

June 19, 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 Deacon Jack Ryan.

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

Leon Churchill, Jr., City Manager, presented the Employee of the Month award for June 2012, to Nathan Howell of the Fire Department.

Mayor Ives presented a proclamation to Linda Jimenez, Chairperson, Parks & Community Services Commission, recognizing July as "Parks & Recreation Month."

Sean Butler, Fire Engineer, provided a presentation on Drowning Prevention.

Arch Bakerink, Chairperson of the Measure E Residents Oversight Committee, provided the Measure E Residents Oversight Committee Report.

1. CONSENT CALENDAR -Following the removal of item 1-J, it was moved by Council Member Abercrombie and seconded by Council Member Rickman to adopt the Consent Calendar. Roll call vote found all in favor; passed and so ordered.
 - A. Minutes Approval – Regular meeting minutes of March 6, 2012, and closed session minutes of June 5, 2012, were approved.
 - B. Approval of Amendments to Professional Services Agreements with Various Consultants for Additional Services Required to Complete the City's Infrastructure Master Plans – Resolution 2012-116 approved the amendments.
 - C. Approval of Amendment One to the Professional Services Agreement with Design, Community and Environment, Inc. for the Preparation of an Environmental Impact Report, Assistance with the Preparation of a Specific Plan and Annexation for the Cordes Ranch Specific Plan Project – Resolution 2012-117 approved the amendment.
 - D. Report on the City's Local Vendor Preference – Report accepted
 - E. Approval of Resolutions: (1) Initiating Proceedings for the Annual Levy for Tracy Consolidated Landscape Maintenance District, (2) Preliminarily Approving the Engineer's Report for the Tracy Consolidated Landscape Maintenance District and (3) Declaring the Intention to Levy Annual Assessments and Setting the Date for the Public Hearing - Resolution 2012-118 initiated proceedings for the annual

levy and collection of assessments for the Tracy Consolidated Landscape Maintenance District (TCLMD) FY 2012/2013. Resolution 2012-119 preliminarily approved the engineer's report for the TCLMD. Resolution 2012-120 declared the City's intention to levy annual assessments. Council Member Abercrombie abstained from voting on Zone 9 and Mayor Ives abstained from voting on Zone 24.

- F. Find that it is in the Best Interest of the City to Forego the Formal Bid Process and Authorizing the Award of the Purchase of Ten Crown Victoria Police Interceptor Vehicles to Wondries Ford of Alhambra, California – Resolution 2012-121 authorized the award in the amount of \$265,288.
- G. Find that it is in the Best Interest of the City to Forego the Formal Request for Proposal Process and Authorization of the City of Tracy to Enter into a Professional Services Agreement with Delta Wireless, Inc. for Police Communications Maintenance and for the Mayor to Sign the Agreement – Resolution 2012-122 approved the award of a three-year contract with Delta Wireless.
- H. Approve and Authorize the Mayor to Execute the Amended Memorandum of Understanding between the City of Tracy and the Sister City Association of Tracy – Resolution 2012-123 approved the Memorandum of Understanding. Council Member Elliott abstained.
- I. Authorize Amendment of the City's Classification and Compensation Plans and Position Control Roster by Approving the Establishment of a Classification Specification and Salary Range for Administrative Services Director – Resolution 2012-124 approve the amendment.
- J. Approve an Agreement with Willie Nelson – Valentine Road Corporation for the Grand Theatre Presenting Season's Opening Concert and Authorize the City Manager to Sign the Agreement – Jeffrey Haskett, Cultural Arts Manager, Performing Arts, gave an update on the proposed event.

Mayor Ives invited member of the public to address Council.

It was moved by Council Member Abercrombie and seconded by Council Member Elliott to adopt Resolution 2012-125 approving an agreement with Willie Nelson, Valentine Road Corporation, for the Grand Theatre presenting Season's Opening Concert. Voice vote found all in favor; passed and so ordered.

- 2. ITEMS FROM THE AUDIENCE - Kelly Hendrix, on behalf of the Tracy Repertory Theatre, thanked Council for the opportunity to be a partner in the presenting group. Ms. Hendrix stated that the Repertory Theatre had over 150 participants, volunteers, actors, production staff, and over 4,300 patrons who appreciated the arts at the Grand Theatre. Ms. Hendrix thanked Council for the vote of confidence and the opportunity to be involved with the Grand Theatre and the arts in Tracy.

Sue Rainey, Redbridge resident, asked for an update on the plans for Lammers Road. Ms. Rainey indicated there are school traffic issues causing dangerous situations.

3. PUBLIC HEARING TO HEAR AN APPEAL BY SURLAND COMMUNITIES, LLC ("SURLAND") OF TRACY GROWTH MANAGEMENT BOARD'S MAY 22, 2012 DECISION TO ALLOCATE 125 RESIDENTIAL GROWTH ALLOTMENTS ("RGAS") TO SURLAND FOR THE ELLIS PROJECT LOCATED AT THE NORTHWEST CORNER OF CORRAL HOLLOW AND LINNE ROADS (APPLICATION NUMBER RGA11-0001 AND APPEAL NUMBER APL12-0001) - Victoria Lombardo, Senior Planner, presented the staff report. On January 28, 2009, the City and Surland entered into a Development Agreement for the Ellis project. The Development Agreement contains provisions for the allocation of RGAs each year for a number of years beginning in 2009. The Tracy Growth Management Board ("GMB") allocated 125 RGAs to the Ellis project in 2009, 2010, and 2011, per the requirements of the Development Agreement.

On December 15, 2011, Surland submitted an application for the 2012 RGA Allocation Cycle, requesting 125 (RGA11-0001). On May 22, 2012, the GMB voted to approve the allocation of 125 RGAs to the Ellis project. However, this decision never became final.

On June 5, 2012, the City received two letters from Surland - one letter was a notice of appeal of the GMB's decision of May 22, 2012 to allocate RGAs to the Ellis project; the other letter formally requested withdrawal of Surland's application for RGAs.

Under the Tracy Municipal Code ("TMC"), any applicant dissatisfied with a decision of the GMB may submit a written notice of appeal to the City Clerk, (TMC, § 10.12.120). The written notice of appeal must be filed within 10 working days from the date written notice of the decision is sent (or personally delivered) to the person. A hearing must be held within 30 days of the date the notice of appeal is filed.

The decision of the City Council on the appeal is final. An RGA is not considered to be allocated until all administrative action with respect to the application (including resolution of any appeal) has been completed. Surland submitted a notice of appeal on June 5, 2012, which was within 10 working days of when Surland received notice of the GMB's decision (May 22, 2012).

Staff recommended Council adopt a resolution that: (1) acknowledges Surland has withdrawn its RGA application (RGA11-0001); (2) grants Surland's appeal (APL12-0001); and (3) determines that no RGAs will be allocated to the Ellis project during the 2012 RGA Allocation Cycle.

Mayor Ives opened the public hearing.

Les Serpa, 1024 Central Avenue, stated he supported the staff report.

