

June 5, 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 given by Pastor Kevin James of New Creation Bible Fellowship.

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

Mike Reyna, Police Officer, Tracy Police Officers Association, presented the Association's First Annual Scholarship Award to Upinderpreet Gill and Mariah Serrato.

Mayor Ives presented a Certificate of Recognition to Mike McLellan, Board of Directors, Tracy Volunteer Caregivers, in recognition of Tracy Volunteer Caregivers 10th Anniversary.

Mayor Ives presented a proclamation to Theresa English-Soto, Community Energy Manager, PG&E, in recognition of CoolCalifornia Cities.

Mayor Ives presented a proclamation to Sergeant 1st Class Frank E. Rivera, Staff Sergeant and Sergeant Matthew McCracken in recognition of United States Army Month.

Mayor Ives and Police Chief Hampton recognized Don Sader for his many years of commitment and dedication to the D.A.R.E. program.

Mayor Ives recognized students from Jefferson, South/West Park, West Valley Christian Academy, and Traina Elementary Schools, in honor of their D.A.R.E. graduation.

1. CONSENT CALENDAR - Following the removal of item 1-E by Robert Tanner, 1371 Rusher Street, and item 1-J by Council Member Abercrombie, it was moved by Council Member Abercrombie and seconded by Council Member Elliott to adopt the Consent Calendar. Roll call vote found all in favor; passed and so ordered.
 - A. Minutes Approval – January 17, 2012, and February 21, 2012, regular meeting minutes were approved.
 - B. Annual Review of City's Investment Policy and Recommendation to Accept this Policy with No Changes – Resolution 2012-093 accepted the policy.
 - C. Authorization of an Agreement Between City of Tracy and US Bureau of Reclamation for Long-Term Water Banking at Semitropic Water Storage District Water Banking Project and Authorization for the Mayor to Execute the Agreement; and Authorization for the City Manager to Execute Water Agreements for Operational Functions – Resolution 2012-094 authorized the

agreement. Resolution 2012-095 authorized the City Manager to execute the agreements.

- D. Acceptance of the Lincoln Park and Gazebo Renovation Project - CIPs 78123 & 78126, Completed by Goodland Landscape Construction of Tracy, California, and Authorization for the City Clerk to File the Notice of Completion – Resolution 2012-096 accepted the project.
- F. Approve a Professional Services Agreement with Kleinfelder Inc., of Stockton California, to Provide Materials Testing and Geotechnical Services for Fiscal Years 2012-2014 with the Option to Amend the Agreement to Extend Testing Services for an Additional Two Years 2014-2016, and Authorize the Mayor to Execute the Agreement and Authorize the City Manager to Execute an Extension if Needed – Resolution 2012-097 approved the agreement for a not to exceed amount of \$220,000 per year.
- G. Acceptance of the Police Firearms Practice Range Improvements – CIP 71072, Completed by Robert Burns Construction of Stockton, California, and Authorization for the City Clerk to File the Notice of Completion – Resolution 2012-098 accepted the improvements.
- H. Adopt a Resolution Approving an Agreement Between the City of Tracy and Pacific Gas & Electric Company to Collaborate on Implementing Sustainability Efforts in the City of Tracy to Help Facilitate New Development and to Meet State Requirements and Authorize the City Manager to Sign the Agreement – Resolution 2012-099 approved the agreement.
- I. Acceptance of the Traffic Signal Coordination – Grant Line Road (CCTV Installation) Project – CIP 72076 (Federal Project No. CML 5192-031), Completed by W. Bradley Electric, Inc., of Novato, California, and Authorization for the City Clerk to File the Notice of Completion – Resolution 2012-100 accepted the project.
- K. Adopt Resolution to Authorize the City Manager to be the Authorized Agent of the City of Tracy and to Execute any Actions Necessary for the Purpose of Obtaining Proposition 1B Funds in the Amount of \$217,941 for the Construction of a Fiber Optic Line from City Hall to the Tracy Transit Station and Appropriate the Funds to CIP 77545 – Resolution 2012-101 authorized the City Manager to be the authorized agent.
- L. Acceptance of the Traffic Signal at Lammers Road and Byron Road Project – CIP 72041 (Federal Project No. CML 5192-032), Completed by Pacific Excavation, Inc., of Elk Grove, California, and Authorization for the City Clerk to File the Notice of Completion – Resolution 2012-102 accepted the project.
- M. Authorization to Extend the Agreement with All City Management Services, Inc., for School Pedestrian Crossing Guard Services through June 30, 2014 and Authorization for the Mayor to Execute the Extension Agreement – Resolution 2012-103 authorized extending the agreement.

