

**August 21, 2012, 7:00 p.m.**

City Council Chambers, 333 Civic Center Plaza

Web Site: [www.ci.tracy.ca.us](http://www.ci.tracy.ca.us)

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

The invocation was offered by Pastor Tim Heinrich, Crossroads Baptist Church.

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

Mayor Ives presented a proclamation to Merrilee Chapman, Tracy Branch Librarian, and Suzy Daveluy, Youth Services Coordinator/Literacy, Outreach and Programming, recognizing September as "ONE BOOK, ONE SAN JOAQUIN MONTH" – "A Paradise built in Hell: The Extraordinary Communities that Arise in Disaster."

1. CONSENT CALENDAR – Council Member Abercrombie moved to adopt the Consent Calendar. Council Member Elliott seconded the motion. Roll call vote found Council Members Abercrombie, Elliott, Rickman, Mayor Pro Tem Maciel and Mayor Ives in favor; motion carried 5:0.
  - A. Minutes Approval – Regular meeting minutes of April 3, 2012, and closed session minutes of August 7, 2012, were approved.
  - B. Authorize the Conveyance of Vacated Right of Way of Old Naglee Road to the Department of Transportation, State of California (Caltrans), and Authorize the Mayor to Sign a Quitclaim Deed, and Further Authorize the City Clerk to File the Quitclaim Deed With the San Joaquin County Recorder – Resolution 2012-165 authorized the conveyance of the vacated right of way.
  - C. Approve a Union Pacific Railroad (UPRR) Company Supplemental Agreement to Reconstruct the Corral Hollow Road At-Grade Railroad Crossing North of Byron Road at Mile Post 80.60, on the Tracy Subdivision for the Corral Hollow Road Widening from Eleventh Street to Grant Line Road Project – CIP 73102, and Authorization for the Mayor to Execute the Agreement – Resolution 2012-166 approved the agreement.
  - D. Acceptance of the Grant Line Road and Whispering Wind Drive – Bike Lane Striping Project - CIP 78113, Completed by Chrisp Company of Fremont, California, and Authorization for the City Clerk to File the Notice of Completion – Resolution 2012-167 accepted the project.
  - E. Approval of Permit for the Consumption of Alcoholic Beverages on City Streets for the Following Events: Tracy Chamber of Commerce "Dry Bean Festival" on September 8-9, 2012, Tracy City Center Association "Fall Wine Stroll" on

September 29, 2012, and the City of Tracy “Girls Night Out” Event on October 26, 2012 – Resolution 2012-168 approved the permits.

- F. Authorization to Upgrade Thirty Existing In-Car Digital Camera Systems With L3 Communications Mobile-Vision, Inc. in the Amount Not to Exceed \$150,000 and Authorizing the Mayor to Sign the Professional Services Agreement – Resolution 2012-169 authorized the upgrade.
  - G. Acceptance of the Design and Installation of the Civic Center Solar Panel Project – CIP 71068, Completed by Renewable Integrator, Inc., of Tracy, California, and Authorization for the City Clerk to File the Notice of Completion – Resolution 2012-170 accepted the project
  - H. Approve a Settlement Agreement and Mutual Release Between the City of Tracy and First Class Trucking Company for Their Business Relocation Expenses and Loss of Business Goodwill in the Amount of \$135,000, Arising from the City’s Purchase of the Real Property Located at 2370 E. Grant Line Road – Resolution 2012-171 approved the agreement and mutual release.
  - I. Award a Construction Contract to Sierra Valley Construction of Roseville, California, for the Boyd Service Center Building A Renovation Project – CIP 71054A, Approval of Amendment 1 to the Professional Services Agreement With BFGC/IBI Architecture Planning, and Authorize the Mayor to Execute the Contract and Amendment – Resolution 2012-172 awarded the contract.
  - J. Authorize Appropriation of Funds from the Northeast Industrial (NEI) Area Phase II Roadways Fund 357, to the NEI Area Phase I Roadways Fund 351, CIP 73048, to Complete Portions of the Grant Line Road Widening Project East of MacArthur Drive – Resolution 2012-173 authorized the appropriation.
  - K. Award a Construction Contract to American Asphalt of Hayward, CA for the Senior Center Recreation Area CIP 78136, and Authorize the Mayor to Execute the Construction Agreement – Resolution 2012-174 awarded the contract.
  - L. Authorize Amendment of the City’s Classification and Compensation Plans and Position Control Roster by Establishing a New Classification Specification and Salary Range for the Position of Theatre Operations and Technical Assistant – Resolution 2012-175 authorized the amendment
2. ITEMS FROM THE AUDIENCE - Ray Morelos, 1801 Foxwood Drive, thanked the Tracy Arts Commission for kicking off the “Concerts in the Park” series at McDonald Park. Mr. Morelos stated the event brought pride to the neighborhood.
3. PUBLIC HEARING TO CONSIDER THE ALLOCATION OF AN ADDITIONAL \$115,000 OF UNPROGRAMMED COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) FUNDS FOR FISCAL YEAR 2012–2013 TO THE LOLLY HANSEN SENIOR CENTER OUTDOOR RECREATION AREA PROJECT - CIP 78136 – Scott Claar presented the staff report. The Senior Center is heavily used for recreation activities, health and wellness programs and special events. Participants fall into the low or very low income category and, generally have limited or no access to recreation activities. The Center

lacks a secure, accessible outdoor area where seniors can relax, socialize, and participate in a variety of fitness and recreational activities.

