete Mitracos, and a Certificate of Recognition to outgoing Commissioner Ameni Alexander.

Brian Bagley, Fire Department, provided a presentation regarding the C.E.R.T. Program and introduced new C.E.R.T. members who completed training last month.

1. CONSENT CALENDAR - It was moved by Council Member Abercrombie and seconded by Council Member Elliott to adopt the Consent Calendar. Roll call vote found all in favor; passed and so ordered.
 - A. Council Minutes – Closed session minutes of February 21, 2012, and March 6, 2012, were approved.
 - B. Approval of Permit for the Consumption of Alcoholic Beverages on City Streets for the Following Events: TCCA's "Then & Now Car Show" Event on July 21, 2012; City's "Girls Night Out" Event on May 11, 2012; and City's "Downtown Block Party" Events on May 4, June 8, June 22, August 3, and August 24, 2012 – Resolution 2012-045 approved the permit.
 - C. Appropriate Measure K Non-Competitive Bicycle Funds in the Amount of \$183,065.35 to CIP 78113, for Design and Construction of Various Bike Projects throughout the City as Outlined in the City of Tracy Bikeways Master Plan Design Supplement – Resolution 2012-046 appropriated the funds.
 - D. Authorize the Mayor to Sign a Land Use Covenant, with the Department of Toxic Substances Control, Restricting the Use of the Tracy Transit Station Property – Resolution 2012-047 authorized the Mayor to sign the covenant.

- E. Approval of a Resolution Selecting Hewlett Packard as the Supplier of New Desktop Computer Systems through the California Strategic Sourcing Initiative (CSSI) Competitive Bid Program Pursuant to Tracy Municipal Code Section 2.20.220 – Resolution 2012-048 approved the selection.
- F. Approve Amendment One to an Exclusive Negotiating Rights Agreement with Tracy's California Blast, LLC, Related to the Potential Development of Approximately 628 Acres of the City-Owned Holly Sugar Property – Resolution 2012-049 approved the amendment.
- G. Adoption of a Resolution Approving a Contract Time Extension with CH2MHill for the Purpose of Continued GIS Training for City Staff and Additional Time to Complete the Utility System Asset Management System without Additional Cost to City and Authorize the Mayor to Sign the Amendment – Resolution 2012-050 approved the contract time extension.
- H. The City Council of the City of Tracy Acting as the Governing Body of the Successor Agency for the Community Development Agency of the City of Tracy Approving the Recognized Obligations Payment Schedule (ROPS) – Resolution 2012-051 approved the ROPS payment schedule.
2. ITEMS FROM THE AUDIENCE - Denny Presley, 1361 Parkside Drive, voiced concern that the Tracy Airport Association was not made aware of a future windmill construction project between the Safeway Distribution Center and the Airport that would impact the airport. Mr. Presley discussed the 2007 repaving project at the airport, the Ellis project, and the impacts to the airport. Mr. Presley asked Council to hold staff accountable to the Airport Association and requested a future agenda item to discuss the Association's concerns.
- The President of the Tracy Airport Association addressed Council regarding airport land acquisition in the amount of \$22 million mentioned in agenda item #6.
- Stephanie Seagrave, a new resident of Tracy, addressed Council regarding a marijuana drug store on Byron Road. Ms. Seagraves stated the school bus stops at that location and added residents in the area should have been polled before the store was allowed to open.
3. PUBLIC HEARING TO CONSIDER A GENERAL PLAN AMENDMENT FROM DOWNTOWN (D) TO COMMERCIAL (C) AND REZONE FROM LIGHT INDUSTRIAL (M-1) TO PLANNED UNIT DEVELOPMENT (PUD) – THE SITE INCLUDES FIVE PARCELS ON THE NORTH SIDE OF W. SIXTH STREET BETWEEN N. "B" STREET AND N. "C" STREET (615 N. "C" ST., 63 W. SIXTH ST., 69 W. SIXTH ST., 77 W. SIXTH ST., AND 99 W. SIXTH ST., TRACY; ASSESSOR'S PARCEL NUMBERS 235-066-08 THRU 12) – THE APPLICANT IS STAN SHORE FOR THE STAN SHORE TRUST - Alan Bell, Senior Planner, presented the staff report. Mr. Bell indicated the site is located on the north side of W. Sixth Street between N. "B" and N. "C" Streets, adjacent to Tracy's downtown area. The approximately 0.85-acre site contains five parcels, each of which is fully developed.
- The western-most parcel, at the northeast corner of W. Sixth Street and N. "B" Street contains the Tracy Delta Solid Waste Management, Inc. Recycle Buy-Back Center. The next parcel to the east contains a single-family home. And the final three parcels each

contain a Quonset Hut building. All existing buildings have been in place for approximately 50 to over 100 years.