- N. Adopt Resolutions Regarding the Election Process, General Municipal Election to be Held on November 6, 2012 – Resolution 2012-104 gives notice of the holding of a General Municipal Election to be held on November 6, 2012. Resolution 2012-105 requests the Board of Supervisors of San Joaquin County to consolidate the General Municipal Election with the State General Election to be held on November 6, 2012.
- O. 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 2012-106 approved the ROPS.
- P. Award a Construction Contract to Knife River Construction of Stockton, California, for the Corral Hollow Road Widening Between Grant Line Road and the East Entry of the West Valley Mall Entry - CIP 73014 (Federal Project Number STPL 5192(030)), Authorize an Appropriation of Grant Funds and Transfer of Funds from CIP's 74096, 75112, and 72050 to CIP 73014, Authorize Amendment 4 to the Professional Services Agreement (PSA) with Schack and Company to Provide Design Support During Construction and Authorize the Mayor to Execute the Construction Contract and Amendment 4 to the PSA – Resolution 2012-107 awarded the construction contract.
- E. Approval of the San Joaquin Council of Governments (SJCOG) Annual Financial Plan for Fiscal Year (FY) 2012-2013 - Robert Tanner asked what the cost was for the City of Tracy to put this into the budget. Mr. Churchill stated there was no additional cost to the City or any other city in the County. It was moved by Council Member Abercrombie and seconded by Council Member Elliott to adopt Resolution 2012-018 approving the SJCOG Annual Financial Plan for FY 2012-13. Voice vote found all in favor; passed and so ordered.
- J. Approve Annual Ground Lease Rate Increase by 2.6 Percent for Privately-Owned Hangars at Tracy Municipal Airport Effective July 1, 2012 – Ed Lovell, Management Analyst, presented the staff report. Mr. Lovell stated that the City has 24 ground lease agreements with Lessees who have privately owned hangars at the Tracy Municipal Airport. The ground lease agreements have provisions allowing for annual rate increases based upon the United States Consumer Price Index (CPI), but not to exceed 10% for any single increase. All rate increases require a 30 day notice and the approval of the City Council prior to the rate increase. The last rate increase for the privately-owned hangars was in July of 2011. The CPI of the previous calendar year is used to adjust the rate in July of the following year.

The CPI increase is taken from the Consumer Price Index for all Urban Consumers, All Items, for the San Francisco-Oakland-San Jose Metropolitan Area (1982-84 = 100), as published by the Bureau of Labor Statistics of the U.S. Department of Labor. The CPI increase for 2011 was 2.6%.

Tracy Airport currently averages 4.5 cents per square foot on the ground leases for constructed hangars that are privately owned. Other airports in the area cost between 10 cents and 38 cents per square foot for similar ground leases with the exception of Stockton Airport whose pricing is similar to Tracy's. All ground leases at other airports include an annual escalator tied to the CPI. In addition all

ground leases contain a reversionary clause in which at the end of the lease the constructed hangar becomes the property of the airport. Tracy's privately owned hangar ground lease rate includes electricity.

On May 10, 2012, the City's Transportation Advisory Commission reviewed and endorsed the ground lease rate increase for privately-owned hangars.

As a result of this action, the annual increase in revenue to the Airport Enterprise Fund for Ground Leases will be \$495.48 for FY 2012-13. The rate increase ranges from \$1.30 to \$2.04 per hangar per month.

Staff recommended that the Council approve an increase of 2.6 percent to the ground lease rate for privately-owned hangars at Tracy Municipal Airport effective July 1, 2012.

Council Member Abercrombie indicated he was concerned about raising rates at the airport until the runway issue was resolved, and asked if the owners had been notified. Mr. Lovell indicated notices went out last week.

Council Member Elliott asked if the increase represented the actual costs since the last increase. Mr. Buchanan indicated the current hangar rate for privately held hangars is severely under market.

Council Member Rickman asked what the actual costs were. Mr. Buchanan stated approximately \$300,000 per year for the airport and debt service of \$40,000 along with indirect costs. Mr. Buchanan stated it was still \$30,000-\$40,000 short of balancing the budget.

Council Member Rickman asked if there was any urgency to raising rates. Mr. Buchanan stated it could wait, but was usually done before adoption of the budget.

Council Member Abercrombie asked if it would be possible to bring this item back after the runway was fixed. Mr. Buchanan stated it could come back at a later time. Mr. Buchanan reminded Council that only six hangars are leased, the rest are month-to-month.

Council Member Elliott asked if Council postponed this increase, would the increase to the commercial owned rates be delayed. Mr. Buchanan stated no; those rates would be raised based on the CPI according to their lease agreement.

Mayor Pro Tem Maciel asked if this was an issue of value vs. cost recovery. Mr. Buchanan stated the primary focus was to balance the operating budget.

Council Member Rickman asked what effect the \$500 increase would have on the occupants of the hangars. Mr. Buchanan stated they own the hangars so they have a vested interest in the airport and wouldn't necessarily leave. Mr. Buchanan added that they were notified through the TAA. Only one person showed up and they are in the audience tonight to address the issue. Mr. Buchanan stated the Transportation Commission supported the increase.

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

George Riddle, 1850 Harvest Landing, asked if there were any improvements that would be made as a result of this increase. Mr. Lovell indicated there were no specific improvements; that this increase was to help with the operating budget. Mr. Riddle asked if any electricity increases had been realized. Mr. Lovell indicated all of the hangars have electricity, but none of them have individual meters. Mr. Buchanan indicated there were other increased costs besides electricity, and added other airports did not provide electricity.