The Lolly Hansen Senior Center Outdoor Recreation Area Project involves construction of an ADA accessible outdoor recreation area including fencing, a shade structure, tables, seating area, fitness equipment, planting beds, and horseshoe pit. Allocation of CDBG Funds Community Development Block Grant (CDBG) funds are allocated to cities and counties by the U.S. Department of Housing and Urban Development (HUD) for use in projects, programs, and services that demonstrate a benefit to low and moderate income individuals and families. For FY 2011-2012, the City Council allocated \$70,000 in CDBG funds for the Senior Center Outdoor Recreation Area project. However, the City's approved allocations are based on a preliminary estimate of the City's actual allocation. For FY 2011-2012, the HUD budget for CDBG programs was cut significantly. This affected the City's overall allocation, which resulted in reductions to some of the projects. The actual final CDBG allocation for the Senior Center project was \$52,606 for FY 2011-2012. These funds still remain. The County recently accepted an extension request to use these funds during FY 2012-2013. Additionally, during FY 2011-2012, the City allocated \$13,000 in General Fund money to cover overhead expenses on the project, which cannot be reimbursed by CDBG funds.

For FY 2012-2013, the Council approved an additional \$90,000 in CDBG funds for the Senior Center project, which brought the total project budget to \$155,606. Staff has estimated that an additional \$115,000 in CDBG funds will be necessary to complete the project as planned, for a total project budget of \$270,606. The City currently has approximately \$322,938 of unprogrammed CDBG funds for FY 2012-2013 that can be used in the allocation of the additional \$115,000 for the Senior Center project. These unprogrammed funds are the result of the following: (1) \$274,618 of FY 2012-2013 CDBG funds allocated by Council for a Small Business Incubator project that was withdrawn because the County advised it would not be accepted by HUD without a fully developed business plan and that even then, the application would likely be rejected; and (2) \$58,513 of FY 2012-2013 CDBG funds that were allocated by Council for Administration but were later reduced to \$10,000 because the County advised that was the most that would be accepted by HUD, leaving \$48,513 in unprogrammed funds.

Following allocation of an additional \$115,000 for the Senior Center project, the remaining unprogrammed funds would total \$207,938. In addition, the City has approximately \$298,691 of unspent funds from past years Downtown Sidewalk and Alley projects. For the remaining unprogrammed funds and unspent funds, staff will conduct a mid-year allocation process, as advised by the County, with the CDBG application process to begin in September of this year. The total funding availability for this mid-year allocation will be approximately \$506,629. The County has also informed the City that HUD may reduce these unprogrammed and unspent funds in November because of the large unused balance. Mr. Claar stated it is imperative that the City act quickly to allocate/reallocate these funds to shovel ready (or close to shovel ready) projects in the near future or risk losing the funds.

Mayor Ives opened the public hearing. Since there was no one wishing to address Council on this matter the public hearing was closed.

Council Member Abercrombie moved to adopt Resolution 2012-176, allocating an additional \$115,000 of Unprogrammed Community Development Block Grant Funds for

Fiscal Year 2012-2013, to the Lolly Hansen Senior Center Outdoor Recreation Area Project. Council Member Elliott seconded the motion. Voice vote found all in favor; passed and so ordered.

4. LABOR AGREEMENTS – Maria Hurtado, Assistant City Manager, presented the staff report and used a power point in her presentation. Ms. Hurtado stated Council consideration is requested for the City's final five labor agreements. These include employment contracts for the City Attorney, City Manager and Police Chief, and two Memorandums of Understanding between the City and the Police Officers and Police Managers' Associations.

Highlights of the agreements include:

- Three year terms – 8/21/12 to 6/30/15
- No COLA's. Employees covered under these agreements have not received a COLA in several years and there are no COLA's proposed over the next three years
- Employees assume greater share of Health Insurance Premium Increases – effective January 1, 2013, the City's share will decrease from 85% to 75% and the employee share will increase from 15% to 25%
- Second Tier Pension Plan continues
- Employees assume employee share of pension costs
- Flex hours provided

There are three key provisions that directly respond to the City's structural budget deficit by slowing down future increases in benefit costs and establishing lower level benefits for future new hires including:

- Employees assume the employee share of pension costs over the next three years
- Effective January 2013, the employee's share of any future health care premium increase will increase to 25% and the City's share will decrease to 75% of the total premium increases
- Implementation of the second tier pension plan.