The site is adjacent to a long-established residential neighborhood to the north and the Union Pacific rail lines to the south. The site has been part of a small, industrial employment area which includes an Ace Tomato packing facility (now the spice warehouse on the south side of W. Sixth Street), auto services, Tracy Glass Shop (in place for over 65 years), and other businesses.

Historically, the General Plan designation and zoning of the site, have been industrial. In 2006, the Council amended the General Plan designation of the site to Downtown in anticipation that retail, restaurants, multi-family residential or similar expansions of the downtown would need and seek locations in this vicinity on both the north and south sides of W. Sixth Street. The zoning, though, has not yet been changed to be consistent with the General Plan designation and remains Light Industrial.

Recently, the eastern-most Quonset Hut building (at the northwest corner of W. Sixth Street and N. "C" Street) became vacant. The owner's proposed replacement is an auto service facility. Auto service is not a permitted land use within the Downtown General Plan designation. Therefore, the owner submitted an application to amend the zoning and the General Plan designation to allow auto services and other, related land uses. The proposal is a combination of the owner's original proposal for his own parcel and City staff's recommendation to modify the proposal and expand it to cover the entire site. Staff worked with the applicant to refine the proposed Planned Unit Development (PUD) permitted uses and development standards and has reviewed the proposal with all property owners within the proposed PUD.

The proposal is to adopt a General Plan designation and zoning designed to balance the site's (1) historical industrial neighbors, land uses and improvements; (2) proximity to the City's Downtown and long-term vision to support commercial and residential uses in the Downtown area; and (3) opportunities to promote compatibility with the adjacent residential neighborhood. This proposal would amend the General Plan designation from Downtown to Commercial and change the zoning from Light Industrial to PUD.

The proposed PUD would allow the existing businesses to remain (without being nonconforming land uses) and allow similar and a wider range of land uses to replace them in the future, such as business services, auto services, storage, and contract construction.

The proposed PUD would also promote increased activity of commercial uses by allowing such businesses as retail, consumer services, offices, restaurants, and other commercial uses to locate to the site. Over time, the existing, older structures would be replaced with commercial or high-density residential uses, consistent with a long-term vision for the downtown vicinity. The proposed PUD contains development standards (unique to this site) to help reduce noise, light and glare, nighttime disturbance or traffic, and other potential impacts on the adjacent residences to the north.

The proposal does not change the development density established by the General Plan for which an Environmental Impact Report (EIR) was certified on February 1, 2011, (State Clearinghouse Number 2008092006). Therefore, in accordance with California

Environmental Quality Act (CEQA) Guidelines Section 15183, no further environmental assessment is required.

The site is designated Downtown in the General Plan for which the EIR was certified. Both the existing Downtown and the proposed Commercial land use designations (including the limitations set by the proposed PUD Zone) have sufficiently similar density standards to conclude that the project meets the requirements of CEQA Guidelines Section 15183.

For example, both land use designations allow a full range of retail, office, restaurant, and other commercial land uses. Both assume a maximum floor area ratio of 1.0. Both allow high density residential development. However, the Downtown designation allows a density of up to 50 dwelling units per acre, while the Commercial designation allows up to only 25 dwelling units per acre.

The proposed PUD to implement the Commercial designation on the subject property will further limit the development density of the project. The proposed PUD limits noise, roll-up door activity, height, conduct of uses to within buildings, and other activities compared with the potential development density of the site under the existing Downtown designation and the Central Business District Zone, which is used to implement the Downtown designation.

On February 22, 2012, the Planning Commission conducted a public hearing to review the project. The project applicant and proposed tenant spoke in favor of the proposal. No other parties addressed the Commission. By a vote of five to zero, the Planning Commission recommended that the City Council approve the project.

Staff costs to process the application are recovered through a Cost Recovery Agreement with the project applicant, the Stan Shore Trust, executed on January 20, 2012.