Council Member Abercrombie asked how much revenue the airport would realize by raising the rates in the other hangars. Mr. Buchanan stated it would be the same percentage or a couple thousand dollars.

Council Member Rickman asked if the increase would help with the cost of the fire hydrants. Mr. Buchanan stated it would be a Fund 301 contribution.

Mayor Pro Tem Maciel stated this represented a lease agreement that allows the City to help balance its budget and has nothing to do with the condition of the runway. Mayor Pro Tem Maciel stated it was a step toward reaching a balanced budget at the airport.

It was moved by Mayor Pro Tem Maciel and seconded by Council Member Elliott to adopt Resolution 2012-019 approving the ground lease rate increase. Roll call vote found Council Member Elliott, Mayor Pro Tem Maciel and Mayor Ives in favor; Council Member Abercrombie and Rickman opposed. Motion carried 3:2.

2. ITEMS FROM THE AUDIENCE – Alison Forest, Intern with Tri Valley Cares, invited Council and residents to tour Lawrence Livermore Lab and Site 300, on Wednesday June 27, 2012, between 9:00 a.m. and noon.

Anne Marie Fuller, Chairperson, Tracy Arts Commission, invited Council and residents to the 2012 Concert in the Park series. Ms. Fuller stated the first event would be held at MacDonald Park on June 14, 2012, and the last event would be held on July 26, 2012.

Dave Helm addressed Council stating he hoped that Council would remain vigilant in saving money as well as spending money.

3. CONDUCT TWO PUBLIC HEARINGS AND CONSIDER OTHER MATTERS ASSOCIATED WITH THE ADOPTION OF THE FISCAL YEAR 2012-2013 CITY BUDGET - Zane Johnston, Finance and Administrative Services Director, presented the staff reports.
 - A. PUBLIC HEARING OF THE CITY COUNCIL TO CONSIDER ADOPTION OF THE ANNUAL BUDGET FOR THE CITY OF TRACY FOR FISCAL YEAR 2012-2013 AND APPROPRIATE FUNDS - Mr. Johnston stated that the operating budget for the Fiscal Year 2012-2013 (FY 12-13) was presented to the Council at a budget workshop on May 15, 2012. The focus of the operating budget is the General Fund. As presented at the budget workshop the proposed General Fund expenditure budget was \$49,878,820. However, revenues are not sufficient to

cover expenses resulting in a draw on reserves (budget deficit) of \$2,180,100. The operating budget to be adopted is identical to that presented at the workshop as Council did not request any changes. The proposed City operating budget for FY 12-13 for all funds is \$112,836,710, including the General Fund.

The proposed capital budget for FY 12-13 was presented to the City Council at workshops on April 3, and April 30, 2012, and has been modified to reflect the Council's decisions at the April 30, 2012, workshop. This modified version was included in the proposed budget document and requests \$21,886,650 in appropriations for the capital budget.

Since the April 30 workshop, staff has added \$275,000 for CIP 75991, in FY 12-13 to provide for purchases of water for storage, and CIP 72081, for \$2,756,000 for street lights conversion has been deleted from FY 12-13.

The proposed City debt service budget for all funds is \$23,752,110. Proposed interfund transfers for FY 12-13 are \$3,775,100.

Section 4 of the budget resolution appropriates any un-appropriated proceeds of taxes to contingency reserves, although none are anticipated. This section sets a targeted fund balance of \$18,985,100 for the City's General Fund 101. It authorized staff to maintain this targeted fund balance at fiscal year-end, by transferring monies in or out of the General Fund 101 with the Economic Uncertainty Fund 299. Section 5 specifies there is no uncommitted development impact fee monies held by the City from prior fiscal years.

Section 6 provides that any over expenditures in the current FY 11-12 operating budget as amended at the fund and department level will be offset by an equal reduction for the same fund and department in the new adopted budget for FY 12-13. It is not anticipated that any department will exceed their FY 11-12 amended budget.

Section 7 deals with fee revenues that are projected to cover program costs. If actual revenues are less than projected, actual program expenses should also decrease by an equal amount. This section provides that any expenditure of unrealized revenues will also be offset by an equal amount if over by 5%.

The annual City budget to be adopted for FY 12-13 will be as follows:

| | <i>General Fund</i> | <i>Other Funds</i> | <i>All Funds</i> |
|------------------|---------------------|----------------------|----------------------|
| Operating Budget | \$48,703,820 | 64,132,890 | 112,836,710 |
| Capital Budget | 0 | 19,130,650 | 19,130,650 |
| Debt Service | 1,175,000 | 22,577,110 | 23,752,110 |
| TOTAL | \$49,878,820 | \$105,840,650 | \$155,719,470 |

Most funds have sufficient reserves and/or revenues to cover their expenditures. In a few cases, short-term loans will be required for these funds.

Staff recommended Council adopt the City of Tracy Budget and Appropriations Resolution for FY 12-13.