With the exception of the City Attorney's contract, these agreements, like the seven prior agreements adopted by Council in the last couple of months, cover a three year period and include an allocation of flexible leave hours equivalent to that of the pension contribution in order to provide a soft landing for employees. All employees will contribute their employee share of pension costs, phased in over the next three years, until they pay their full employee share by year three and beyond.

Ms. Hurtado used a slide to illustrate the overall savings of the combined agreements, specifically the savings associated by having employees pay their portion of pension costs. The slide showed the ramp up of the employee contributions to pension costs for each of the three years. The pension contribution by the end of year three is \$1 million.

For reference, the pension contribution of the previous seven labor groups approved by Council a couple of months ago totaled over \$2 million in ongoing annual savings in year four and beyond.

The flexible leave hours provided to employees also increase in equal portions over three years, but stop after the third year. This provision is critical because it allows the City to achieve all of the savings associated with employee pension contributions in FY 2015/16, and annually thereafter.

In addition to the ongoing \$1 million savings in year four, the City will also achieve over \$900k in cumulative savings over the next three years after the costs of the flexible leave hours are deducted.

Ms. Hurtado briefly reviewed the five contracts. The Tracy Police Managers Association consists of five employees and includes Captain and Lieutenant classifications. Net savings to the City over the three year contract amount to \$246k.

There are no other unique provisions in this Unit's contract outside of the key provisions highlighted earlier.

There are approximately 76 full time equivalent positions in the Tracy Police Officers Association and includes primarily police officer and police sergeant classifications. Net savings over the three year period for this Unit is \$804k.

In addition to the key provisions highlighted earlier, this labor contract has two additional provisions worth noting.

Several years ago, in response to recruitment challenges and in an effort to promote retention of seasoned Patrol Officers, the City established a Master Patrol Officer program that required at least seven years of combined patrol and special assignment experience with the City of Tracy or another law enforcement agency.

Given a recent evaluation of the Police Department's organizational structure, it was determined by the Police Chief and agreed to by the Police Officers Association, that the Master Patrol Officer program was less beneficial to the department than a Police Corporal Rank Program, which would better serve the department's emerging needs. The Corporal Rank program provides the department with the flexibility to address staffing needs and ability to assign additional duties either on patrol, traffic, or investigations in the absence of Sergeants.

The replacement of the Master Patrol Officer program with the Corporal Rank Program will be effective January, 2013, once a job specification is completed and approved by Council.

The other provision recommends that, employees assigned by the Police Chief to a detective assignment be allowed to accrue up to a maximum of 140 hours of compensatory time during the time period of that detective assignment.

The City Attorney, City Manager and Police Chief individual contracts had slightly different provisions to begin with, however, the approach in negotiating each of these contracts was to ensure modifications included in other labor agreements were also included in these three contracts, primarily for consistency and equity across the board with the key City proposals.

The City Attorney's employment agreement had no unique provisions outside of the key provisions highlighted at the beginning of the staff report. The cumulative savings over the next three years after the allocation of the flexible leave hours is approximately \$5,000. The ongoing annual savings in FY 2015/16 and beyond by having the City Attorney pay his portion of the employee contribution to pension costs is \$14,000.

The current City Manager's employment agreement requires that the City Manager pay 3% of the employee share of pension costs for the duration of his contract. The revised contract requires a three year phase-in of the City Manager paying the full 8% employee share of his retirement benefit, along with a one-time allocation of flexible leave hours during the three year term. As with all other labor agreements, the one-time flexible leave hour allocation is offered in exchange for the increased share of the employee contribution of pension costs and the allocation of flexible leave hours ends after the third year of the contract. The cumulative cost of the flexible leave hours over the three year term is approximately \$25k.

The total employee contribution for the employee share of pension costs is almost \$14k over three year period. It will cost the City approximately \$11k over the three year term, but the City will be in a position to realize an ongoing annual savings of \$15,900 in year four and beyond. This proposed amendment also discontinues the 12 unpaid furlough days for FY 12/13 currently in the City Manager's contract.

Lastly, when the Police Chief was hired a year ago, he agreed to pay the full 9% of his employee share of pension costs, because at that time, the City envisioned all employees paying their full share. Negotiations with all labor units resulted in labor groups agreeing to implement a three year phase-in of the employee payment of the employee share of the retirement benefit. This employment agreement will be modified to reflect the same three year phase-in of the employee payment, as all other units.

The cumulative cost of the flexible leave hours over the three year term is approximately \$26k. The total employee contribution for the employee share of pension costs is over \$16k over the three year period. It will cost the City approximately \$10k over the three year term, to realize an ongoing annual savings of \$22k in year four and beyond.