Mark Connolly, 121 E. Eleventh Street, on behalf of TRAQC, stated TRAQC filed an Order to Show Cause and that was why Surland filed the appeal. Mr. Connolly provided a copy of the judgment that indicated issuing RGA's would be in contempt of the court and TRAQC would take additional action.

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

It was moved by Council Member Abercrombie and seconded by Council Member Elliott to adopt Resolution 2012-126 acknowledging that Surland Communities, LLC. has withdrawn its application for Residential Growth Allotments; granting the appeal by Surland of Tracy Growth Management Board's decision to allocate 125 RGA's to the Ellis project; and determining that no RGA's will be allocated to the Ellis project during the 2012 RGA allocation (Application Number RGA11-0001 and Appeal Number APL 12-0001). Voice vote found all in favor; passed and so ordered.

4. CITY COUNCIL DIRECTION RELATED TO PROPOSED TERMS FOR A DEVELOPMENT AGREEMENT WITH SURLAND COMMUNITIES FOR THE ELLIS PROJECT LOCATED AT THE NORTHWEST CORNER OF LINNE ROAD AND CORRAL HOLLOW ROAD, APPLICATION DA11-0002 - Bill Dean, Assistant Development Services Director, presented the staff report. Mr. Dean stated that Surland Communities recently submitted applications to begin work on approvals related to the Ellis Specific Plan project and Development Agreement (DA). On March 20, 2012, the Council directed staff to begin negotiations for proposed terms and to return to Council for further discussion and direction. The purpose of the DA is as a mechanism for the City to obtain land and financial contributions in the amount of \$10 million for construction of a family swim center in exchange for development rights for Surland to construct the Ellis project.

Negotiations have reached a point where Council direction is necessary. Upon direction from the Council staff will conclude negotiations and publish a draft DA along with an Environmental Impact Report (EIR) prior to scheduling Surland's applications for Planning Commission review and City Council consideration.

The following table provides a comparison of the basic DA terms. A heightened focus has been placed on devising a DA that enables upfront public benefit payment for swim center facilities.

#	Original DA	Proposed DA	Change
1	16 acres of land for swim center	16 acres of land for swim center	No change
2	\$10 million paid to City upon annexation for swim center	\$10 million paid to City for the swim center, with \$2 million paid upon annexation and \$8 million paid in installments no later than three years	Payment is spread over three years to coincide with cash flow needs of actual swim center construction
3	Reservation of existing wastewater treatment capacity for 500 homes	Reservation of existing wastewater treatment capacity for 800 homes	An increase of 300 homes of existing wastewater treatment capacity reservation
4	Surland pays for the existing wastewater treatment capacity	Surland does not pay for the existing wastewater capacity for 800 homes	This is a savings of approximately \$5,453,600 to Surland (800 homes x \$6,817)
5	Reservation of 500 units of existing	Reservation of 800	This is a savings of

	wastewater conveyance capacity in Corral Hollow sewer line	units of existing wastewater conveyance capacity in both Corral Hollow sewer line and Peony sewer line (temporary to eastside system)	approximately \$1,053,450 to Surland (550 homes in Corral Hollow sewer line x \$744) plus (250 homes x \$2,577)
6	Water supply from existing City supplies for the entire Ellis project	Water supply from existing supplies for the entire Ellis project	No change
7	Surland pays for the existing water supplies, water treatment and distribution system	Surland pay for the existing water treatment and for the distribution system	This is a savings of approximately \$1,700,000 to Surland (cost of water supply)
8	Recycled Water – no requirements for recycled water at Ellis	Ellis will be required to install “purple pipe” and fund fair share of new recycled water system	This represents a new added cost of approximately \$8 million dollars to the project.
9	2250 Residential Growth Allotments (RGAs) with no expiration date and 2250 Building Permits to be used at Ellis or other Surland projects.	225 RGAs and BPs annually up to 2250, with provisions to allow reductions (not below 150/year) in order to share access to RGAs by Infill and other areas. All RGAs must be used at Ellis	Very Similar to existing DA. The RGA “ramping” schedule would be replaced with a “floor” of 150/year and a “ceiling” of 225/year, with provisions to reduce allocations (not below 150/year) to help accommodate Infill and other areas. Additionally, all RGAs must be used at Ellis.
10	Term of 25 years	Term of 25 years	No change

Any application related to the Ellis project, including applications related to development agreements is funded by the applicant in accordance with a City approved Cost Recovery Agreement dated February 12, 2012.

Staff recommended that City Council discuss the proposed terms and provide direction to staff.

Council Member Abercrombie asked if based on the handout received from Mark Connolly would the Council be able to continue discussions.

Rick Jarvis, the City’s legal counsel representing the City in litigation on the Ellis project, stated in his opinion continuing consideration of the DA would not violate any injunction

issued by the court, as long as the purpose is to come into compliance with the court order.

Council Member Elliott asked if the City had received feedback from the development community regarding this proposal, and if they felt they could proceed with their individual developments given these terms.

Mr. Dean stated he had spoken with representatives from Tracy Hills and another project on Corral Hollow Road who do have concerns.

Mayor Ives clarified that the request was for Council to provide staff with direction regarding particular aspects of the DA. Mr. Dean outlined possible next steps and a timeline.

Council Member Elliott asked if this was an amended or a new agreement. Mr. Jarvis stated from a legal perspective, whether it was labeled new or amended didn't matter. Mr. Jarvis stated the court's judgment requires the City to set aside the previous approval and a revised/new agreement would have to be adopted in its entirety.

Council Member Abercrombie stated he had concerns regarding the appeal. Mr. Jarvis stated in his opinion the judge's ruling was incorrect.

Council Member Abercrombie asked if a new DA could be challenged. Mr. Jarvis stated yes and explained why.

Council Member Elliott referred to a previous effort to identify the real cost of operating the facility and an updated financial analysis and asked when that analysis would be provided to Council. Leon Churchill, City Manager, stated there was no specific date or timetable, but acknowledged that a study would be necessary. Mr. Churchill stated if and when the City is ready to move the project forward, the market study and financial analysis should be updated to the City's current economic situation.

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

Les Serpa, 1024 Central Avenue, on behalf of Surland, outlined the revised terms of the proposed DA which includes 16 acres dedicated to the City; a \$10 million contribution stretched over a longer period of time than previously committed; recycled water; and agreement to a new process to issue residential growth allotments through the Growth Management Ordinance. Mr. Serpa indicated he wanted to make one change regarding sewer capacity and would work with staff on that change.

Jerry Finch, 2406 Merced Street, San Leandro, one owner of 45 acres of property known as Kagehiro, stated he understood he would receive priority under the existing Growth Management Ordinance and sewer conveyance for up to 220-250 properties. Mr. Finch added if that was accurate his group would not have any objections to the DA that was being developed.

Mayor Pro Tem Maciel referred to the table contained in the staff report and asked if the City was bound by those figures or if they were proposed. Mayor Pro Tem Maciel asked

staff if Mr. Finch's understanding was accurate. Mr. Dean stated it was accurate, but would not necessarily agree to the sequence of events.