Staff and the Planning Commission recommended that the Council:

1. Approve the General Plan Amendment from Downtown (D) to Commercial (C);
2. Approve the rezoning of the site from Light Industrial (M-1) to Planned Unit Development (PUD) including the Concept, Preliminary and Final Development Plans.

Mayor Ives asked if the PUD placed limitations or required a review on any potential hazardous materials. Mr. Bell indicated rules and regulations were in place to review any materials stored or used on the site.

Mayor Ives opened the public hearing.

Stan Shore, property owner, indicated he purchased the property approximately three years ago. Mr. Shore provided background on his involvement in the automotive history, including handling hazardous materials, and added the proposed tenant has plans to renovate the property to bring back a "1950's feel" to the building.

Carrie Burnell, 1450 Cornucopia Place, indicated she believed the Council needed to be flexible to attract businesses to the area.

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

Council Member Elliott stated he supported the application and believed it was an excellent opportunity to assist in the revitalization of downtown, and to be more business friendly.

Mayor Pro Tem Maciel asked if the application only included one building. Mr. Shore indicated yes, the building directly at the corner.

It was moved by Council Member Abercrombie and seconded by Council Member Elliott to adopt Resolution 2012-052 approving a General Plan Amendment from Downtown to Commercial for property located on the north side of W. Sixth Street, between N. "B" and N. "C" Streets (615 N. "C" Street, 63 W. Sixth Street, 69 W. Sixth Street, 77 W. Sixth Street, and 99 W. Sixth Street). Applicant is Stan Shore for the Stan Shore Trust – Application Number GPA11-0006. Voice vote found all in favor; passed and so ordered.

The Clerk read the title of Proposed Ordinance 1165. It was moved by Council Member Abercrombie and seconded by Council Member Elliott to waive the reading of the text. Voice vote found all in favor; passed and so ordered.

It was moved by Council Member Abercrombie and seconded by Council Member Elliott to introduce Ordinance 1165. Voice vote found all in favor; passed and so ordered.

It was moved by Council Member Abercrombie and seconded by Council Member Elliott to adopt Resolution 2012-053 approving a Planned Unit Development Preliminary and Final Development for property located on the north side of W. Sixth Street between N. "B" and N. "C" Streets (615 N. "C" Street, 63 W. Sixth Street, 69 W. Sixth Street, 77 W. Sixth Street and 99 W. Sixth Street) – Applicant is Stan Shore for the Stan Shore Trust – Application Number PUD11-0001. Voice vote found all in favor; passed and so ordered.

4. DISCUSSION AND DIRECTION REGARDING THE DONATION OF A COMMUNITY SERVICE ORGANIZATION SIGN TO BE LOCATED ON PUBLIC PROPERTY, AND THE ESTABLISHMENT OF REGULATIONS AND MAINTENANCE PROVISIONS FOR SUCH A SIGN - Victoria Lombardo, Senior Planner, presented the staff report. Ms. Lombardo stated that Mike Souza, on behalf of Sunrise Rotary, had approached the City with a proposal to donate a sign advertising various community service organizations in Tracy. In order to accept such a donation, the City must consider several things:

- An amendment to the City's Sign Ordinance to allow the sign
- A means of funding for the maintenance of the sign, if it is located on City property as proposed
- A method of determining eligible community organizations to advertise on the sign in the future

There are currently no regulations within the Sign Ordinance of the Tracy Municipal Code that would allow such a sign to be constructed. To allow the sign to be accepted and constructed, staff would draft a code amendment to establish a definition for community organization signs, and establish regulations for their height, area, ground clearance, permit requirements, etcetera.

The sign is proposed to be located on public property, in the City's right-of-way on the south side of West Eleventh Street, adjacent to the Tracy Sports Complex. There will be costs for installation (including the potential relocation of landscape and irrigation materials), as well as on-going maintenance costs including graffiti abatement and restoration/replacement of any portions of the sign that may deteriorate over time. The establishment of a maintenance program, including the funding source should be discussed prior to the installation and acceptance of the proposed sign.

The design of the sign has been modeled after the City's adopted wayfinding program, which specifies sign design, materials and colors. Six organizations are proposed to be represented on the sign at this time. Should any of those organizations cease to exist in the future, Sunrise Rotary asks that the remaining clubs have the authority to determine which new club's logo will be placed on the sign. This is similar to the Veteran's War Memorial, in that the City does not determine which names are to be added to the memorial.

