

December 4, 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.

Mayor Ives asked for a moment of silence to remember those serving in the military.

The City Clerk administered the Oath of Office and presented Certificates of Appointment to Mayor Ives, Council Member Maciel, Council Member Young, and Ray McCray, Treasurer.

Council Member Nancy Young thanked those who helped her during the election and voiced her excitement for the job she is undertaking with the help of residents. Council Member Maciel also voiced his appreciation for being elected to a second term. Mayor Ives thanked everyone for their confidence in electing him as Mayor.

Roll call found Council Members Elliott, Maciel, Rickman, Young, and Mayor Ives present.

It was moved by Council Member Elliott to nominate Council Member Maciel as Mayor Pro Tem.

It was moved by Council Member Young to nominate Council Member Rickman as Mayor Pro Tem.

Acting on the first motion, Mayor Ives seconded the motion. Roll call vote found Council Members Elliott, Maciel, and Mayor Ives in favor; Council Members Young and Rickman opposed. Motion carried 3:2.

Steve Abercrombie provided a presentation on behalf of Brighter Christmas.

1. CONSENT CALENDAR

Following the removal of item 1-C by Council Member Young, it was moved by Council Member Rickman and seconded by Council Member Elliott to adopt the Consent Calendar. Roll call vote found all in favor; passed and so ordered.

- A. Approval of Aquifer Storage and Recovery Program and CEQA Negative Declaration – Resolution 2012-242 approved the program and Negative Declaration.
- B. Adopt Resolution Approving the Annual Report on Development Impact Fee Revenues and Expenditures, and Making Findings as to Unexpended Funds – Resolution 2012-243 approved the annual report.
- C. 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 Police Corporal - Maria Hurtado, Assistant City Manager, provided the staff report. Ms. Hurtado stated that on August 21, 2012, Council approved the Memorandum of Understanding between the City of Tracy and the Tracy Police Officers Association (TPOA). Contained within the

new agreement was language that would create a Police Corporal classification, replacing the current Master Officer Program.

The Corporal classification will be a rank between the positions of Police Officer and Police Sergeant. This new rank will function similar to that of a Police Officer, but with additional duties. For example, in the absence of a Sergeant, the Police Corporal may act as an assistant supervisor or as a Patrol, Traffic, or Investigations Supervisor. The Police Corporal will also serve as the Department's Field Training Officer (FTO) and Officer-in-Charge when a Sergeant is not on the scene.

Staff recommended that the salary range be established at \$6,068 to \$7,375 monthly. This range is 10 % above that of a Police Officer and approximately 10 % below that of a Police Sergeant.

Effective January 1, 2013, 12 Police Officer positions will be reallocated to the position of Police Corporal at an annual approximate cost of \$133,000. However this cost will be offset by the elimination of the Master Patrol Officer Program which previously had an annual cost of \$250,000. As such, establishment of the Police Corporal positions to replace the current Master Patrol Officer Program will result in net annual General Fund savings to the City of \$117,000. Additionally, implementation of the new Corporal classification will reduce overtime costs associated with the need to backfill Sergeants when absent.

Staff recommended that Council authorize the Administrative Services Director to amend the City's Classification and Compensation Plans and Position Control Roster by approving the establishment of a class specification and salary range for Police Corporal; authorize the Administrative Services Director to update the City's classification and compensations plans; and authorize the Budget Officer to update the City's position control roster in order to incorporate the proposed changes.

Council Member Young asked for clarification regarding the 12 positions. Ms. Hurtado indicated 12 Police Officers would be re-classed to Corporal.

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

It was moved by Mayor Pro Tem Maciel and seconded by Council Member Elliott to adopt Resolution 2012-244 authorizing 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 Police Corporal. Voice vote found all in favor; passed and so ordered.

2. ITEMS FROM THE AUDIENCE – None.
3. HEAR AND ACCEPT THE FINAL REPORT ON THE CITY OF TRACY'S FOUR STRATEGIC PLANS WHICH INCLUDE PUBLIC SAFETY, ECONOMIC DEVELOPMENT, ORGANIZATIONAL EFFICIENCY, AND LIVABILITY - Leon Churchill, Jr., City Manager, provided the staff report. Mr. Churchill indicated that on February 28, 2011, a Council retreat was held where Council Members discussed several Council

priorities. Three strategic priority areas were identified for the next two years. These include (1) Public Safety, (2) Economic Development, and (3) Organizational Efficiency. Additionally, given a high priority on improving the quality of life in Tracy, Council added a fourth priority area.