Council Member Elliott asked if Mr. Finch was correct when he stated he would retain priority for wastewater conveyance and whatever RGA number he needed to finish his project. Mr. Dean stated the Kagehiro Phase III project had never received any allocation of sewer capacity; however, the infrastructure, related to size, was contemplated for the project.

Council Member Elliott asked if there was sufficient capacity if that project wanted to move forward. Mr. Dean stated yes. Mr. Sharma, City Engineer, explained the infrastructure capacity on Corral Hollow Road which included oversizing in certain areas. Mr. Sharma further stated the capacity is owned by the City and has not been allocated to any project. Mr. Malik added that staff believes there is capacity for a number of projects to move forward.

John Palmer, 672 W. Eleventh Street, representing Tracy Hills, commended Council for continuing to provide facilities for the community. Mr. Palmer indicated he did not oppose the DA and was solely concerned about impacts to the Tracy Hills project. Mr. Palmer indicated staff had been diligent in responding to inquiries and asked for an additional 30 days which would not negatively impact the City or its ability to provide a swim center for the community. Mr. Palmer stated at this point he could not completely support the proposal.

Mayor Ives asked if Council provided direction, would others be included in the broader sense of the impacts of any development agreement. Mr. Dean stated development agreement negotiations were usually between one developer and the City; however, as it related to infrastructure planning, discussion is open to all parties.

Mayor Ives stated it seemed that the concerns were not about the DA, but the impacts it may have on the Growth Management Ordinance. Mr. Dean stated the DA contemplates growth allotments to this project.

Mr. Palmer suggested that Council provide explicit direction to staff to update the Growth Management Ordinance Guidelines in a way that allows others to understand the guidelines prior to adoption of a development agreement.

Celeste Garamendi, 139 W. Twelfth Street, addressed Council regarding policy issues. Ms. Garamendi suggested that direction needed to be delayed while a public hearing process occurs regarding amending the Growth Management Ordinance Guidelines.

Mayor Ives asked if the capacity and conveyance being expressed in the DA would have any impact on economic development. Mr. Malik stated staff was working on a development agreement with Cordes Ranch and that this would not impact economic development.

Arch Bakerink, 1030 Central Avenue, suggested that the Council was not in a position to provide direction on a project with so many moving parts.

Steve Nicolaou, 1060 Atherton Drive, indicated the smart thing to do would be to put off acting on the DA.

Marsha McCray, 540 W. Schulte, voiced her frustration because of seven years of delay.

Jeff Morri, 2186 Lighthouse Circle, stated he didn't believe anything that happened tonight would make Mr. Connolly happy. Mr. Morri stated it's about families and an aquatic center.

Sue Rainey, Hamlet Court, stated the former speaker said it all; build this for our families.

Mr. Bakerink asked Council to wait for the appellate decision.

Dave Helm referred to page 2 which showed a savings and asked if that was in favor of the developer. Mr. Malik stated that was correct.

Mr. Helm asked several questions regarding the appeal and summarized by stating if the City needs a pool, build it and find out how to run it.

Mayor Ives asked Mr. Jarvis to address the questions presented and specifically what time frame the City can anticipate if the court finds in the City's favor. Mr. Jarvis stated he did not expect an opinion from the court for over one year. Mr. Jarvis stated a number of different scenarios could play out and explained some of them.

Mayor Ives asked about a new Environmental Impact Report (EIR). Mr. Jarvis stated the court declared the EIR inadequate and, therefore, a new EIR would be required. Mr. Dean stated the process has begun but it would take a month or more to get it out.

Mayor Ives asked Mr. Churchill to respond to the idea if there was any voracity to the idea of letting all the developers build an aquatic center. Mr. Churchill stated there are benefits and costs that would take time to achieve. The cost is in the delay in processing the proposed DA. Mr. Churchill added as a general policy staff tries to respond to the timetables presented in the development process.

Mayor Ives asked if there was consensus among the relevant developers, what would be the next steps and what time frame would be involved. Mr. Malik indicated if there was a fee to the developer, a nexus study would be required, and if the City reaches out to a larger group of developers, it would require additional development agreements if they were asked to pay more than their fair share.

Council Member Rickman asked about assessment fees. Mr. Malik stated it was a 30 year program for build out. A Community Facilities District could be formed but the City would be limited on how much could be assessed, it might be risky to bond holders, and it could take a year or so to put together.

Council Member Rickman asked if the Growth Management Ordinance would be opened up for discussion. Mr. Dean stated yes.

Council Member Elliott asked when the financial study was done. Mr. Churchill stated his best recollection was late 2006. Council Member Elliott indicated it would be wise to update the analysis. Council Member Elliott further indicated it would be beneficial for the development community to have assurances that their projects could move forward.

Mayor Pro Tem Maciel stated the appeal process takes a long time and it made sense to have a parallel plan. Mayor Pro Tem Maciel added he had talked with staff and the development community and the feedback received is that a great deal has been achieved.

Mayor Pro Tem Maciel asked Mr. Serpa what a 30 day delay would mean. Mr. Serpa outlined delays that have occurred since January and added legal and consultant charges for one month could total \$300,000.

Council Member Abercrombie stated that no matter which way the Council goes, there was going to be litigation. Council Member Abercrombie stated the Council has always discussed having money set aside for operational costs and that the aquatic center would not be a burden on the general fund.

Mayor Ives stated this is a classic community project and a number of Council's have indicated it is a great offer. The problem is that the amenity is attached to the project and there are people opposed to the project. Mayor Ives further stated the City doesn't have another viable option to build this project and if the City doesn't look for other options, it may never get an aquatic center.

Mayor Ives recommended that Council give direction to staff to pursue both options; negotiating a DA with Surland, and looking for other ways to build an aquatic center.

Council Member Rickman indicated he agreed that the project needed to be looked at as a land issue.

Mr. Dean reiterated Council's direction to staff was to pursue a dual tract; pursue the DA as outlined and amended for the purposes of moving the Surland project as a viable option while working on the Growth Management Ordinance update and make it a policy structure that is amenable to as many people as possible. Mr. Dean further stated that staff will simultaneously work on an idea on how the swim center can emerge through other avenues with other developers.

Mayor Ives agreed that was his direction. Council Member Rickman agreed; Council Member Elliott agreed in part stating other options need to be explored, but disagreed with the direction to go ahead with the proposal as written. Council Member Elliott indicated Council should give the development community another month to discuss it.

Council Member Elliott stated the City should go ahead with a study on the financial viability of the project.

Mayor Pro Tem Maciel stated he was concerned that if other alternatives were considered it would take too much time. Mayor Pro Tem Maciel indicated he would consider two weeks, but didn't want to undermine getting support of the DA.

Mayor Ives called for a recess at 9:56 p.m. The meeting was reconvened at 10:04 p.m.