The fiscal impact of accepting the proposed donation includes staff time for the preparation of a code amendment and resolution necessary to accept the donation, as well as on-going maintenance costs for the lifetime of the sign.

Staff recommended that City Council discuss the proposed donation and direct staff accordingly. A sign ordinance amendment requires Planning Commission review and would be brought back to Council along with a resolution accepting the donation in approximately two months.

Mayor Pro Tem Maciel asked if any estimates were available regarding maintenance and upkeep costs. Ms. Lombardo indicated it should be minimal and would only include removing and relocating irrigation lines and sod.

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

Mike Souza, 105 E. Tenth Street, stated the goals of the Tracy Sunrise Rotary Club were to obtain recognition for all service organizations in the City. Mr. Souza indicated the service organizations would provide funding to install the sign. Mr. Souza indicated he would appreciate Council's support for the project.

Council Member Abercrombie asked if it would be possible for each organization to accept responsibility for maintenance of the sign. Mr. Souza stated he believed the City's graffiti buster would be the best individual to handle graffiti.

Council Member Elliott asked if the clubs would repair and replace as necessary on a long term basis. Mr. Souza stated yes.

Mayor Ives asked if the sign was in the median would it be 2-sided. Mr. Souza indicated he would have to re-approach the clubs, but felt they would all be amenable to the idea.

Mayor Ives asked if there had been any thought given to making the sign large enough to add additional service clubs. Mr. Souza indicated six were chosen because they have been in Tracy for a minimum of 25 years, along with the need to make the sign big enough to see what it says.

Council Member Rickman asked if some service groups could be listed on the west side, with others on the east side of the sign. Mr. Souza stated it was a possibility.

Mayor Pro Tem Maciel indicated he did not see any down-side to the proposal and that it would lend a great deal to the City's gateways.

Council Member Abercrombie asked Mr. Souza if the Elks Club was contacted. Mr. Souza indicated the Sunrise Rotary Board met and came up with the idea, but the Elks Club was not contacted.

Council Member Rickman indicated he liked the idea and would like the sign to be placed in the median.

Council Member Elliott indicated he agreed with Council Member Rickman on the location.

Mayor Ives stated the clubs shown on the sign represented a great group of individuals who volunteer in the community, but added he wished there were nine spots on the sign.

Council Member Rickman indicated if other organizations wanted to be involved, there were other arteries that would be appropriate for additional signs.

Mayor Ives indicated he was concerned about the definition of a service club.

Mr. Dean indicated staff would bring back specifics regarding location and traffic impacts as well as options for an amendment to the sign ordinance.

It was moved by Council Member Abercrombie and seconded by Council Member Elliott to accept the sign donation and direct staff to bring back options for a sign ordinance amendment. Voice vote found all in favor; passed and so ordered.

5. MAYOR APPOINTMENT OF TWO INDIVIDUALS TO THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY OF THE CITY OF TRACY - Andrew Malik, Development Services Director, presented the staff report. On January 17, 2012, the City Council adopted a resolution accepting the role of successor agency (the "Successor Agency") to the Redevelopment Agency of the City of Tracy (the "Redevelopment Agency"). An oversight board (the "Oversight Board"), consisting of seven members representing the County of San Joaquin, the City, and various educational and special districts must be formed by May 1, 2012 to approve and direct certain actions of the City as Successor Agency.

The appointment qualifications for the seven members of the Oversight Board, are set forth in Health and Safety Code Section 341790.

- One member appointed by the county board of supervisors.
- One member appointed by the mayor.
- One member representing the employees of the former redevelopment agency, appointed by the Mayor, from the recognized employee organization representing the largest number of former redevelopment agency employees employed by the successor agency at that time.

- One member appointed by the largest eligible special district, by property tax share, with territory in the territorial jurisdiction of the former Redevelopment Agency. The Mosquito and Vector Control agency is the largest special district, and Chet Miller has been appointed with John Stroh serving as alternate.
- One member appointed by the County Superintendent of Education (if elected), or the County Board of Education (if the County Superintendent is appointed) to represent schools. James C. Thomas, Deputy Superintendent Business Services, has been appointed.
- One member appointed by the Chancellor of the California Community Colleges to represent community college districts in the county.
- One member of the public appointed by the County Board of Supervisors.