Additionally, for equity reasons, a one-time allocation of 170 hours of management leave at a cost of \$14,915 is recommended. This calculation is consistent with the management leave allocations approved by Council for Department Heads on June 19th.

An additional provision worth noting is that the original employment agreement required that the City contribute \$6,000 annually into a deferred compensation plan for the Police Chief to make up for the loss of his 3% @ 50 retirement formula from his previous employment. However, CalPERs regulations allow for an employee returning to City service to receive the benefit formula provided to those hired before the second tier was implemented.

Therefore, this agreement modifies two provisions in the current employment agreement related to this anomaly. One which eliminates the City's \$6,0000 annual contribution towards a 401 Deferred Compensation Plan and the other which changes

the retirement formula from 3 % @ 55 to 3% at 50 to reflect the actual retirement formula adopted by CalPERS.

Mayor Ives invited public comment.

Craig Kootstra, Tracy Police Officers Association, stated he appreciated the City's efforts to reach a long term MOU that provides stability to employees as well as the City.

In response to a question from Paul Miles, 1375 Mansfield Drive, regarding health care costs, Ms. Hurtado responded health care premiums increase in January. Currently, the City pays 85%, employees pay 15%. Effective January 2013, the City's contribution will be 75% and the employee's share will be 25% of the total premium increases. Mr. Miles asked if it was just for future increases. Ms. Hurtado responded yes.

Council Member Elliott stated he appreciated the valuable contributions all employees make, especially police officers and fire fighters, but it is Council's responsibility to put the City's finances in the best position it can to maintain a sustainable situation for the future. The City needs to make sure it will not need to cut public safety positions in the future because of decisions it has made today. Council Member Elliott added that the City has done some good things in terms of creating a sustainable budget for the future, but the City has not gone as far as it could and should have done better. Although cumulative savings from the five agreements amount to over \$2 million based on contributions to pension costs almost half of that amount has been given back in flexible leave hours. Council Member Elliott added he would vote no on two of the contracts because he believed the City should have done better when it had the opportunity. On the individual contracts Council Member Elliott indicated he would vote yes, since he believed the City needs to treat employees equitably. Council Member Elliott added his position has not changed throughout this budget process and he believed the City should have done better.

Council Member Abercrombie asked if there was a process for re-opening contracts if the economic situation did not improve. Ms. Hurtado responded the City has no plans to reopen the contracts if the economy changes during the next three years.

Mayor Ives thanked staff for achieving these results.

Council Member Abercrombie moved to adopt Resolution 2012-177, Approving a new Memorandum of Understanding between the City of Tracy and the Tracy Police Officers Association. Council Member Rickman seconded the motion. Voice vote found Council Members Abercrombie, Rickman, Mayor Pro Tem Maciel and Mayor Ives in favor; Council Member Elliott opposed. Motion carried 4:1.

Council Member Abercrombie moved to adopt Resolution 2012-178, Approving a new Memorandum of Understanding Between the City of Tracy and the Tracy Police Managers Association. Council Member Rickman seconded the motion. Voice vote found Council Members Abercrombie, Rickman, Mayor Pro Tem Maciel and Mayor Ives in favor; Council Member Elliott opposed. Motion carried 4:1.

Council Member Abercrombie moved to adopt Resolution 2012-179, Amending the Employment Agreement between the City of Tracy and Daniel G. Sodergren to reflect agreement modifications for consistency with other City of Tracy Labor Agreements and

Compensation and Benefit Plans and Authorize the Mayor to Sign the Amendment. Council Member Rickman seconded the motion. Voice vote found all in favor; passed and so ordered.

Council Member Abercrombie moved to adopt Resolution 2012-180, Authorizing the Mayor to sign the Second Amendment to the Employment Agreement between Ralph Leon Churchill, Jr. and the City of Tracy to Discontinue Unpaid Furlough Days and to clarify participation in the Public Employees' Retirement System. Council Member Rickman seconded the motion. Voice vote found all in favor; passed and so ordered.

Council Member Abercrombie moved to adopt Resolution 2012-181, Amending the Employment Agreement between Gary Hampton and the City of Tracy to serve as Police Chief to reflect (1) A Three Year Term and (2) Modifications to the Agreement for consistency with other City of Tracy Labor Agreements and Compensation and Benefit Plans. Council Member Rickman seconded the motion. Voice vote found all in favor; passed and so ordered.

5. APPROVE EXPANSION OF THE SAN JOAQUIN COUNTY ENTERPRISE ZONE BOUNDARIES – Amie Mendes, Economic Development Analyst, presented the staff report. On June 22, 2008, the State announced the final designation of the San Joaquin County Enterprise Zone (the "Enterprise Zone"). The California Enterprise Zone Program targets economically distressed areas using special state and local incentives to promote business investment and job creation. By encouraging entrepreneurship and employer growth, the program strives to create and sustain economic expansion in California communities. Each zone designation is in effect for 15 years.