Mr. Dean stated based on his understanding, staff would pursue 3 items:

1. Pursue the development agreement terms as modified at the microphone, write an EIR and specific plan with the expectation that the suite of entitlements would come back in November/December;
2. Work on the Growth Management Ordinance Guidelines update involving a public process;
3. Find alternative options for funding a capital project returning in September/October.

Council Member Abercrombie asked if the DA would include talking with the development community. Mr. Dean stated the DA negotiation would occur between Surland and the City.

Council Member Elliott asked what happened to the financial update.

Mr. Palmer stated he was concerned with Council giving staff direction to move forward with the DA and an EIR not knowing if it works or not.

Council Member Rickman asked what would happen to the DA if another way is found to fund the swim center. Mr. Dean stated it would present Council with an option as to whether it wants to pursue the DA.

Council Member Abercrombie indicated he was good with the three-pronged approach.

Council Member Elliott stated if productive conversations were occurring with the development community, Council should give them time to come to some type of agreement.

Council Member Abercrombie asked Mr. Serpa for assurances that he would continue to work with AKT. Mr. Serpa stated he was committed to working with AKT and other developers.

Mr. Churchill indicated staff could come back in September with an updated financial report.

It was moved by Council Member Abercrombie and seconded by Council Member Rickman that staff pursue the three-pronged approach including:

1. Pursue the DA with terms as modified at the microphone and put together an EIR and specific plan with the expectation that that suite will come back in December;
2. Work on the Growth Management Ordinance Guidelines update involving a public process returning in October; and
3. Find alternative options for funding of a capital project (aquatic center) returning in September/October; along with other financial options and a financial feasibility update.

Roll call found Council Members Abercrombie, Elliott, Rickman and Mayor Ives in favor; Mayor Pro Tem Maciel opposed. Motion carried 4:1.

5. CITY COUNCIL APPROVAL OF A RESOLUTION OF INTENT TO ADOPT A SPECIFIC PLAN FOR THE NORTHEAST INDUSTRIAL AREA (NEI) - Victoria Lombardo, Senior Planner, presented the staff report. The NEI is one of the City's major employment areas. It is 870 acres and is half built-out. The entire NEI planning area is zoned Planned Unit Development (PUD), which contains development standards that have guided development since its inception.

Prior to construction, all development within a PUD must be approved through a two-step process, including a Preliminary Development Plan (PDP) and a Final Development Plan (FDP). Typically bundled for approval, PDP/FDPs must be approved by the Council, with consideration of the Planning Commission's recommendation.

Because development standards have already been adopted for the NEI area through Planning Commission and City Council review, and in an effort to streamline the process and eliminate the two steps of Planning Commission and City Council public hearings, staff proposed that the NEI project area be rezoned from PUD to "NEI Specific Plan." This would enable the NEI Specific Plan zoning designation to be written to include a Development Review approval process that could be completed at staff level by the Development Services Director. The Development Review process is used throughout the City that is not zoned PUD. This approval process would still require a public hearing for the benefit of surrounding property owners with a ten-day notice period, but could be scheduled quickly during normal working hours. This would allow the hearings and overall processes to be streamlined.

The NEI Concept Development Plan was written and adopted in 1995 in a format very similar to that of a typical Specific Plan. Staff proposed the Concept Plan be re-produced with the necessary edits (including all previous amendments) and adopted by Ordinance through a rezoning action. Adoption of the project area as a Specific Plan will not change any of the existing descriptive requirements (such as building design standards, allowable land uses, parking requirements, etc.) as those requirements have proven to be effective in creating consistently successful projects. The only exception might be to raise building height maximums by a few feet in order to accommodate current height demands. The Specific Plan will serve to streamline the approval process for these projects.

The fiscal impact of the adoption of NEI as a Specific Plan would be the cost of staff time to complete the Specific Plan document and accompanying zoning amendment, which would take approximately one month. Staff recommended that the Council approve a resolution of intent to adopt a Specific Plan for the Northeast Industrial Area (NEI).

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

Mayor Ives stated a specific plan allows for fewer minutiae as to how the area will develop, and dictates that the whole area must adhere to these guidelines.

Mayor Ives asked if there was an appeal process under the specific plan. Ms. Lombardo stated yes.

Council Member Rickman asked if Council could change the zoning process. Mr. Dean stated that zoning regulates the development standards and land use, and outlines the process to obtain permits. Mr. Malik added that having a specific plan, reduces and streamlines the process to move a project forward.

It was moved by Council Member Abercrombie and seconded by Council Member Elliott to adopt Resolution 2012-127 approving a Specific Plan for the NEI. Voice vote found all in favor; passed and so ordered.

6. LABOR AGREEMENTS:

- A. ADOPT THE COMPENSATION AND BENEFITS PLAN FOR
 - i. THE LIMITED SERVICE EMPLOYEES
 - ii. THE CONFIDENTIAL MANAGEMENT GROUP
 - iii. THE TECHNICAL AND SUPPORT SERVICES UNIT (TSSU)

Leon Churchill offered a power point presentation outlining the labor agreements for consideration.

- i. LIMITED SERVICE EMPLOYEES - The budget message presented to Council on June 5, 2012, described the City's implementation of an eight point fiscal strategy over four years in an effort to equal or exceed the revenue from Measure E prior to its sunset in April 2016. This eight point plan includes: (1) Implementation of technological efficiencies, (2) Improved Economy, (3) Elimination or reduction in non-essential services or duplicated services, (4) Reprioritization of existing expenditures, (5) Continued change to the City's organizational structure, (6) Contracting of services or service redesign, (7) Reduction in number of City Departments, and (8) New labor contracts and Compensation and Benefit plans. Thus far, the City has realized approximately \$3 million in savings and generated \$1 million in increased revenue due to an improved economy and implementing four of the eight points delineated above.

This Limited Service Employee Compensation and Benefits Plan contributes to one of the City's eight point fiscal strategies: New labor contracts and Compensation and Benefits plans. It is anticipated that the City will save approximately \$1,398,247 during the term of this and the five other labor contracts.

Two key elements in the Limited Service Employee Compensation and Benefits Plan contribute to the overall target as described above. These include:

1. Shift from City to Employee Payment of the Employee Portion of CalPERS Retirement Benefit. To date, the City of Tracy has paid the full cost of the employee share of the California Public Employees Retirement System (CalPERS) benefit. The City's goal is to phase in employees paying the full share of the employee portion of the CalPERS benefit, which was previously paid by the City on behalf of the employee as an additional employee benefit. This Limited Service Employee Compensation and Benefits Plan shifts the share of the payment from the City to the employee increasing each year over the three year term of the agreement. It is anticipated that beginning July 2015, if employees of all labor groups pay the full employee contribution for the CalPERS

benefit, an ongoing annual savings of \$3 million can be realized each subsequent year.