Mayor Ives opened the public hearing.

Robert Tanner, 1371 Rusher Street, asked that Council be aware that another \$2 million was being pulled out of the reserves and that by 2016 the City would still be short \$1 million. Mr. Tanner stated Council needed to work on the million dollars and that he did not see that happening.

Dave Helm asked about the revenue shortfall regarding property tax and if the City anticipated a further degradation of those funds. Mr. Helm asked if there were any other revenue sources the City was pursuing that might help the deficit, and if the anticipated revenues were solid, conservative numbers.

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

Mr. Johnston indicated this was a transition budget and the City was only receiving half of one year's savings. Mr. Johnston stated the City was combining nine departments into six departments and next year the City would realize one full year of savings that will help toward the \$1 million. Mr. Johnston added that another 10 full-time positions budgeted for FY12-13 will only be here for one-half year. Mr. Johnston added many things were put into place in FY12-13 for which the City will not receive full benefit.

Mr. Johnston indicated Measure E will bring in \$6.5 million and the City has realized another \$.5 million in property taxes. Measure E did not contemplate continuing tax erosion and the County Assessor has advised cities to consider another 2% decrease in property taxes. Mr. Johnston stated that by FY 13-14 it should level off to zero. Mr. Johnston added that economic development will lead in providing the City with additional revenue which will help in the long term.

Mr. Churchill added that the proposed budget implements one year of a multi-year, multi-faceted budget.

Council Member Elliott asked if the City had any reasonable expectation that it would be successful with economic development. Mr. Churchill stated he was very confident that the City will be very successful with economic development, but cannot ensure that it will meet the entire deficit.

3.B CONDUCT A PUBLIC HEARING TO ADOPT A RESOLUTION APPROVING THE UPDATED MASTER FEE SCHEDULE - Mr. Johnston stated that over many years, City departments have proposed and the Council has adopted various fees related to the work of the departments. On May 17, 2011, the Council adopted a consolidated, City-Wide Master Fee Schedule to provide for a record of fees in one place, better public information, and consistent updating of the fees. The Master Fee Schedule reflects fees charged for City services, but does not include the following types of fees and charges:

- development impact fees adopted under the Mitigation Fee Act;
- mitigation fees (i.e. habitat mitigation, agricultural mitigation fees);
- business license fees (taxes);

- enterprise fund charges (water, sewer, storm water, airport, transit);
- fees adopted under franchise agreements (cable franchise under TMC Chapter 8.10; franchise contractor for collection of solid waste, yard waste and recycling under TMC Chapter 5.20);
- landscape maintenance districts;
- fines (imposed as penalties);
- leases of City property; and
- rates established by separate agreements (i.e. Tracy Unified School District).

The Master Fee Schedule will be updated on an annual basis, based on an automatic cost-of-living adjustment calculated since the fee was last set. The revised Master Fee Schedule has been prepared with an automatic CPI adjustment of 3%, rounded to the nearest dollar (except where cents are already used) with the exception of: (1) Parks and Community Services Department fees; (2) Grand Theatre fees; and (3) other fees indicated by an asterisk, which are not automatically increased. The 3% CPI adjustment is based on the Consumer Price Index for all Urban Consumers, All Items, for the San Francisco-Oakland-San Jose Metropolitan Area (1982- 84 = 100), as published by the Bureau of Labor Statistics of the U.S. Department of Labor.

Fees for conditional use permits have been simplified to correspond to the two size-based fees used for development review.

The fees set forth in the Master Fee Schedule represent no more than the estimated reasonable cost, or actual cost, of the services or facilities provided. They do not exceed the City's cost and, in many cases, are below the City's cost.

Staff recommended that Council adopt the Master Fee Schedule.

Mayor Ives opened the public hearing. Since there was no one wishing to comment on the item the public hearing was closed.

Council Member Elliott asked how staff decided which items were not included and why. Mr. Johnston stated the fees included in the proposal were governed by State Law or some other type of governing rule that they follow.

Council Member Elliott referred to the bottom of page one and the reference to Conditional Use Permit fees. Mr. Dean stated Conditional Use Permits were classified by the size of the project.

Council Member Rickman asked if permit fees were included in this increase. Mr. Churchill stated yes. Council Member Rickman asked what other regulatory fees would impact small businesses. Mr. Johnston indicated all of the fees included were optional services; things that a person procures because they are going to do something. The City was not charging fees that would be detrimental to business development and did not represent full cost recovery. Mr. Johnston added that business licenses fees were low and that Tracy does not have a utility user tax which is very attractive to new businesses.

Council Member Rickman indicated he was concerned that the City was thinking that the higher the rates, the more money that will be brought in. Mr. Malik stated

staff was continuing to work on impact fees. Council Member Rickman stated he wanted to ensure that the City was creating an environment that will encourage small and large businesses to grow and to locate in Tracy.

Council Member Abercrombie asked how much revenue might be generated by this increase. Mr. Johnston indicated under \$10,000.