Overall, there were 14 goals and 46 objectives identified in the four strategic plans. Over the last two years, 89% of the objectives were either completed or are in progress towards being completed (78% completed; 11% in progress). The 11% of the objectives not completed were due to either (1) the elimination of redevelopment funding or lack of other state or federal funding, (2) program discontinuation, or (3) other strategies were implemented in lieu of the objectives identified in the plan. Mr. Churchill outlined each strategy and shared their respective highlights as follows:

Public Safety:

- Goal 1: Assess community perception and issues effecting public safety;
- Goal 2: Educate City employees on City services, programs and codes;
- Goal 3: Empower residents with the tools needed to maintain a safe quality of life;
- Goal 4: Establish methods and processes to effectively address safety, blight and quality of life issues.

Fifteen performance measures were identified for the Public Safety strategic plan and include:

- Design effective survey method;
- Utilize print and web media for dissemination of survey;
- Achieve 4% response rate;
- Implement Resource Guide Program Citywide by March, 2012;
- Educate 75% of City employees on Resource Guide and its purpose;
- Develop a minimum of 12 public safety messages for use year round;
- Expand Neighborhood and Business Watch programs by 10%;
- Conduct 12 Children Drown Without a Sound meetings;
- Reduce childhood drowning;
- Reduce Part 1 crime by 10%;
- Reduce gang related incidents by 10%;
- Sustain arrest to contact ratio of 28% in gang activity;
- Address and abate at least 10 "3 strike" properties;
- Train 75% of Fire and Police staff regarding customer response protocols for abatement, and
- Establish multiple partnerships to address blight.

Economic Development:

- Goal 1: Create jobs reflective of the "Target Industry Analysis" and those that best match the skill sets of Tracy employed residents;
- Goal 2: Implement downtown revitalization in accordance with the Downtown Specific Plan (DSP) and the national main street program, and
- Goal 3: Focus efforts on projects that will result in an increase to the sales tax and transient occupancy tax (TOT) revenues

Nine performance measures were identified and included in the Economic Development strategy as follows:

- Increase total number of jobs citywide by 5%;
- Increase number of manufacturing jobs by 3%;
- Secure successful restaurant for the Westside Market space
- Completion of the Downtown Plaza;
- Approve 4 Grow Tracy fund loans to downtown merchants;
- Decrease downtown vacancy rate by 5%;
- Increase downtown sales/SF by 5%;
- Increase sales tax revenue citywide by 5%, and
- Increase TOT revenue citywide by 5%.

Organizational Efficiency:

Goal 1: Advance City Council's Fiscal Policies;

Goal 2: Strengthen Customer Value through ensuring quality and excellent customer service;

Goal 3: Integrate current and new processes and systems into business operations of the City of Tracy, and

Goal 4: Ensure long-term viability and enhancement of the City's workforce

Five performance measures were identified for the Organizational Efficiency in the strategic plan and include:

- Establish and maintain a General Fund reserve of at least 20%;
- Obtain a balanced budget by Fiscal Year 2014-15 without dependence on Measure E;
- Receive ratings equivalent to "Good" or "Excellent" on existing and future customer satisfaction surveys;
- Meet implementation deadlines for GIS, City website and Citywide electronic customer information, and
- Complete implementation of Workforce Readiness Initiative.

Livability:

Goal 1: A more beautiful city;

Goal 2: A city with enticing arts, entertainment, and recreation, and

Goal 3: A city balanced with sustainability.

Ten performance measures were identified in the Livability strategic plan and include:

- Begin construction of east Eleventh St. bridge in 2013;
- Improved property maintenance along freeway and Eleventh Street corridors;
- Five civic art education sessions conducted with City staff;
- Complete construction of the Downtown Plaza by spring 2012;
- Twenty events Downtown each year;
- Concept plans for a trailhead at the California Aqueduct;
- Twenty measures of the Sustainability Action Plan implemented by July 2013;
- Two "green" presentations to the community a year;

- One community care day in 2012;
- “Green” office policies at City Hall in effect beginning 2012

Mr. Churchill added that Council would have a strategic planning session at their upcoming retreat on January 17 and 18, 2013. The retreat will provide Council the opportunity to discuss and set strategic priorities for the upcoming two years.

Staff recommended that Council accept the final report on the City of Tracy’s four strategic plans which include Public Safety, Economic Development, Organizational Efficiency, and Livability.

Mayor Pro Tem Maciel asked if there was indeed a 12% increase in sales tax revenue with a goal of 5%. Mr. Malik stated that was correct.