The current Enterprise Zone is approximately 668 square miles and includes properties within the cities of Tracy, Stockton, Lodi, Manteca, Lathrop, Ripon, and Escalon, as well as unincorporated areas of the County. On occasion, business and property owners, as well as local government representatives request that additional areas within San Joaquin County be added to the Enterprise Zone. These requests are reviewed by city and county officials for eligibility before being considered for the expansion process. To be eligible a property must be zoned for industrial or commercial use (or have an approved Conditional Use Permit for such uses) and have basic infrastructure available. The State allows enterprise zones to expand up to 15% during the life of the zone.

The first expansion of the Enterprise Zone boundaries became effective July 11, 2011, adding 4.81 square miles (a 0.73% increase). The second expansion of the Enterprise Zone boundaries is currently being pursued by San Joaquin County. If approved, this expansion will add approximately 1.089 square miles (a .16% increase) to the Enterprise Zone area and includes the addition of various properties within the cities of Stockton, Tracy, Lodi, Manteca, and Escalon, as well as unincorporated properties in the County. The proposed expansion will add a single parcel of property to the Enterprise Zone in Tracy. The subject property, located at 101 S. Tracy Boulevard, is currently owned by In-Shape Health Clubs. Staff recently received a letter from In-Shape Health Clubs requesting that their property be considered as part of the Enterprise Zone expansion. As additional job generating areas (such as Cordes Ranch) are annexed to the City, the City will request that these areas also be included in the Enterprise Zone.

Ms. Mendes concluded by adding that all municipal partners in the Enterprise Zone must approve the expansion area before it is submitted to the State for final approval.



Robert Tanner, 1371 Rusher Street, pointed out that In-Shape has three sites in the City and asked if the other two were included in an Enterprise Zone and if other businesses in the area would be included. Ms. Mendes responded yes, but schools do not qualify for enterprise zone tax credits. All other commercial and industrial areas in the city are already in an enterprise zone.

Steve Nicolaou, Attorney, 445 W. 11th Street, stated the Enterprise Zone is an awesome tool, for locating business to the City and encouraged Council to approve the expansion and look favorably on future requests.

Mayor Pro Tem Maciel stated the business community considers this to be a tremendous tool for businesses and encouraged Council to approve the expansion.

Council Member Elliott expressed his approval for the proposal, and added an Enterprise Zone is a great incentive for recruiting quality businesses to locate to Tracy. The more businesses Tracy can get to help create jobs the better off the City will be.

Council Member Abercrombie moved to adopt Resolution 2012-182, Approving the Expansion of the San Joaquin County Enterprise Zone Boundaries. Council Member Elliott seconded the motion. Voice vote found all in favor; passed and so ordered.

6. AUTHORIZE THE APPROPRIATION OF \$1.2 MILLION FROM THE RESIDENTIAL SPECIFIC PLAN (RSP) FUND 345 TO CAPITAL IMPROVEMENT PROJECT (CIP) 73135 FOR CONSTRUCTION OF ROADWAY IMPROVEMENTS AS INCENTIVE TO CERTAIN NEW JOB GENERATING DEVELOPMENT IN THE CITY'S NEI AREA – Andrew Malik, Director of Development Services, presented the staff report and used a power point in his presentation.

There is a lot of interest from developers, including Prologis, to locate large job generating tenants to establish their offices in the City's NEI area located south of I-205, east of MacArthur Drive and north of the Union Pacific Railroad line. However, due to incentives offered by other agencies it is becoming difficult for the City to compete and attract development.

In order for the City to be more competitive in attracting development to the City, Mr. Malik recommended appropriating \$1.2 million from the RSP fund 345 to CIP 73135 to construct roadway improvements in the NEI area. The funds will be used as an incentive to complete certain infrastructure improvements which otherwise would be the responsibility of this development. No funds will be expended until the City has a guarantee of jobs and sales tax. This capital improvement project provides for the construction of the north-south road connector from south of Grant Line Road located farther west of Chrisman Road at the NEI area boundary line. Prior to using any portion of this funding, the City will enter into certain agreements with the developers or their agents with securities to ensure these developments will locate in the City's NEI area. Such agreements, when finalized, will be presented to the Council for approval. The appropriation of funds will demonstrate the City's good faith effort in negotiating and dealing with the developers and/or their agents.

Mr. Malik recommended Council approve an appropriation of \$1.2 million from the Residential Specific Plan Fund 345 to Capital Improvement Project 73135 for

construction of roadway improvements as an incentive to certain new job generating development in the NEI area.

Council Member Elliott asked when construction could be expected. Mr. Malik stated funds would not be expended until the City has a guarantee. The City is being judicious with the funds to be sure it gets what it needs out of the deal.