- 3.C ADOPTION OF THE APPROPRIATIONS LIMIT FOR FISCAL YEAR 2012-2013 FOR THE CITY OF TRACY - Mr. Johnston presented the staff report. As per Article XIII B of the State Constitution, the City is subject to an appropriations limit pertaining to the proceeds of taxes (Gann Initiative). The base year for the limit is Fiscal Year 1978-79 and it may be updated annually for growth and inflation. Proposition 111, approved by the voters in June 1990, provided for certain modifications to the appropriations limit. The City now has two options each for calculating growth and inflation.

For growth, the options are:

- 1) City's population growth, or
- 2) County's population growth.

For inflation, the options are:

- 1) The California Per Capita Income, or
- 2) Percent change in the local assessment roll from the preceding year due to the addition of local nonresidential construction in the City.

The decision as to which options to select must be done by a recorded vote of the Council. In addition to establishing a new method with options for the annual update of the appropriations limit, Proposition 111 expanded the categories of expenditures exempt from the limit.

Staff has used the City's population growth and California Per Capita Income options in the computations and recommends these options for Council selection. These factors were 1.0079% and 1.0377% respectively for a combined factor of 1.0459%. The population figure provided by the State of California, Department of Finance was 83,900 for the City as of January 1, 2012.

The "proceed of taxes" figure of \$37,923,600 can be adjusted downward to an "appropriations subject to the limit" of \$35,269,520. This adjustment can be made due to \$1,174,080 budgeted for debt service in FY 12-13 to be paid out of tax proceeds and \$1,480,000 of tax proceeds either budgeted or reserved for capital outlays.

Staff recommended that Council approve the Appropriations Limit for FY 12-13. Staff further recommended that City Council select "The City's Population Growth" and "California Per Capita Income" options for the annual update of the City's appropriations limit for FY 12-13.

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

Mayor Ives indicated Council would consider action including adoption of the D.A.R.E. budget. Council Member Abercrombie recused himself from consideration of the DARE item, and stepped down from the dais.

Mayor Pro Tem Maciel asked if the allocation and the stated purpose remained the same. Mr. Churchill stated yes.

It was moved by Mayor Pro Tem Maciel and seconded by Council Member Rickman to adopt Resolution 2012-110, approving the annual budget for the City of Tracy for FY 12-13 and appropriating funds. Voice vote found all in favor; passed and so ordered. Council Member Abercrombie recused himself from voting on the budget allocation for D.A.R.E. in the amount of \$45,000.

It was moved by Council Member Abercrombie and seconded by Mayor Pro Tem Maciel to adopt Resolution 2012-111 approving the Master Fee Schedule. Voice vote found all in favor; passed and so ordered.

It was moved by Council Member Abercrombie and seconded by Mayor Pro Tem Maciel to adopt Resolution 2012-112 establishing the appropriations limit for FY 12-13. Voice vote found all in favor; passed and so ordered.

4. PUBLIC HEARING TO CONSIDER INTRODUCING AN ORDINANCE OF THE CITY OF TRACY: (1) ADDING A NEW SECTION 1.08.140 TO CHAPTER 1.08 OF THE TRACY MUNICIPAL CODE RELATING TO COMPLIANCE WITH FEDERAL, STATE AND LOCAL LAW; AND (2) ADDING A NEW SECTION 10.08.3195 TO CHAPTER 10.08 OF THE TRACY MUNICIPAL CODE CLARIFYING THAT MEDICAL MARIJUANA DISPENSARIES AND CULTIVATION ARE NOT PERMITTED USES - Bill Dean, Assistant Development Services Director, presented the staff report. Under the City's Zoning Ordinance, any use not specifically authorized in a particular zone is prohibited. (Tracy Municipal Code ("TMC"), §10.08.1070.) Medical marijuana uses, including cultivation (either as a primary use or as an accessory residential use in a backyard), are not allowable uses in any of the City's zoning districts and are considered public nuisances (TMC, §1.04.050).

The proposed ordinance includes two amendments to the TMC. First, it adds a new section to the TMC clarifying that "no provision of [the] Code is intended to or shall be interpreted or applied to allow or authorize a use, structure, activity, or conduct that violates federal, state or local law." Second, it adds a new section to the Zoning Ordinance clarifying that medical marijuana dispensaries and/or cultivation are not allowed as principal uses, conditional uses, special uses, or accessory uses in any zone.

The purpose of adopting such a clarifying ordinance is twofold: (1) to provide clear notice to the public that medical marijuana uses are prohibited under the TMC; and (2) to assist staff and the courts in interpreting and implementing the provisions of the TMC related to the use of medical marijuana.

The City's involvement in dealing with medicinal marijuana dispensaries abatement begins when a complaint is filed with Code Enforcement. The complaint is then entered into the department's database, a case is opened, and a site inspection is performed to validate the complaint. Depending on staff's caseload, new cases are inspected within 72 to 96 hours of receipt. Once the complaint has been confirmed, staff notifies the

property owner by phone, in person, or by mailing a Violation Notice, with a specified time frame for correcting the violation. A follow-up investigation is conducted shortly after the deadline contained in the Violation Notice to verify whether or not corrective action has been taken. If the violation(s) still exist at the time of the follow-up inspection, the City will move forward with a Notice and Order or Order to Abate or Show Cause, including a deadline for compliance and appeal dates. If the violations are still not corrected, the City can move forward with more punitive action, such as administrative citations, and/or criminal or civil injunctions. Upon correction of all cited violations, the case is closed and no further action is required.