2. No Cost of Living Adjustments (COLAs): No Cost of Living Adjustments are offered to employees during the term of this Compensation and Benefits plan. It is anticipated that the City will save approximately \$1,398,247 during the term of this and the five other labor contracts on tonight's agenda. It is anticipated that beginning July 2015, if employees of all labor groups pay the full employee contribution for the CalPERS benefit, an ongoing annual savings of \$3 million can be realized each subsequent year. This fiscal impact was considered in the FY 12/13 budget.

Staff recommended that City Council adopt the Compensation and Benefits Plan for the Limited Service Employees.

- ii. THE CONFIDENTIAL MANAGEMENT GROUP - The Confidential Management Unit Compensation and Benefits Plan relates and contributes to one of the City's eight point fiscal strategies: New labor contracts and Compensation and Benefits plans. It is anticipated that the City will save approximately \$1,398,247 during the term of this and five other labor contracts.

There are three key elements in the Confidential Management Unit Compensation and Benefits Plan that contribute to the overall target as described above. These include the following:

1. Shift from City to Employee Payment of the Employee Portion of CalPERS Retirement Benefit: To date, the City of Tracy has paid the full cost of the employee share of the California Public Employees Retirement System (CalPERS) benefit. The City's goal is to phase in employees paying the full share of the employee portion of the CalPERS benefit, which was previously paid by the City on behalf of the employee as an additional employee benefit. This Confidential Management Unit Compensation and Benefits Plan shifts the share of the payment from the City to the employee increasing each year over the three year term of the agreement. It is anticipated that beginning July 2015, if employees of all labor groups pay the full employee contribution for the CalPERS benefit, an ongoing annual savings of \$3 million can be realized each subsequent year. A one-time allocation of Flexible Leave hours is offered to employees during the three year term in exchange for the increased share of employees' contribution for the CalPERS retirement benefit.

The total savings during this three year term by having the 12 employees in this Unit contribute to CalPERS is \$304,443, an average of \$25,370 per employee. The total cost of Flexible Leave hours provided back to employees is \$195,880, an average of \$16,323 per employee. The net savings after distribution of the Flexible Leave hours is \$108,563 at the end of the contract term.

2. Continuation of Second tier CalPERS Retirement formula: On September 7, 2010, the City adopted a second tier retirement formula for employees hired on or after December 17, 2010. This second tier retirement formula assists with long

term (*i.e.* 10 years or more) efforts to reduce benefit costs. The second tier formula is 2% @ 55, and average of three consecutive highest years.

3. No Cost of Living Adjustments (COLAs): No Cost of Living Adjustments are offered to employees during the term of this Compensation and Benefits plan. The last COLA received by the Confidential Management Unit was April 1, 2009. At the end of this Plan's term, June 30, 2015, employees in this group will have gone six years without a COLA.

In addition to the three key elements of the Plan, there are two provisions of this Confidential Management Unit Compensation and Benefits Plan that should be noted - the increase in the employee contribution to future health care premium increases and the discontinuation of unpaid furloughs.

Each January, adjustments to health care premiums are made, depending on the amount of the increase. To date, the employer/employee cost split of premium increases has been 85/15; 85% City paid and 15% employee paid. Effective January 2013, the City's share will decrease to 75% of the total premium increases and the employee contribution of any future premium increases will increase to 25%.

It is estimated that during the past three years, City employees saved the City \$1.9 million through the implementation of unpaid furloughs (*one year at \$400,000, two additional years x \$600,000 for non-public safety employees, and one year of Fire employee furloughs at \$300,000*). When implementation of unpaid furloughs began three years ago, it was anticipated that this strategy was a short term solution to address the structural budget deficit.

Discontinuation of unpaid furloughs will result in an increase in the budget deficit. Lastly, a provision related to overtime Assistance By Hire /Strike Team related specifically to the Division Fire Chiefs, is added to this contract at no cost to the City and can be found on page 2 of the Compensation and Benefits Plan. The provision allows for any Division Fire Chief assigned to work with other entities in response to task force, strike team, or for "Assistance By Hire" assignments on behalf of a third party and/or Division Fire Chiefs backfilling for Division Fire Chiefs on assignment to work with other entities, are eligible for overtime compensation if the contract for such assignment, or the conditions of reimbursement from the third party, provide for reimbursement of overtime costs. The intent of this provision is to provide the Division Fire Chiefs compensation where reimbursement to the City by a third party is available. The City will not incur, nor is responsible for, payments not reimbursed by a third party.

There are no COLAs in this Compensation and Benefit plan. The total savings during this three year term by having the 12 employees in this unit contribute to CalPERS is \$304,443, an average of \$25,370 per employee. The total cost of Flexible Leave hours provided back to employees is \$195,880, an average of \$16,323 per employee. The net savings after distribution of the Flex Leave hours is \$108,563 at the end of the contract term. The City will save approximately \$1,398,247 during the term of this and the five other labor contracts. It is also anticipated that beginning July 2015, if employees of all labor groups pay the full employee contribution for the CalPERS benefit, an ongoing annual savings of \$3 million can be realized each

subsequent year. Discontinuation of unpaid furloughs from the non-public safety units will result in an increase to the budget deficit of \$600,000 per year. This fiscal impact was considered in the FY 12/13 budget.

- iii. THE TECHNICAL AND SUPPORT SERVICES UNIT (TSSU) - This TSSU Compensation and Benefits Plan relates and contributes to one of the City's eight point fiscal strategies: New labor contracts and Compensation and Benefits plans. It is anticipated that the City will save approximately \$1,398,247 during the term of this and the five other labor contracts.

There are three key elements in the TSSU Compensation and Benefits Plans that contribute to the overall target as described above. These include:

1. Shift from City to Employee Payment of the Employee Portion of CalPERS Retirement Benefit: To date, the City has paid the full cost of the employee portion of the California Public Employees Retirement System (CalPERS) benefit. The City's goal is to phase in employees paying the full share of the employees' portion of the CalPERS benefit, which was previously paid by the City on behalf of the employee as an additional employee benefit. This TSSU Compensation and Benefits Plan shifts the share of the payment from the City to the employee increasing each year over the three year term of the agreement. It is anticipated that beginning July 2015, if employees of all labor groups pay the full employee contribution for the CalPERS benefit, an ongoing annual savings of \$3 million can be realized each subsequent year.

A one-time allocation of Flexible Leave hours is offered to employees during the three year term in exchange for the increased share of employees' contribution for the CalPERS retirement benefit.

The total savings during this three year term by having the 60 employees in this Unit contribute to CalPERS is \$662,471, an average of \$11,041 per employee. The total cost of Flex Leave hours provided back to employees in this Unit during this three year term is \$447,482; an average of \$7,458 per employee. The net savings after distribution of Flex Leave hours is \$214,989 at the end of the contract term.

2. Continuation of Second tier CalPERS Retirement formula: On September 7, 2010, the City adopted a second tier retirement formula for employees hired on or after December 17, 2010. This second tier retirement formula assists with long term (*i.e.* 10 years or more) efforts to reduce benefit costs. The second tier formula is 2% @ 55, and the average of three consecutive highest years.
3. No Cost of Living Adjustments (COLAs): No Cost of Living Adjustments are offered to employees during the term of this Compensation and Benefits Plan. The last COLA received by TSSU was April 1, 2009. At the end of this Plan's term on June 30, 2015, employees in this group will have gone six years without a COLA.