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

Council Member Rickman asked what the City was doing regarding recruiting retail. Mr. Churchill stated the City was proactive with outreach through trade shows, as well as follow up on industry inquiries or leads received.

Council Member Rickman asked if there were targeted businesses that the City pursues. Mr. Malik stated many times the City partners with a particular developer which was the case with Macy’s.

Council Member Rickman asked if staff, when recruiting specific retailers/restaurants asked what it would take to bring their business to Tracy. Mr. Malik stated staff kept close contact with those who have voiced interest in Tracy.

Mayor Pro Tem Maciel thanked staff for their efforts and the residents for their support of local businesses.

Council Member Elliott complimented staff for their hard work in bringing a new large business to Tracy. Council Member Elliott indicated now was the time to take the offense and bring businesses to the City. Council Member Elliott stated staff presented an excellent set of strategic priorities and thanked staff for helping Council achieve those goals and objectives.

Mayor Ives stated the four strategic priorities were important and would be discussed in depth at the upcoming Council Retreat.

It was moved by Council Member Rickman and seconded by Council Member Elliott to adopt Resolution 2012-245 accepting the final report on the City of Tracy’s four Strategic Plans which include Public Safety, Economic Development, Organizational Efficiency, and Livability. Voice vote found all in favor; passed and so ordered.

4. **ADOPT A RESOLUTION APPROVING A PROPERTY TAX SHARING AGREEMENT BETWEEN THE COUNTY OF SAN JOAQUIN AND THE CITY OF TRACY** - Andrew Malik, Development Services Director, provided the staff report. Mr. Malik stated that before land can be annexed to a city, there must be a tax sharing agreement in place between the City and the County. Such agreement concerns the sharing of approximately 35 cents of every property tax dollar. The 35 cents is known as the “local

portion” of property tax as the remaining 65 cents goes to schools and the State of California. Historically, all of the cities in San Joaquin County have had the same agreement with the County. Following is a history of the previous tax sharing agreements.

Prior to 1995

County 65% (of the 35 cents) and City 35%

1996 to 6/15/2003

County 90% City 10% if any relevant Fire District also detaches

County 100% City 0% if any relevant Fire District does not detach (This applies to Tracy since Tracy Rural Fire did not detach). The Gateway annexation fell under the 100% / 0%

10/1/03 – 9/30/10

County 80% City 20% for detached Fire Districts

County 85% City 15% for Fire Districts that do not detach. In this agreement the County increased the percentage going to a City from the previous agreement (1995 to 2003) if the City would adopt a County facilities fee. All cities in San Joaquin County have adopted and collect a development impact fee for County facilities and remit these fees to the County.

The County’s proposed tax sharing agreement was a continuation of the most recent tax sharing agreement:

- County 80% City 20% for detached Fire Districts
- County 85% City 15% for Fire Districts that do not detach

This formula would be for all new annexations. Previous formulas would remain in place as described above with the exception of the 2003 Gateway annexation which will now conform to the new tax sharing split proposed. Staff requested that the Gateway development area not be subject to the current (95%/5%) tax sharing formula, but instead be consistent with the current 85% County, 15% City since the Fire District was not detached. The County agreed with this request based on Gateway’s land use designation and that provision is included in the new tax sharing agreement.

It should be noted that other cities in San Joaquin County are also negotiating for new tax sharing agreements with the County. The City of Tracy will likely be the first city to adopt a new tax sharing agreement with the County. There are a number of proposed annexations being contemplated for the City of Tracy, which is why there has been a push to complete this tax sharing agreement as quickly as possible.

In order to have consistent tax sharing agreements throughout the County, staff has requested that a clause be inserted within the agreement stating that should uniform terms be established for the other cities in the County, that this agreement would be amended to conform to those standards. San Joaquin County has agreed with the request and has included language in the agreement addressing this point.

If an annexation of land to the City of Tracy were to be approved during the term of this agreement, the property tax split (of the 35 cent local portion) would be County 85% and City 15%. This means the City would receive just 5.25 cents of every property tax dollar

paid by land owners in the annexed area (15% x 35 cents). There would be additional property tax dollars collected as part of the Gateway project with the proposed new tax formula.

Staff recommended that the City Council approve the 2012 Property Tax Sharing Agreement between the County of San Joaquin and the City of Tracy,

Mayor Pro Tem Maciel indicated he was surprised to learn the proportions that the City shares on property taxes and asked if there was anything that could be done to capture some of the tax revenue from Tracy Hills. Mr. Malik stated there could be an option to direct staff to continue negotiating with the County.