The Tracy Planning Commission discussed the proposed ordinance on December 21, 2011, and recommended approval of the ordinance.

Staff recommended that Council introduce an ordinance: (1) adding a new Section 1.08.140 to Chapter 1.08 of the Tracy Municipal Code relating to compliance with federal, state, and local law; and (2) adding a new Section 10.08.3195 to Chapter 10.08 of the Tracy Municipal Code clarifying that medical marijuana dispensaries and cultivation are not permitted uses.

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

Council Member Rickman asked what would be different when the new zoning ordinance was in effect. Mr. Dean stated it would be easier for staff to articulate why it is not allowed in our code.

Council Member Rickman asked about the process. Ana Contreras, Community Preservation Manager outlined the process. Mr. Sartor added that this action would mean a complete ban on marijuana cultivation as a land use issue.

Council Member Rickman stated he was concerned that the process takes too long, and asked how the ordinance would help the police department.

Chief Hampton stated the ordinance did not specifically help them prosecute unless the Council declared it a ban and therefore a misdemeanor. However, it does give police administrative rights and some limited right to enter and inspect the property. Chief Hampton indicated the City continues to find individuals cultivating marijuana in residential neighborhoods. Chief Hampton added the Police Department has concluded a 12 month investigation which resulted in the arrest of 20 or more individuals 2 or 3 of which cultivation locations were responsible for a criminal enterprise.

Council Member Elliott asked if the City Attorney felt secure in the fact that the City could defend the ordinance. Mr. Sodergren stated that based on current court cases, the City has the authority to adopt this type of land use and zoning action and it was defensible.

The Clerk read the title of proposed Ordinance 1170.

It was moved by Council Member Abercrombie and seconded by Council Member Rickman 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 Rickman to Introduce proposed Ordinance 1170. Voice vote found all in favor; passed and so ordered.

5. PUBLIC HEARING TO CONSIDER ADOPTION OF A PRECISE PLAN LINE (ALIGNMENT) FOR VALPICO ROAD FROM TRACY BOULEVARD TO MACARTHUR DRIVE - Kul Sharma, City Engineer, presented the staff report. In the 1980's, approximately 375 acres of land were annexed to the City for development. This area was designated as the Industrial Area Specific Plan South (ISP South) and is located on the east side of Tracy Boulevard between Linne Road, north of Valpico Road to the Canal, and to the southwest corner of Linne Road and Tracy Boulevard.

On March 17, 2009, the Council adopted an updated version of the FIP for ISP South which identified all related future improvements.

As industrial, commercial, and residential developments in the area become available and are utilized, a substantial volume of vehicular traffic to and from these properties is anticipated that will need to be mitigated by the widening of Valpico Road. Therefore, it is necessary to adopt a Precise Plan Line for Valpico Road.

Pursuant to the Tracy Municipal Code and other applicable laws, certain properties with frontages along and having access to Valpico Road will be subject to dedication requirements when such properties develop, provided the following circumstances exist:

1. That the properties require enhanced access to the system of public streets in order to allow development on such properties;
2. That there is a rough proportionality between the imposition of dedications for the construction of Valpico Road and the impacts of any future development on such properties.

If the owner and/or developer of properties along Valpico Road initiate development of their property before the City pursues acquisition of right-of-way within the established Plan Line, then they will be required to dedicate and improve their frontage (1) 20 feet from the planned face of curb of Valpico Road towards the centerline of the street; and (2) from such face of curb to the ultimate planned right-of-way of Valpico Road. Improvements shall include street, curb, gutter, sidewalk and parkway landscaping.

If the City initiates the acquisition of right-of-way prior to the properties being developed, then the right-of-way acquisition and frontage improvement costs will be incorporated into the infrastructure costs that must be paid as impact fees once the parcel comes forward for development.

Funding for completing the Valpico Road Precise Plan Line has been provided from the development impact fees collected from developers in the ISP South development area.

Staff recommended that City Council adopt the Precise Plan Lines for Valpico Road Council Member Abercrombie asked if there was a signal planned at the intersection of Valpico Road and Sycamore Parkway. Mr. Sharma indicated there was a signal planned, but it was part of a separate item.

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

It was moved by Council Member Abercrombie and seconded by Council Member Rickman to adopt Resolution 2012-113 approving a Precise Plan Line (alignment) for Valpico Road from Tracy Boulevard to MacArthur Drive. Voice vote found all in favor; passed and so ordered.

6. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE TRACY MUNICIPAL CODE (TMC CHAPTER 10.08) AFFECTING FAMILY DAY CARE HOMES – THE APPLICATION IS INITIATED BY THE CITY OF TRACY – APPLICATION NUMBER ZA12-0003 - Victoria Lombardo, Senior Planner, presented the staff report. Ms. Lombardo stated that within the State's Planning, Zoning and Development Laws, provisions exist that regulate family day care homes. These regulations define family day care homes as "...a home that regularly provides care, protection, and supervision for 14 or fewer children, in the provider's home, for periods of less than 24 hours per day, while the parents or guardians are away, and is either a large family day care home or a small family day care home".

Small family day care homes are homes that provide care for eight or fewer children, and large family day care homes provide care for seven to 14 children. Government Code Section 1597.45 declares that "the use of a single-family residence as a small family day care home shall be considered a residential use of property for the purposes of all local ordinances." Similarly, large family day care homes cannot be prohibited by cities on lots zoned for single-family dwellings.

In order for the City to permit large family day care homes, the Tracy Municipal Code would have to be amended to add restrictions and requirements by which to evaluate such a nondiscretionary permit. The Code must be amended to define and allow large family day care homes to be principally permitted in all residential zones.

Staff recommended that the Tracy Municipal Code be amended to define large family day care homes and allow them as permitted uses in all residential zones (option 1). The Tracy Municipal Code already contains various regulations regarding traffic control, parking, and noise, which are enforced by the appropriate departments within the City.

The proposal would allow family day care homes to be treated no differently than single-family homes from the perspective of the City's zoning regulations.

The Planning Commission discussed the proposed Code amendment on May 9, 2012, and voted unanimously to recommend approval. Commissioners voiced concerns regarding the potential for overconcentration of family day care homes and not being able to hold public hearings for neighbors to comment on proposed large family day care facilities. However, the commissioners were in favor of the code amendment.

Staff recommended that the Council approve the proposed amendments to the Tracy Municipal Code Sections 10.08.650, and 10.08.1080, adding new sections 10.08.255 and 10.08.3195 regarding family day care homes in residential zones.

Council Member Elliott asked if the reason for this action was because of State law. Ms. Lombardo stated yes.

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

The Clerk read the title of Proposed Ordinance 1171.

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 Proposed Ordinance 1171. Voice vote found all in favor; passed and so ordered.

7. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE TRACY MUNICIPAL CODE SIGN REGULATIONS (TMC CHAPTER 10.08) AFFECTING CITY CIVIC ORGANIZATION SIGNS – THE APPLICATION IS INITIATED BY THE CITY OF TRACY – APPLICATION NUMBER ZA12-0002 -Victoria Lombardo, Senior Planner, presented the staff report. In February of this year, Mike Souza, representing Tracy Sunrise Rotary, approached the City with a proposal to donate a sign that would advertise up to six civic organizations within the City. On March 20, 2012, the Council met and voted in favor of such signs. Staff has drafted an ordinance that accommodates the proposed donation and allows for additional city civic organization signs at main city entrances.

Amendments to the Tracy Municipal Code (TMC) are recommended to allow city civic organization signs on City of Tracy property. The proposal contains a definition of "City civic organization sign" and provisions to permit them in certain locations with Council approval and acceptance of a sign. The proposal would allow city civic organization signs to be located on publicly-owned property, upon approval by the City Council.

The Planning Commission held a public hearing on May 9, 2012 to discuss the proposed amendments to the sign ordinance. Much of the discussion involved questions regarding the maintenance of the sign. The Planning Commission voted unanimously to recommend Council approval of the proposed sign ordinance amendments.

In order for the City to receive the proposed sign as a donation from the service organizations (represented by Tracy Sunrise Rotary), a resolution of acceptance must be approved by Council. The maintenance (graffiti removal) of the sign will be performed by the City, through the existing graffiti removal program. Changes or replacement of logos or insignias of the civic organizations will be completed by the donating parties.

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

Staff and the Planning Commission recommended that Council approve the proposed amendments to the Tracy Municipal Code Sections 10.08.4440, 10.08.4450, and 10.08.4460 regarding City civic organization signs on public property.

Mayor Ives opened the Public Hearing.

Mike Souza, 105 E. Tenth Street indicated he was available for questions and concurred with the staff report.

Council Member Rickman asked for clarification regarding the location of the sign on Eleventh Street. Ms. Lombardo stated staff was still working on the location of the sign with the applicant, but believed the median may still be the best location.

The Clerk read the title of proposed Ordinance 1172.

It was moved by Council Member Abercrombie and seconded by Council Member Elliott to Waive Reading of 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 proposed Ordinance 1172. 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 2012-114 accepting the donation of a civic organization sign on Eleventh Street near Lammers Road. Voice vote found all in favor; passed and so ordered.

8. INTRODUCTION OF A PROPOSED ORDINANCE WHICH RESCINDS ORDINANCE 506, AND UPDATES CERTAIN REQUIREMENTS FOR CANDIDATES IN GENERAL MUNICIPAL ELECTIONS - Maria Hurtado, Assistant City manager, presented the staff report. Ms. Hurtado stated that Ordinance 506 was adopted on June 16, 1992, to update certain actions related to Candidates' Statements and filing fees, for the City's General Municipal Elections. Due to various changes in costs and publishing requirements the Ordinance is outdated and needs to be revised. The wording in the proposed Ordinance is more general in nature as it relates to costs and publication requirements making it more applicable to future elections.