The Oversight Board's primary purpose is to review the actions of the City, as Successor Agency, in its efforts to wind-down the affairs of the former Redevelopment Agency. The Dissolution Act authorizes the Oversight Board to determine whether contracts, agreements or other arrangements between the former RDA and private parties should be terminated or renegotiated to reduce the Successor Agency's liabilities and to increase net revenue to the taxing entities. Oversight Board members have conflicting fiduciary responsibilities to both the holders of enforceable obligations and to the taxing entities (including those that they represent) that benefit from distributions of property tax and other revenue maintained by the County Auditor Controller. The actions and determinations of the Oversight Board are subject to review and oversight by the Department of Finance and may be subject to disapproval or modification.

A majority of the total membership of the Oversight Board constitutes a quorum for the transaction of business by the Oversight Board, and a majority vote of the total membership is required for actions by the Oversight Board. The Oversight Board is deemed a local entity for the purposes of the Brown Act, the Public Records Act and the Political Reform Act of 1974.

The Mayor has the power to appoint two members to the Oversight Board; one member must represent the employees of the City's former Redevelopment Agency and the other selection is at the Mayor's discretion. Upon review, the mid manager's bargaining unit was the largest employee organization represented within the former Redevelopment Agency. Therefore, the Mayor's appointment could be any employee who is currently a member of the City's mid managers bargaining unit.

If any of the positions on the Oversight Board are not filled by the May 1, 2012, the Governor may appoint persons to a position that remains unfilled on May 15, 2012 or remains vacant for more than 60 days.

Appointment of members to the Oversight Board has no direct fiscal impact on the City's General Fund. Members of the Oversight Board are not compensated or reimbursed for their services to the Board. The City, as Successor Agency, is charged with providing staff support to assist the Oversight Board to perform its duties. The City, as Successor Agency, is required to pay all of the costs of meetings of the Oversight Board.

State legislation has limited the City to \$250,000 to cover the administrative expenses of the successor agency. Since it is anticipated that the City's expense will exceed the maximum any amount over \$250,000 will be a General Fund expense.

Staff recommended that the Mayor appoint two individuals to the Oversight Board of the Successor Agency of the City of Tracy.

Mayor Pro Tem Maciel asked if the appointment needed to be a resident of the City. Mr. Malik indicated it was at the Mayor's discretion.

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

Mayor Ives and Allan Borwick were appointed to serve on the Oversight Board of the Successor Agency of the City of Tracy.

6. DISCUSSION AND DIRECTION RELATED TO CITY'S PRIORITIES FOR PUBLIC BENEFIT AMENITIES IN DEVELOPMENT AGREEMENTS, AFFIRMATION THAT A SWIM CENTER REMAINS A PRIORITY, AND DISCUSSION ON GUIDELINES FOR DEVELOPMENT AGREEMENT NEGOTIATIONS - Leon Churchill, City Manager, provided a background regarding City issues and the economy.

Bill Dean, Assistant Development Services Director, presented the staff report. Mr. Dean stated that over the years, public benefits derived from providing vesting rights and other benefits to developers via DAs has varied with City needs and priorities. The Tracy Sports Complex on Eleventh Street is an example of a public benefit achieved under a DA. Recently, a Swim Center was selected by the Council as a preferred public benefit for the community.

Public benefits through DAs can take several forms. Typically, negotiations will take into account the nature of the request from the developer, the current market conditions that influence the developer's ability to provide public benefit, and the scaling of these two parameters together. Staff seeks direction from Council that the Swim Center remains a priority, and seeks further direction on what additional amenities, if any, are City priorities.

Because of the complexity of developing projects, phasing of infrastructure costs, and (for residential projects) the limitations of building permits over time under the City's Growth Management Ordinance (GMO), project proponents can seek to use a DA to provide as much certainty in development as possible. However, this can lead to DA terms that could create a priority of one development over another. Staff is seeking Council direction on whether or not to establish DA negotiating parameters. Currently, the City's adopted Procedures and Requirements for the Consideration of DAs (DA Procedures) require basic project information and basic information related to the terms of DAs. Additionally, DA Procedures require that an applicant first receive Council direction to negotiate prior to moving forward.