In addition to the three key elements of the Plan described above, there are two provisions of this TSSU Compensation and Benefits Plan that should be noted -

the increase in the employee contribution to future health care premium increases and the discontinuation of unpaid furloughs.

Increase in Employee Contribution to Future Health Care Premium Increases: Each January, adjustments to health care premiums are made, depending on the amount of the increase. Health care costs continue to rise year after year. To date, the employer/employee cost split of premium increases has been 85/15; 85% City paid and 15% employee paid. Effective January 2013, the City's share will decrease to 75% of any future premium increases and the employee contribution will increase to 25% of the total premium increases.

It is estimated that during the past three years, City employees saved the City \$1.9 million through the implementation of unpaid furloughs (*one year at \$400,000, two additional years x \$600,000 for non-public safety employees, and one year of Fire employee furloughs at \$300,000*).

When implementation of unpaid furloughs began three years ago, it was anticipated that this strategy was a short term solution to address the structural budget deficit. Discontinuation of unpaid furloughs will result in an increase in the budget deficit.

Lastly, a \$100 increase to the Uniform allowance for the Records Assistant I and II classifications (approximately seven FTEs in the TSSU Unit) is recommended.

There are no COLA increases in this Compensation and Benefits plan. The total savings during this three year term by having the 60 employees in this Unit contribute to CalPERS is \$662,471; an average of \$11,041 per employee. The total cost of Flexible Leave hours provided back to employees in this Unit during this three year term is \$447,482; an average of \$7,458 per employee. The net savings after distribution of Flexible Leave hours is \$214,989 over the three year period. The City will save approximately \$1,398,247 during the term of this and the five other labor contracts on tonight's agenda. It is anticipated that beginning July 2015, if employees of all labor groups pay the full employee contribution for the CalPERS benefit, ongoing annual savings of \$3 million can be realized each subsequent year.

Discontinuation of voluntary unpaid furloughs from the nonpublic safety units will result in an increase to the budget deficit of \$600,000 per year. This fiscal impact was considered in the FY 12/13 budget.

Staff recommended that City Council adopt the Compensation and Benefits Plan for the Technical and Support Services Unit.

Mayor Ives opened the public comment period.

Dan Hafkis, President of Tracy Fire Fighters Association, stated he believed it was a fair contract.

Bill Dean, a member of the Confidential Mid-managers Unit, thanked staff and commented on the parity and consistency across all bargaining units.

Scott Claar, representing the Mid-managers Bargaining Unit, stated the group was agreeable to the terms and appreciated the equitable treatment of all groups.

Mayor Ives closed the public comment section.

Council Member Elliott referred to the "overall savings to six units" slide regarding the annual cost of unpaid furloughs. Council Member Elliott stated that while it is a good thing that the City has put some of the structural elements in place that will get us to a better financial situation, he believed it was a missed opportunity to have gotten us closer to a balanced budget.

Mayor Pro Tem Maciel stated the plan equated to a step toward pension reform. Mayor Pro Tem Maciel indicated there are three fundamental issues with pension reform: 1) second tiers; 2) medical, and 3) employees taking over their share of pension costs. Mayor Pro Tem Maciel indicated he wished the City was saving a little more, a little faster, but the overall goal that the pension cost be assumed by the employee is a major step in that direction. Mayor Pro Tem Maciel applauded staff and the bargaining units on having reached this point.

It was moved by Council Member Abercrombie and seconded by Council Member Rickman to adopt Resolution 2012-128 approving the Compensation and Benefits Plan for the Limited Service Employees. Voice vote found all in favor; passed and so ordered.

It was moved by Council Member Abercrombie and seconded by Council Member Rickman to adopt Resolution 2012-129 approving the Compensation and Benefits Plan for the Confidential Management Unit. Voice vote found Council Member Abercrombie, Rickman, Mayor Pro Tem Maciel and Mayor Ives in favor; Council Member Elliott opposed. Motion carried 4:1.

It was moved by Council Member Abercrombie and seconded by Council Member Rickman to adopt Resolution 2012-130 approving the Compensation and Benefits Plan for the Technical and Support Services Unit (TSSU). Voice vote found Council Member Abercrombie, Rickman, Mayor Pro Tem Maciel and Mayor Ives in favor; Council Member Elliott opposed. Motion carried 4:1.

It was moved by Council Member Abercrombie and seconded by Council Member Rickman to adopt Resolution 2012-131 approving the Memorandum of Understanding between the City and the Tracy Mid-Managers Bargaining Unit. Voice vote found Council Member Abercrombie, Rickman, Mayor Pro Tem Maciel and Mayor Ives in favor; Council Member Elliott opposed. Motion carried 4:1.

It was moved by Council Member Abercrombie and seconded by Council Member Rickman to adopt Resolution 2012-132 approving the Memorandum of Understanding between the City and the Tracy Firefighters Association, IAFF Local 3355. Voice vote found Council Member Abercrombie, Rickman, Mayor Pro Tem Maciel and Mayor Ives in favor; Council Member Elliott opposed. Motion carried 4:1

It was moved by Council Member Abercrombie and seconded by Council Member Rickman to adopt Resolution 2012-133 rescinding Resolution Nos. 2007-262, 2010-039,

2010-152, and 2011-092 and adopting the Compensation and Benefits Plan for Department Heads. Voice vote found Council Member Abercrombie, Rickman, Mayor Pro Tem Maciel and Mayor Ives in favor; Council Member Elliott opposed. Motion carried 4:1.

Mayor Ives asked Council if they were amenable to proceeding. Council Member Abercrombie proposed that Council consider continuing item 15A. It was Council consensus to continue consideration of item 15A.

7. APPROVAL OF AMENDMENT NO. 5 TO THE SOUTH COUNTY FIRE AUTHORITY JOINT POWERS AGREEMENT TO REVISE THE COST SPLIT BETWEEN THE CITY AND THE TRACY RURAL FIRE PROTECTION DISTRICT (DISTRICT) AND TO POSTPONE THE COMMENCEMENT DATE OF THE DISTRICT'S OBLIGATION TO FUND A THIRD PERSON AT NEW FIRE STATION 92, APPROVAL OF AN AMENDMENT TO THE AGREEMENT BETWEEN THE CITY OF TRACY AND THE DISTRICT RELATED TO PAYMENT OF LEAVE ACCRUALS OF THE DISTRICT'S FORMER EMPLOYEES, AND APPROVAL OF A COST SHARING AGREEMENT BETWEEN THE CITY AND THE DISTRICT FOR CONSTRUCTION OF NEW FIRE STATION 92 - Zane Johnston, Finance and Administrative Services Director, presented the staff report. Mr. Johnston stated that the Tracy Rural Fire Protection District (District) has experienced a decline in property taxes over the past several years. The District was able to fund its full share of fire services through FY 10-11 but expects to face continued financial challenges in FY 11-12 and for the next several years. City Staff met with a subcommittee of the Tracy Rural Board of Directors to discuss ways that the District could meet its financial obligations during this time. Staff and the District subcommittee were able to come to agreement on several important matters that will resolve this situation to the satisfaction of both the City and the District without a resulting financial burden on either party. Specifically three matters, all currently governed by certain agreements, need to be amended to implement the resolution of this issue.