Council Member Young asked what the difference was between Tracy Hills and Gateway. Mr. Malik stated the physical difference was that Gateway was mostly commercial and did not include residential. Mr. Churchill stated that was how the County looks at it; commercial/industrial does not present a burden on services like residential.

Council Member Young stated it was problematic and the City should receive a percentage to be able to provide services. Council Member Young asked if there were any other properties that fall into that time period or category. Mr. Churchill stated no.

Council Member Rickman agreed with Mayor Pro Tem Maciel and Council Member Young.

Council Member Elliott asked if the different rates depended on whether the Fire District had detached. Zane Johnston, Finance and Administrative Services District, stated it was a reflection of what happens at the State of California and the burdens that have been placed on the City to pay for County services.

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

Craig Saalwaechter, 4083 Peyton Lane, commented that it appeared that the State and County grabs and if no revenue was coming in from Tracy Hills, maybe the City can apply additional fees in order to pay for those services.

Mayor Ives asked how services were planned to be paid for Tracy Hills. Mr. Johnston indicated an increase in sales tax was expected which would cover approximately half the cost of Police services.

Dave Helm indicated he was concerned about the City taking on an obligation with no plan to cover the costs of Police and Fire services.

Mr. Malik outlined how impact fees cover the expense of new facilities.

Mayor Pro Tem Maciel reminded everyone that the agreement being discussed was for properties to be annexed.

George Riddle, 1850 Harvest Landing Lane, asked why the City was not asking for a 75/25 split for the detached areas.

Marvin Rothchild asked if funds received from tax sharing would cover the expenses for those developments. Mr. Churchill stated capital facilities were funded through impact fees and that the concern was focused on the operational expenses of Police, Code Enforcement, Recreation, etc. Mr. Churchill added it could be well down the road, but that there was still a responsibility to address those concerns. Mr. Malik indicated there were options through the use of Community Facilities Districts.

Paul Miles, 1397 Mansfield Street, asked what the City gains from the annexation. Mr. Malik indicated the discussion was about an area that has already been annexed. Mr. Johnston added that before property values fell in California, the obvious answer was yes, but in the end, there was enough money to fund services and that it was more of a challenge now because of the lower values.

Council Member Elliott recused himself from further discussion of the item.

It was moved by Mayor Pro Tem Maciel and seconded by Council Member Rickman to direct staff to continue negotiations with the County on the proposed annexation agreement and incorporate the Tracy Hills 1996 agreement. Voice vote found Council Member Rickman, Young, Mayor Pro Tem Maciel and Mayor Ives in favor; Council Member Elliott abstained.

5. STAFF ITEMS

- A. Consider Naming the Administrative Services Department Area in the City Hall Building After Retiring Finance & Administrative Services Director Zane Johnston - Maria Hurtado, Assistant City Manager, provided the staff report. Ms. Hurtado stated that Zane Johnston has served as a City of Tracy employee for 27 years, beginning on February 17, 1986, and retiring on January 31, 2013. During his tenure with the City of Tracy as the Finance and Administrative Services Director, Mr. Johnston has been instrumental in ensuring the City's fiscal stability. Mr. Johnston has made significant contributions, including developing strategic financing plans, supporting the construction of various landmark projects within the City, and serving on several key community and budget committees.

During his tenure with the City of Tracy, Mr. Johnson has proactively sought out to develop and implement strategic fiscal planning approaches to ensure Tracy's financial sustainability. One of these efforts included working closely with the Mayor and Council to establish a combined \$38.7 million General Fund and Economic Uncertainty Fund Reserve in Fiscal Year 2006/07, prior to the recession. Under his leadership, the City of Tracy, for 24 consecutive years, has received the Government Finance Officers Association of the United States and Canada (GFOA) Distinguished Budget Presentation Award.

Per Council direction, Mr. Johnston developed and led several strategic financial plans which contributed to the successful completion of many significant City projects. Mr. Johnston has been responsible for issuing over \$500 million in tax exempt bonds the proceeds of which were used to finance the Wastewater Treatment Plant expansion, the City's share of the South San Joaquin Irrigation District Water Treatment and Pipeline project, the Holly sports fields, the Grand Theatre Center for the Arts, and numerous road improvement projects. Additionally, Mr. Johnston served as the project manager on the City Hall construction project.