Mayor Ives stated he was apprehensive about spending so much money on one stretch of road and asked if there were other options. Mr. Malik responded staff does not want to utilize the funds unless absolutely necessary, and there is a chance the developer may build and dedicate to the City, in which case the cost of the roadway could be reduced. Mr. Malik added the \$1.2 million is an estimate and includes any right of way costs. Staff will have more information when the negotiations begin.

Council Member Abercrombie moved to adopt Resolution 2012-183, Authorizing the Appropriation of \$1.2 Million from the Residential Specific Plan Fund 345 to Capital Improvement Project 73135 for Construction of Roadway Improvements as Incentive to Certain New Job Generating Development in the City's NEI Area. Council Member Elliott seconded the motion. Voice vote found all in favor; passed and so ordered.

7. ITEMS FROM THE AUDIENCE - None

8. STAFF ITEMS

A. Follow Up Discussion and Direction to Staff Related to Expanding the Provisions of the Existing Boarding Up of Buildings With Unsecured Openings Ordinance – Ana Contreras, Code Enforcement Manager, presented the staff report. On February 21, 2012, Code Enforcement staff presented Council with a discussion item regarding the effects of long-term vacant, abandoned and boarded up properties in the City of Tracy. Staff discussed current efforts and new State regulations dealing primarily with abandoned foreclosed properties (SB1137). Staff has seen a marked improvement in banks cooperating with City regulations for cleaning up foreclosed properties. An improving economy has also helped staff deal with foreclosures. Staff presented Council with the concept of expanding the provisions of the existing Boarded Up Buildings Ordinance to control the length of time a vacant building could remain boarded up. The overall goal of the ordinance would be to reduce or eliminate the decades-long problem that boarded up buildings present to the community.

Approximately 14 buildings in the City have been in a boarded up state for many years; some as long as 25 years. These buildings lack proper attention and maintenance, provide a place for rodents to nest, and add to the sense of blight and insecurity of nearby residents. In addition, they become easy targets for illegal dumping. Boarded up buildings require significant oversight by code enforcement personnel as well as police and fire services. Proposed New Time Limit for How Long Boarded Up Buildings May Remain Boarded Up, Section 9.60 of the Tracy Municipal Code establishes the criteria for when a vacant building requires boarding up as well as the permit requirements and standards for securing an open building. The ordinance does not identify the length of time a building can remain boarded up. One method to minimize problems associated with boarded up buildings, could be an amendment to the ordinance to allow a

time limit of 180 days during which these properties can remain boarded up. During this 180 period, the property owner would have the option of demolishing or rehabilitating the building for occupancy, in accordance with all applicable codes and regulations. If the property owner chooses the latter, it would be the owner's prerogative to occupy the building or to keep it vacant, as long as it is maintained and kept secure so that there is no need to board up the building.

If such an ordinance amendment is adopted by Council, the 180 day period would begin after the property owner has been issued an Order to Abate (for existing boarded up buildings) or 180 days from the date a board up permit is issued. Property owners would be subject to criminal and administrative penalties as outlined in Chapter 1.04, Penalty Provisions and Chapter 1.28, Administrative Citations and Penalties of the Tracy Municipal Code, should they fail to perform within this 180 day timeframe. Administrative fines are cumulative and may include late payment charges in addition to administrative costs, interest, late payment charges, and re-inspections. Property owners are given the opportunity to contest the administrative citation by way of an administrative hearing.

In addition to criminal and administrative penalties, the City also has the power of receivership in limited cases. In 2008, City Council adopted Resolution 2008-226, authorizing the City Attorney's office to file receivership actions for vacant properties that severely violate health and safety codes and are imminent dangers to the community. Drug houses, gang houses, hoarder houses, fire damaged properties, and severely substandard properties may qualify for receivership.

Unlike the traditional concept of financial receivership, a Health & Safety Code receiver is not appointed to operate a property for a period of time, or to "wind-down" operations. Rather, the receiver is appointed to remedy health and safety violations on a property. Often this is through hiring a contractor to correct the violations, or it could begin with emptying a property of its residents. The remedies are left to the receiver, which is what makes the remedy so adaptable and applicable to the problems governments are facing.

Authorized pursuant to California Health & Safety Code Sections 17980 et seq., receiverships are used primarily for abandoned and substandard properties where a property's condition poses a serious threat to its residents or the public at large. The receiver, if authorized to do so by San Joaquin County Superior Court, can borrow against the property (using the property's equity) and use those funds to pay for property rehabilitation, demolition or other work as authorized by the Court to bring the property into compliance with local and state regulations.

Receivership takes place through a court order and may be accomplished with or without the consent of the owner of the property. Although boarded up buildings are unsightly nuisances and deteriorate neighborhood values, appearance alone does not qualify them for receivership. Receivership is an aggressive, staff-intensive and complex process which offers the most advantage when dealing with severe life safety situations and may only be used where clearly necessary to protect the public from serious life and health safety issues. Boarded up

buildings in Tracy are primarily addressed through the Abatement of Dangerous Buildings Code and relevant Tracy Municipal Code requirements.