The DA Procedures could be amended to require additional information throughout the DA process related to proposed DA terms, such as the following criteria for evaluating public benefits that could be derived from a DA:

1. Fiscal Impacts related to receiving, operating, or maintaining the public benefit under consideration;
2. Explanation of public utility requests (if any), including potential value and outcomes of such requests;

Based on Council's direction, staff would return with revised DA Procedures at an upcoming Council meeting. Particular care would be given to the general DA Negotiating Parameters so they do not create a scenario where one developer/project is unfairly placed before another; where projects should conform to Council approved General Plan and GMO; and where the City's growth management philosophy of "everyone moves forward" is honored.

Staff recommended that the Council discuss and provide direction to staff related to the City's priorities for public benefit amenities in development agreements, affirmation that a Swim Center remains a priority, and discussion on guidelines for development agreement negotiations.

Council Member Abercrombie indicated if he was a developer and wanted a DA, he would want to make sure he was going to get some benefit out of it. Council Member Abercrombie stated he was concerned that DA's may be scrutinized or boxed-in with the proposed project. Mr. Dean indicated there were a number of ways to approach DA's, and staff attempts to scale the request with the amenity being offered.

Council Member Abercrombie suggested staff should be able to discuss a proposal with a developer and then decide whether to go to Council for direction.

Council Member Elliott asked staff to elaborate on the concept of "everyone has the opportunity to move forward." Mr. Dean explained it related to growth areas, transparency, and Council involvement.

Mayor Pro Tem Maciel asked if the history of DA's has provided lessons that would necessitate a new set of standards. Mr. Dean stated recent experience through the development of the infrastructure master plans, has given staff reasons to be very measured on how the City moves forward in working with developers.

Mayor Pro Tem Maciel indicated he believed there needed to be flexibility during different economic settings.

Mayor Pro Tem Maciel asked if it was a legal requirement for Council to authorize staff to discuss and/or pursue a DA with developers. Mr. Sodergren stated it was a two step process: Step 1 - staff would bring the application to Council to determine whether the public benefit described in the application would warrant staff beginning negotiations; Step 2 - if Council agreed there was a benefit, staff would negotiate a DA, and present it to the Planning Commission for consideration and recommendation.

Mayor Ives indicated every time a DA has been presented, the impacts were also identified and, therefore, he could not see the substantive change in the request.

Mr. Churchill stated that regarding lessons learned, what has changed is to think one development proposal will address all the needs of an amenity came from a boom economy and pushes the city aside as far as deciding what the amenity is and who can

contribute to which amenity. Mr. Churchill suggested that sort of history should be questioned in this economy.

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

Chris Long, 1024 Central Avenue, suggested the process of the DA should determine the best way for a project to proceed.

Dana Perry of Reynolds & Brown, and Dave Babcock, stated they were a little nervous regarding the proposal. Mr. Perry indicated the City needs to examine the economic times and remain flexible. Mr. Perry was also concerned that he is actively involved in a DA, spending millions of dollars, actively pursuing employers, and did not want to slow down his development project at this stage of the process. Mr. Perry suggested a "public benefit" may not necessarily be a tangible asset.

Mike Souza, 105 E. Tenth Street, stated Tracy had a reputation for being a tough place to do business because in the late 1990's they were told that if you want to do business here, this is what it will cost. Mr. Souza stated public benefit was not mentioned in the government code section. What was mentioned was the huge risk the developer takes with the current rules in place at the time of application. Mr. Souza recapped two DA's he had personally been involved in and the public benefits they provided. Mr. Souza suggested DA's be rolled back to their original concept. Mr. Souza suggested Tracy not add costs, not complicate the process, and not give one project an unfair advantage over another.

Michelle Bazinet, 1005 Mabel Josephine, addressed Council stating a cookie cutter approach made no sense. Mr. Bazinet stated the City was fortunate that Surland was offering the land and a public amenity.

Dave Helm stated everything that staff and Council consider should have an eye toward the public benefit and what it provides to the community.

Robert Tanner, 1371 Rusher Street, stated the City should not have to provide 90% of the cost to develop an amenity.

Mark Connolly, 121 E. Eleventh Street, on behalf of TRAQC, stated what was being proposed was to give staff the right to negotiate a DA without public input. Mr. Connolly indicated this process deprives the public of the opportunity to discuss the merits of a project in public with Council before the process begins. Mr. Connolly suggested the procedure wasn't broken.