The current formula for cost distribution of fire services is expressed in fixed terms. However, the fixed amount is arrived at through a formula based on minimum staffing at each station in the South County Fire Authority. If minimum staffing changes the fixed formula must be restated. Due to fiscal constraints, the District has requested two person engine companies at each of its three stations beginning July 1, 2012.

Formerly, the District requested one three person company but that station has rarely been staffed with three as the District has not been able to fund its share of overtime. Thus, the District station was reduced to two people and the District received a credit back against its overtime obligation. For FY 12-13, the District has requested the station be staffed with a two person company to avoid the complicated process of determining credit back amounts when the station has had a "defacto" staffing of two people.

To reflect this change in staffing, the formula can be used to arrive at the correct cost split. Because the cost split between the City and the District is "net of Mt. House", first the cost for Mt. House needs to be computed.

Number of stations staffed with 3 person crew (4) x 3 people x 3 (shifts) = 36
Number of stations staffed with 2 person crew (3) x 2 people x 3 (shifts) = 18
Total number of minimum staffing for FY 12-13 54

Mt. House has 9 (one station staffed by 3 people for 3 shifts) of the 54 minimum staffing and their costs for FY 12-13 will be determined accordingly. Deducting for the 9 Mt. House minimum staffing leaves 45 minimum staffing of which 27 are the City's and 18 are the District's. Therefore, the City has 60% of the minimum staffing net of Mt. House (27/45) and Rural has 40% (18/45). From this split an adjustment of 7% to the City and 7% from the Tracy Rural has historically been added to allow for variable costs associated with the City having more calls. As such, the new costs split between the City and Tracy Rural will be 67% City and 33% Rural (City 60% + 7% = 67%). The Split of 67%/33% is after deducting for Mt. House's expenses.

Because the District had previously requested a 3 person crew at one of its stations, the previous minimum staffing was 57 for the entire authority and 48 net of Mt. House. With the 7% adjustment the costs were previously split 64% City and 36% District. Because Tracy Rural is requesting a decrease in minimum staffing, 3 fire fighter positions would need to be eliminated. Staffing is determined by the total needed to serve the minimum staffing as requested by the various agencies (City, Rural and Mt. House). Currently, two firefighter positions are vacant and these have not been funded in the FY 12-13 budget. It is anticipated that the additional firefighter position can be used to offset overtime needs until attrition results in one additional vacancy. Although the City is paying a higher percentage in FY 12-13 than it did in FY 11-12 (67% vs. 64% net of Mt. House), it is not disproportionately burdened with additional costs because the 67% is being applied to a lower budget (NOT funding 2 positions) than if it had been paying 64% of a higher budget (funding the 2 positions). However, the economies of scale have been reduced because Fire Department overhead costs are now being spread over 54 positions instead of 57. The cost formula for Mt. House automatically takes into consideration any decreases or increases to the overall staffing of the Fire Authority. However, the resulting costs split net of Mt. House expenses between the City and Tracy Rural has to be recalculated and restated as it is currently expressed in a specified percentage. This requires the JPA agreement be amended to reflect the 67/33 split.

The District's share of FY 11-12 actual expenditures is expected to be greater than it has current resources to pay, if the District must also fund in FY 11-12 a payment of \$100,000 toward "smoothing" the cost of accumulated leave of its former employees. When the District and the City formed the South County Fire Authority in September 1999, the District employees became City employees. The accumulated leave (vacation and sick) of the District employees was carried forward when they became City employees. As such, the District has always been responsible for the cost of this leave.

The largest expense of this leave is associated with sick leave balances being converted to a medical insurance bank upon retirement. Prior to the current "smoothing" agreement, the District was responsible to fund the portion of the medical insurance bank of an employee which was represented by the amount of sick leave hours an employee had on the books as of September 16, 1999. This caused large swings in the amount the District had to fund each year in that years where one or more former District employee retired, the District would have to pay a much larger amount than in a year when no former District employees retired. To make this a more predictable figure, the City and the District entered into a "smoothing arrangement where the District would pay an annual amount of \$100,000 toward this liability.

The District has approximately \$1 million in leave liability for employees who have not yet retired. However, as money is paid out monthly for health insurance for a retired employee from their medical insurance bank (until their bank is exhausted), actual cash will be paid out over many years. As such, a suspension of the annual \$100,000 for FY 11-12 is not a burden upon the City nor will the City be harmed financially. This one year suspension is anticipated to be needed for FY 11-12 only, and will resume in FY 12-13.

Another area of concern for the District related to its current financial challenge is the ability to fund a 3 person crew at the new relocated Station 92 when it opens. The new Station 92 will be built on Grant Line Road east of MacArthur. At the same time, a new Station 96 will be relocated to a site on Grant Line, just east of Corral Hollow. This will enable the area from Banta to West Valley Mall to be serviced by two stations and reach calls within the City response time of minutes.

Previously, the City entered into a pre-paid services agreement with the District related to staffing at Station 92 upon its relocation. As this Station will now serve more City of Tracy residents than from its current location in Banta, the City should be responsible for more of the cost of this station. However, the District was in debt to the City and this debt was converted to a pre-paid services agreement by which the District will be responsible for the full operational costs of this station – with a three person crew – for a period of 7.5 years from the date the Station opens. Construction bids are ready for both stations and it is now expected both will be ready for occupancy on January 1, 2014.

The District is concerned it will not have the financial resources to fund a three person station by that date (having just dropped down from three people to two people at all of its stations). The City has proposed to fund the third person at this station upon its opening until July 1, 2015, at which time the District will be responsible. The 7.5 years will then start from July 1, 2015. This proposal works well for the City and the District in that the City will still have Measure E funds during this period. By postponing the start of the 7.5 year period until July 1, 2015, the City will then have the benefit of the 7.5 year period landing in years when the City no longer has Measure E funds. This will help the City financially during this time while also assisting the District during the next two years as the District's revenues are expected to increase. All new development (outside of infill) is within the District boundaries.

The final item is approval of a cost sharing agreement for construction of the new Fire Station 92. That proposed agreement has the District paying approximately 22% of the costs of building (including land acquisition costs) in exchange for the District gaining a similar percentage ownership interest in the new Fire Station 92.