On May 8, 2012, staff met with representatives of the Tracy Association of Realtors (TAR) to review the ordinance amendment concept. During this meeting, several ideas were exchanged regarding the impacts of such an amendment. In summary, the TAR was concerned with:

Violation of private property rights

Potential liens on vacant, foreclosed, boarded up properties for failure to comply

Liens posted by the City could potentially destroy a real estate transaction

Additional governmental regulations that further restrict the ease of doing

business in the City

Increased burden on staff to regulate such a code amendment

On June 19, 2012, the City's Interdepartmental Enforcement Alliance (IDEA) team met to review staff's proposed ordinance amendment. During that meeting, the team expressed concern with the time intensive process on staff's part to track the progress of these vacant buildings and ensure they are converted within the required 180 day timeframe.

Ms. Contreras suggested the Council could:

1. Leave the board up ordinance as written and enforce open and unsecured structures pursuant to existing TMC requirements.
2. Adopt a revision to the ordinance establishing the 180 day timeframe. This option will require prioritizing and monitoring staffs efforts over the next six months to determine the impact on staffing.

Proceeding with an ordinance amendment would result in an increased amount of staff time to monitor the progress of a boarded building's compliance with the 180 day timeframe. Inspecting properties for compliance, as well as tracking administrative citations issued for properties violating the 180 day boarding requirement, will result in service level impacts to other types of code cases. However, over the long term, reducing the amount of time spent enforcing the nuisances associated with boarded buildings may result in cost savings to the City as a result of reduced calls for service from Police and Code Enforcement staff.

As a result of budget and staff reductions, the Code Enforcement Division continues to perform in a reactive nature. Staff prioritizes cases to manage workload; however, as caseloads increase, there will continue to be service level impacts.

Ms. Contreras concluded by recommending Council discuss amending the Tracy Municipal Code to establish a 180 day timeframe a building can remain in a boarded up state, and provide direction to staff.

Council Member Abercrombie asked if it would help to bring in more people on a per diem basis to assist Code Enforcement in dealing with the 1,100 cases. Ms. Contreras stated that according to the California Association of Code

Enforcement Officers the ratio is one officer per 25,000 population; the City has 1.5 Code Enforcement Officers. Andrew Malik, Director of Development Services stated many of the difficulties are related to zoning, and coordinating with the planners, so although this might not be the best option, staff could look into it.

Council Member Rickman thanked staff for the work Code Enforcement does and asked if Police or Fire kept a log of calls to these boarded up buildings. Ms Contreras stated if Code Enforcement accompanies Fire or Police a log is kept in a data base. Council Member Rickman asked if it would be possible to charge for repeat calls to a property.

Gary Hampton, Police Chief, stated the Police Department's CAD system captures all calls for police services.

Al Nero, Fire Chief, stated a record of responses with an address is logged for every service the Fire Department responds to. In response to a question from Council Member Rickman regarding whether these were problem calls, Chief Nero responded any time the Fire Department is called out there is the potential for problems. Chief Nero added boarded up buildings not only create a safety issue but often criminal and drug uses.

Mayor Ives referred to an ordinance for a more strenuous boarded up building program which was adopted not long ago, and asked if the program worked. Ms. Contreras responded the program works, but it requires constant effort to keep the buildings boarded up, especially if the buildings are not boarded to HUD standards. If the windows are intact there is no need to board up the buildings. Properties are also used for drug use, and other illegal activities both inside and outside the building. Mayor Ives asked if the 14 buildings were boarded to HUD standards. Ms. Contreras responded 95 per cent of 14 buildings are boarded to HUD standards.

Chief Hampton referred to an early 1990 study from New York which established that when broken windows are left broken it creates more broken windows. Also more blight is created along with more boarded buildings and broken windows. If the windows are replaced the blight is reduced.

Mayor Ives stated that for 14 buildings the time clock may already have started if an ordinance were approved. Mayor Ives referred to a number of issues which would need to be resolved such as when the 180 days would begin; when a property could come off the list and suggested the question remains as to when a property becomes a nuisance. The start date as to when the 180 days would begin needs to be clear.

Council Member Elliott stated at the end of the 180 day timeline owners have the option to demolish or rehabilitate for occupancy and asked what actions would be required for the property to be rehabilitated. Ms. Contreras stated actions would include allowing the building to become unboarded and returned to its original use. However, zoning issues often have to be worked out.

Mayor Pro Tem Maciel stated primarily the discussion is about how long a building could stay boarded before more action would be expected from the owner, and what level of interaction has the City had with these property owners. Ms. Contreras stated over the past three weeks she had spoken to six property owners, who own 6 of the 14 properties.