Dave Anderson, 1940 Earl Way, stated he did not want to lose any transparency in the process and added the public must be involved in the process.

Mr. Churchill clarified that this report did not propose eliminating any public hearing process, and in fact, was adding scrutiny to the process. Mr. Malik stated the City was looking out 30 years for infrastructure, tying a lot of things together, and that if there was a DA that centered on infrastructure, what was the scale of that request, and not one development halting others.

Mayor Pro Tem Maciel indicated some of the concerns expressed reached far beyond what was being dealt with on this request. Mayor Pro Tem Maciel indicated his understanding was a DA was a quid pro quo - something in it for both sides. In most cases a developer receives assurances while the city is looking for a public benefit.

Mr. Sodergren clarified that because a DA is a contract, consideration must be given to both parties; some sort of tangible consideration that the developer is giving to the city. What that tangible benefit consists of is completely within the discretion of the Council.

Mayor Pro Tem Maciel indicated DA's are not necessarily bad and he was not opposed to entertaining into a DA in the future. Mayor Pro Tem Maciel suggested it was good to re-assess the City's approach to DA's; maybe be a little more conservative, consider the bigger picture, and not be so favorable to one that it negatively affects another.

Council Member Abercrombie indicated he was not convinced that how the city has been proceeding needs to be changed.

Council Member Rickman agreed with Council Member Abercrombie in that the City needed to be competitive with other cities. Council Member Rickman stated he was concerned with the opposition from the business community and Mr. Connolly. Council Member Rickman stated he did not believe he could move forward on the change.

Council Member Elliott stated he was not sure how the proposal to amend the DA procedure will do anything differently from how it is approached now. Mr. Dean stated the purpose was to ask Council whether or not what is being asked of the development community is fair, and the possible impacts on other projects.

Mayor Ives indicated it appeared Council was hesitant to change the process. Mayor Ives stated he did not see anything that prohibited multiple projects moving forward at the same time. Mayor Ives stated Council expects staff to provide the Council with clarity on the types of impacts that could occur if a particular DA was approved. Mayor Ives added that he did not see anything in the ordinance that precluded it.

Mr. Churchill indicated staff was clear on Council direction in that staff has the administrative discretion to scrutinize a DA as extensively as possible. Regarding amenities, Mr. Churchill stated the City does have a process whereby the City explicitly states what the desired public benefits are.

Mayor Ives called for a recess at 9:24 p.m., reconvening at 9:30 p.m.

Mayor Ives asked staff to clarify what direction they were seeking with regard to amenities and what direction they needed from Council.

Mr. Dean stated staff was seeking Council affirmation that the swim center remains a priority as an amenity.

Mayor Ives asked why a list of CIP rankings for FY 12-13 was attached to the staff report. Mr. Dean stated the list was attached to show the City's current priorities. Mayor Ives asked how the swim center related to the list. Mr. Dean stated the swim center was an adopted Capital Improvement Project that was included in the City's budget while the other projects are on the CIP list.

Council Member Abercrombie asked what changed and what caused this. Mr. Churchill stated the simplest way to explain it was are we to discuss the swim center only in terms of a specific project or DA, or is this an opportunity for the City to state it is a priority to be discussed with all developers.

Council Member Elliott commented that when considering an amenity, certain principles should be kept in mind: 1) it needs to make financial sense; 2) it should provide the greatest benefit to greatest amount of residents; 3) is something that is traditionally provided or paid for by government.

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

Sandy Taylor, 8721 Julie Lind Circle, provided a history on the swim center in the City of Tracy.

Mollie Lowe, 2690 Atherton Court, addressed Council regarding her frustration over trying to bring the swim center to fruition.

Jody Price, 1321 Tulloch Drive, read a statement from Dan Schwertfeger of 235 LaMonte Lane, regarding his frustration with the proposed swim center. Ms. Price, president of Tracy Tritons, stated the City needs to provide reasons for people to live and play in the City.

Marsha McCray, 560 W. Schulte, asked that Council reaffirm for staff the direction they are requesting regarding the swim center.

Mark Connolly indicated there did not appear to be a reason for the second part of the agenda item. Mr. Connolly suggested the questions should be: "What is the cost of the project?" "Can the City afford to run it?" and "How does the project rank with other priorities?"