Staff recommended Council adopt the attached resolutions: (1) authorizing Amendment No. 5 to the JPA Agreement revising the cost split between the City and the Tracy Rural Fire Protection District to be 67% City and 33% Rural (net of Mt. House) and setting the start date of the 7.5 year period of pre-paid services for the District to supply at a relocated Station 92 to begin July 1, 2015, (2) authorizing an Amendment to the Agreement between the City of Tracy and the Tracy Rural Fire Protection District (District) related to payment of leave accruals of the District's former employees and suspending the \$100,000 annual "smoothing" payment from the District for FY 11-12, and (3) authorizing a cost sharing agreement between the City and the District for construction of new Fire Station 92.

Council Member Abercrombie asked if Station 92 was being moved into the City why is it not the City's responsibility. Mr. Johnston stated because it will also be in the District.

Council Member Elliott asked if the new fire building had any practical effect on fire service. Mr. Johnston stated only to the effect that you would have to divide assets in the future.

Mayor Ives invited members of the public to address Council.

Robert Tanner, 1371 Rusher Street, asked about the \$100,000 suspension and what would keep the District from requesting it every year. Mr. Johnston stated the District request it reluctantly and do not have any intention to request it in the future.

It was moved by Council Member Abercrombie and seconded by Council Member Rickman to adopt Resolution 2012-134 approving Amendment No. 5 to the South County Fire Authority Joint Powers Agreement to revise the cost split between the City and the Tracy Rural Fire Protection District and to postpone the commencement date of the District's obligation to fund a third person at new Fire Station 92. 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 2012-135 approving an amendment to the agreement between the City and the District related to payment of leave accruals of the District's former employees. 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 2012-136 approving the Fire Station 92 Cost Sharing Agreement between the City and Tracy Rural Fire Protection District. Voice vote found all in favor; passed and so ordered.

8. SECOND READING AND ADOPTION OF ORDINANCE 1170 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

The Clerk read the title of proposed Ordinance 1170.

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

A member of the public read a letter in opposition of the Council's adoption of the Ordinance.

A Tracy resident addressed Council regarding his residence that is in close proximity to another home that grows medical marijuana and its impact on his neighborhood. The resident indicated they are in danger because their neighbor grows marijuana. The resident asked that Council amend the Municipal Code thereby removing the criminal activity out of their backyard.

Another resident spoke in opposition to the Ordinance.

Amir Bushe, 933 S. Tracy Boulevard, indicated he was a medical patient who uses marijuana to control pain. Mr. Bushe stated he cannot afford to purchase his marijuana from a dispensary and needs to be able to grow his own.

Another speaker suggested alternatives such as registering grow sites thereby reducing crime.

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 Rickman to adopt Ordinance 1170. Roll call vote found Council Members Abercrombie, Elliott, Rickman, Mayor Pro Tem Maciel and Mayor Ives in favor. Motion carried 5:0.

Council Member Abercrombie thanked the person who respectfully presented his comments.

9. SECOND READING AND ADOPTION OF ORDINANCE 1171 AN ORDINANCE OF THE CITY OF TRACY ADDING NEW SECTIONS 10.08.255, DAY CARE HOME AND 10.08.3195, DAY CARE, TO THE TRACY MUNICIPAL CODE AND AMENDING SECTION 10.08.650, NURSERY SCHOOL OR DAY CARE CENTER, OF THE TRACY MUNICIPAL CODE

The Clerk read the title of proposed Ordinance 1171.

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 1171. Roll call vote found Council Members Abercrombie, Elliott, Rickman, Mayor Pro Tem Maciel and Mayor Ives in favor. Motion carried 5:0.

10. SECOND READING AND ADOPTION OF ORDINANCE 1172 AN ORDINANCE OF THE CITY OF TRACY AMENDING THE TRACY MUNICIPAL CODE BY AMENDING ARTICLE 35, SECTION 10.08.4440, [SIGN] DEFINITIONS; SECTION 10.08.4450 GENERAL REQUIREMENTS; SECTION 10.08.4460 STANDARDS BY SIGN TYPE; AND SECTION 10.08.4510(h), PROHIBITED SIGNS, REGARDING CITY CIVIC ORGANIZATION SIGNS

The Clerk read the title of proposed Ordinance 1172.

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 adopt Ordinance 1172. . Roll call vote found Council Members Abercrombie, Elliott, Rickman, Mayor Pro Tem Maciel and Mayor Ives in favor. Motion carried 5:0.

11. SECOND READING AND ADOPTION OF ORDINANCE 1173 AN ORDINANCE OF THE CITY OF TRACY RELATING TO REQUIREMENTS FOR CANDIDATES IN GENERAL MUNICIPAL ELECTIONS AND RESCINDING ORDINANCE 506

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 adopt Ordinance 1173. Roll call vote found Council Members Abercrombie, Elliott, Rickman, Mayor Pro Tem Maciel and Mayor Ives in favor. Motion carried 5:0.

12. APPOINT THREE APPLICANTS TO THE BUILDING BOARD OF APPEALS - Mayor Pro Tem Maciel stated he and Rickman interviewed three candidates and recommended that James Caling and Dennis Alegre be appointed and Jerry Yerian be reappointed to the Building Board of Appeals.

It was moved by Mayor Pro Tem Maciel and seconded by Council Member Rickman to approve the subcommittee's recommendations and appoint three applicants to the Building Board of Appeals to serve four year terms which will expire on June 16, 2016. Voice vote found all in favor; passed and so ordered.

13. APPOINT ONE APPLICANT TO THE SAN JOAQUIN COUNTY COMMISSION ON AGING - It was moved by Mayor Pro Tem Maciel and seconded by Council Member Rickman to approve the subcommittee's recommendation and appoint Terry Sonnefeld to the San Joaquin County Commission on Aging to serve a three year term which will expire on June 30, 2015. Voice vote found all in favor; passed and so ordered.

14. ITEMS FROM THE AUDIENCE – None.

15. COUNCIL ITEMS

A. Discuss and Provide Direction on the Establishment of a City Council Procedures and Protocol Manual, a City Council Communications Policy, and a City Council Code of Conduct – To be rescheduled.

B. Discuss Whether to Cancel the Regular City Council Meeting Scheduled for Tuesday, July 3, 2012, and Provide Direction to Staff - Maria Hurtado, Assistant City Manager, presented the staff report. Ms. Hurtado stated that there were no agenda items scheduled for the July 3, 2012, City Council meeting. Therefore, staff suggested the meeting be cancelled.

The next regularly scheduled Council meeting will be held on July 17, 2012. Should a situation arise prior to July 17, 2012, which requires Council action, a special meeting could be scheduled.

It was moved by Council Member Abercrombie and seconded by Council Member Rickman to cancel the July 3, 2012, Council meeting due to lack of agenda items. Voice vote found all in favor; passed and so ordered.

16. ADJOURNMENT - It was moved by Council Member Abercrombie and seconded by Council Member Rickman to adjourn. Voice vote found all in favor; passed and so ordered. Time 11:45 p.m.

The above agenda was posted at the Tracy City Hall on June 14, 2012. The above are summary minutes. A recording is available at the office of the City Clerk.

ATTEST:

Mayor

City Clerk