Mayor Pro Tem Maciel referred to a building which has been boarded up for 25 years and stated although something needs to be done staff should proceed cautiously. Property owners need to be part of the solution and 180 days may not be the right fit. Mayor Pro Tem Maciel asked how much of a priority are the 14 buildings. Ms. Contreras stated the first priority is to address life and safety issues. There is a significant number of substandard buildings which are time consuming. This issue second on our priority list in terms of urgency.

Mayor Ives invited public comment.

Frank Silveira III stated he is a Real Estate Agent active in the real estate community for 12 years. Mr. Silveira stated he appreciated what the City is trying to do, although he believed the problem is much greater, newer housing tracks have problems as well. Mr. Silveira suggested the City needs to be more proactive of where the nuisances are within the city, since it is more than just vacant homes; issues also arise in homes that are occupied.

George Riddle, 1850 Harvest Landing Lane stated any building that has been an eyesore for 25 years, should be demolished and the bill presented to the owners. Since resources are limited, the City's priority should be on getting rid of those that cause health issues and are used as drug houses, etc.

Mary Souza Mitracos, resident, stated she felt it was important to go forward with the boarded up buildings. It will stretch resources, but in the long run Ms. Mitracos believed it would pay off.

Guy Burnes, P.O. Box 930, Tracy, referred to a letter he had delivered to Council earlier in the day. Mr. Burnes suggested outreach efforts were limited, and the City should not be monitoring charm in a neighborhood. Mr. Burnes added six months is not a long time; Westside Market has been unoccupied for longer than six months. Mr. Burnes stated he was opposed to putting more regulations on private property. Mr. Burnes also commented on owned property which had been boarded up and the owner is now being required to replace the boards with glass. Mr. Burnes stated the City does not have the right to step on an owner's aesthetic taste.

Council Member Elliott asked if staff had received any recommendations from their outreach efforts. Ms. Contreras stated two property owners had responded they were in favor of the new recommendations. Council Member Elliott asked if the City is taking action to correct any health and safety issues. Ms. Contreras responded yes, the City definitely addresses health and safety issues through phone calls and inspections, which are followed by a violation notice, if there is no response. Council Member Elliott asked what was the extent of the health and safety issues. Ms. Contreras stated the buildings become un-boarded which invites the same types of violations by the same individuals. Council Member

Elliott asked how a property which was properly boarded up could be buildings be improved. Ms. Contreras added a "No Trespass" notice could be filed with the Police Department. However, the City's goal is to un-board the buildings, and return them to their original use.

Council Member Rickman stated this issue does not apply to aesthetics and charm. Ms. Contreras responded that is correct. Council Member Rickman stated the City has reached out to the owners multiple times, but if they can't comply within 180 days what happens next. Ms. Contreras stated if the owners are willing and moving toward compliance the City will work with them to get the property into compliance.

Mayor Pro Tem Maciel stated he did not buy into aesthetics. While the properties may be undesirable it's not the City's business to become involved. Blight is detrimental to a neighborhood, but Mayor Pro Tem questioned whether property owners' rights impact a neighborhood. Mayor Pro Tem Maciel referred to Westside market which is not a boarded up building and added there are ongoing efforts to find a tenant. Mayor Pro Tem Maciel stated he would like to see more options.

Mayor Ives asked Council if it wanted staff to continue to work on this item. Mayor Ives stated he would like a policy brought back to Council which included other options and choices. The policy also needs to be sensitive to private property rights.

Council Member Abercrombie was concerned with the 1,100 properties which need attention and suggested staff bring forward ideas on how to better handle these properties.

Mayor pro Tem Maciel stated there were two goals for these properties – either demolish the property and redevelop the land, or repair the property and make it habitable. Ms. Contreras suggested another option would be to offer the properties for sale.

Council Member Rickman thanked Mr. Burns for attending the meeting and voicing his opinion. Council Member Rickman added it is important to honor property owners' rights. Council Member Rickman stated although Mr. Burns was not contacted by the City, he did board up his building, but now he is being told the building needs glass in the windows.

Council Member Elliott inquired whether the City gets favorable responses from the property owners. Ms. Contreras responded yes.

Mayor Ives suggested the City needs to find a way to contact the owners of at least the 14 properties.

Mr. Malik agreed staff could bring a report back to Council within approximately 30-45 days, which would contain options, choice points, definitions and outreach regarding the amendment to the existing Boarding up of Buildings with Unsecured Openings Ordinance

9. COUNCIL ITEMS – Council Member Abercrombie referred to the former Tracy Tomorrow and Beyond Committee and suggested creating a similar group. Mayor Ives suggested the item be brought back to determine if Council would like to discuss the item further at the next Council meeting.
10. ADJOURNMENT – Council Member Abercrombie moved to adjourn the meeting. Council Member Elliott seconded the motion. Voice vote found all in favor; passed and so ordered. Time: 8:55 p.m.

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

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Mayor

ATTEST:

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City Clerk