Michelle Bazinet indicated the goal of the community was that the facility be financially viable and that the features selected were the ones that were most viable. Mr. Bazinet indicated the phasing consisted of the money making features.

Dave Helm stated the town needs more things for kids to do.

Mollie Lowe stated the only way the City can have a pool is to put in the amenities that residents are driving to other communities to use and suggested phasing in the project.

Nancy Young, 1517 Arrigotti Lane, asked how the City could actually get it done and make it a real priority. Ms. Young encouraged Council and staff to make the swim center a top priority.

Council Member Rickman indicated the swim center was a priority and asked staff if another developer could assist in getting it built. Are there other locations and what could we do as a city to make this come to fruition. Mr. Churchill stated the question was not simplistic. Mr. Churchill asked if the swim center was tied to a project, or can it be discussed with other projects. Mr. Churchill stated staff will pursue funding for a swim

center from multiple sources and from multiple angles. Mr. Churchill indicated staff was asking if Council wanted staff to do it the same way or to pursue other avenues.

Mayor Ives indicated that nothing has precluded staff from bringing other options to build the swim center or to pay for parts of it. Mayor Ives indicated seven years has all been wrapped up in the Surland Development. Mayor Ives indicated the question was fair and relevant.

Council Member Rickman stated if it was a priority the City needed to find a way to get it done.

Council Member Abercrombie apologized for his frustration stating it was apparent that the swim center is a priority. Council Member Abercrombie stated he did not have a problem looking at other possible funding solutions, but did not want other developers to feel they need to put money into a swim center in order to move forward. Council Member Abercrombie stated that if there were other ways to get it accomplished, to certainly move forward.

Council Member Elliott reinforced what Council Member Abercrombie stated. Council Member Elliott stated a public good could bring more jobs, improving the local economy, and that any of those things should be considered when looking at DA or negotiations with developers. Council Member Elliott stated the problem is that the City has only looked at the swim center in one area.

Mayor Pro Tem Maciel stated the aquatic center was certainly a priority. Mayor Pro Tem Maciel suggested staff look at other funding mechanisms to get it accomplished. Mayor Pro Tem Maciel indicated he would welcome any proposal to move the swim center forward.

Mayor Ives stated there were a number of ways to broaden the potential viability of the swim center and asked staff to continue thinking of ways, including a potential DA, to get a swim center.

Mayor Pro Tem Maciel asked why the aquatic center was placed at # 39 on the list. Mr. Churchill stated it was not ranked because it was considered tentatively funded.

7. ITEMS FROM THE AUDIENCE – None.

8. COUNCIL ITEMS

A. Appoint an Applicant to the Tracy Arts Commission from the Commission's Eligibility List - There is one vacancy on the Tracy Arts Commission due to Commissioner Sangha's appointment to the Planning Commission. Commissioner Sangha resigned from the Arts Commission on March 13, 2012. The last time appointments were made to the Tracy Arts Commission was January 3, 2012. At that time the subcommittee consisting of Mayor Pro Tem Maciel and Council Member Elliott nominated four applicants to fill vacancies on the Arts Commission and recommended one applicant, Taranjit Sandhu be placed on an eligibility list. The purpose of an eligibility list is to fill vacancies that

might occur in the 12 months following the last appointment to the board and/or commission. Council confirmed the subcommittee's nominations and the creation of an eligibility list.

It was moved by Council Member Elliott and seconded by Mayor Pro Tem Maciel to approve the subcommittee's recommendation to appoint Mr. Sandhu to the Tracy Arts Commission to serve the remainder of former Commissioner Sangha's term which will expire on December 31, 2013. Voice vote found all in favor; passed and so ordered.

Council Member Abercrombie stated a book and bake sale to benefit Airiyahna Cole, who is battling health issues, will be held at the Tracy Transit Station this Saturday, from 8:00 a.m. until noon.

Council Member Abercrombie also stated that the 2nd annual Guns and Hoses basketball game will be held March 31 at Tracy High School.

9. ADJOURNMENT - It was moved by Council Member Abercrombie and seconded by Mayor Pro Tem Maciel to adjourn. Voice vote found all in favor; passed and so ordered. Time 10:30 p.m.

The above agenda was posted at the Tracy City Hall on March 15, 2012. The above are summary minutes. A recording is available at the office of the City Clerk.

Mayor

ATTEST:

City Clerk