Staff recommended that the Council introduce a proposed ordinance which rescinds Ordinance 506 and updates the requirements for candidates in General Municipal Elections.

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

The Clerk read the title of proposed Ordinance 1173.

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 proposed Ordinance 1173. Voice vote found all in favor; passed and so ordered.

9. SECOND READING AND ADOPTION OF ORDINANCE 1169 AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TRACY LEVYING A SPECIAL TAX WITHIN CITY OF TRACY 580 BUSINESS PARK COMMUNITY FACILITIES DISTRICT NO. 1

The Clerk read the title of proposed Ordinance 1169.

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

It was moved by Council Member Abercrombie and seconded by Council Member Elliott to adopt Ordinance 1169. Roll call vote found Council Members Abercrombie, Elliott, Rickman, Mayor Pro Tem Maciel and Mayor Ives in favor. Motion carried.

10. ITEMS FROM THE AUDIENCE – None.

11. COUNCIL ITEMS

A. Appointment of City Council Member to Participate on the Oversight Committee to Review the Governance Structure for the Provision of Fire Services to the City of Tracy and Surrounding Area - Council Member Abercrombie was appointed to serve on the Committee.

B. Consider an Item for Discussion on a Future City Council Agenda Related to Zoning Along I-205 - Council Member Rickman stated that the area surrounding I-205 is zoned light industrial and that Council needs to get freeway travelers off the freeway and into local businesses. Council Member Rickman added he would like to see the area zoned office and retail and specific businesses targeted.

Mayor Ives asked if Council Member Rickman was suggesting a review of the area be done. Council Member Rickman stated that was part of it, but added he wanted to know what the options are for the area being zoned office and retail.

Mr. Churchill indicated staff could be ready for the second meeting in July.

Mayor Pro Tem Maciel and Council Member Elliott indicated it was a good idea. It was Council consensus to place the item on a future agenda.

C. Consider Naming the Plaza at City Hall after a Former Mayor of Tracy - Mayor Ives indicated he believed it would be appropriate to name an amenity after a former Mayor and proposed that the Plaza area be named after Mayor Bilbrey.

Dan Bilbrey served as a City Council Member from 1990 until 1994, and as the Mayor of Tracy from 1994 until 2006. He was a Planning Commissioner for two years, and a Tracy Police Reserve Officer from 1968 to 1990. In his six terms as Mayor, he served on various committees including the City/Chamber Liaison, City/Schools Liaison, Economic Development, Youth Enrichment and Violence Prevention, Investment Review, Multimodal Station Administrative Review, and Downtown Revitalization. Dan has also been actively involved with the Boys & Girls Club of Tracy. During Mayor Bilbrey's term in office, many high ranking projects were completed including the opening of the Tracy Outlet Center and the West Valley Mall; completion of the South County Surface Water Project; construction of the new Civic Center and the Grand Theatre; purchase of the Holly Sugar property; renovation of the Fire Administration building, and the opening of numerous city parks and retail centers.

Mayor Bilbrey also served as Chairman of the San Joaquin Council of Governments (SJCOG). He was Chairman of the Interregional Partnership (IRP), a collaboration of elected officials representing five counties in the San Francisco Bay Area. In this role, he helped to initiate a program that helps balance the jobs to housing ratio in the Bay Area and Central Valley. Mayor Bilbrey is recognized for his visionary and responsive leadership. He is a consensus builder who has worked selflessly to make Tracy a better place to live for all residents. Dan Bilbrey has been a resident of Tracy since 1968. He retired from Sutter Tracy Community Hospital, where he worked for almost 40 years, the last 10 as Executive Director of the Tracy Hospital Foundation. Dan and his wife Josie have two children and three grandchildren.

Council Member Abercrombie asked if Mayor Ives would consider naming the Council Chamber after Mayor Bilbrey where it could be seen. Mayor Pro Tem Maciel indicated it would be appropriate to name the Plaza after former Mayor Bilbrey.

It was moved by Council Member Abercrombie and seconded by Council Member Elliott to adopt Resolution 2012-115 naming the Plaza area at City Hall Dan Bilbrey Plaza. Voice vote found all in favor; passed and so ordered.

Council Member Abercrombie wished his soon good luck on his deployment.

Council Member Rickman congratulated Micah Gregorio, a 14 year old from Tracy who appeared on "America's Got Talent" and wished her good luck.

12. ADJOURNMENT - It was moved by Council Member Abercrombie and seconded by Council Member Elliott to adjourn. Voice vote found all in favor; passed and so ordered. Time: 9:33 p.m.

The agenda was posted at the Tracy City Hall on May 31, 2012. The above are summary minutes. A recording is available at the office of the City Clerk.

Mayor

ATTEST:

City Clerk