Mr. Johnston has served on a number of committees, including the Tracy Tomorrow, Tracy Tomorrow and Beyond, Tracy Tomorrow 2000, and Measure E Advisory Committee. He was also instrumental in negotiating critical contracts, including the Materials Recovery Facility (MRF), and a Pre-Paid Services Agreement between the City and Tracy Rural Board. Mr. Johnston also developed the initiative report on the fiscal impact of Measure A.

Mr. Johnston also served as Interim City Manager between October, 2004 and April, 2005, and as President of the California Society of Municipal Finance Officers (CSMFO) in 2003, representing 1,500 local government finance professionals throughout the State of California.

Mr. Johnston is being recognized for his visionary and responsive leadership in fiscal sustainability, and his commitment to financial stewardship and responsibility. Over the last 38 years, a few public facilities and/or parks were named after City of Tracy employees in recognition of their dedicated service and contributions to the residents of Tracy. In 1974, the Boyd Service Center located on Tracy Boulevard was named after City of Tracy employee Ralph Ellis Boyd, a 27 year Public works Superintendent of Maintenance and Operations. In 1989, the Recreation Center, at the time located at the corner of 12th and Adam streets, was named after former Recreation Director Joseph (Joe) Wilson who served the community for 36 years. In 1996, the Tracy Water Treatment Plant located at 6640 S. Tracy Boulevard southwest of the Tracy Airport, was named after City of Tracy employee John W. Jones for his commitment to public service and volunteerism in the Tracy community. And most recently, in 2005, a 1.5 acre park located on 1540 Sentinel Drive was named after former Recreation Director Jim Raymond for his public service in parks and recreation.

The area proposed to be named the Zane Johnston Wing is the Administrative Services Department located on the first floor of City Hall to the North West from the City Hall main lobby and main entrance. This area is approximately 5,850 square feet across the Development Services Department and commonly referred to as the Finance Department, which is also accessible from the City Hall north entrance.

The City Council previously adopted a policy for naming public buildings and parks and recreation facilities. The policy for public buildings allows the Council to review and evaluate requests. For parks and recreation facilities, a process exists that allows for consideration and a recommendation by the Parks and Community Services Commission. The request to name the Administrative Services Department the "Zane Johnston Wing" falls under the policy for public buildings, therefore the Council has the discretion of responding to this naming request.

Staff recommended that the City Council name the Administrative Services Department area on the first floor of the City Hall building, after retiring Finance and Administrative Services Director Zane Johnston.

Mayor Ives invited members of the public.

Craig Saalwaechter spoke in support of the proposed naming of the Finance wing.

Mayor Pro Tem Maciel stated he was in favor of the proposed naming of the Administrative Services Department area.

Mayor Ives stated that Mr. Johnston's fiscal leadership and advice to the Council and City Manager has been incredible and was also in support of naming the Finance wing.

It was moved by Council Member Rickman and seconded by Council Member Elliott to adopt Resolution 2012-246 approving the naming the Administrative Services Department area in the first floor of the City Hall building, the Zane Johnston Wing. Voice vote found all in favor; passed and so ordered.

- B. Receive Update Regarding Holiday Shop Local Campaign - Amie Mendes, Economic Development Analyst, provided the staff report. Ms. Mendes stated that in September of this year, Economic Development staff was contacted by West Valley Mall representatives to find out if the City had planned a 'shop local' campaign for the holiday season. The representatives expressed concern about retail competition from both surrounding cities and online shopping during the holiday season. After some discussion, it was determined that a communitywide 'shop local' campaign could be an effective way to raise awareness in the community regarding the importance of spending tax dollars locally.

Although a 'shop local' campaign was not specifically budgeted as part of the FY12-13 budget, staff offered to research the idea and determine if an effective, yet inexpensive campaign could be initiated. 'Shop Local' or 'Buy Local' campaigns normally engage local businesses and citizens with the objective of highlighting the importance of the community, economic and environmental benefits of choosing to spend money locally. Studies show that a well-run campaign can be a powerful tool to help sustain businesses in a local area.

After conducting research, staff identified a 'shop local' campaign that appeared to be a good fit for Tracy. The campaign, labeled *'iShop Tracy'* aims to reward Tracy residents for spending their money at local retailers this holiday season with the ultimate goal of educating residents of the importance of keeping their dollars in the community. *'iShop Tracy'* is essentially a play on words stemming from the popularity of the iPad and iPhone products. The competition is based on residents collecting receipts for local purchases for the chance to win an iPad or an iPad Mini.

The idea of the *'iShop Tracy'* campaign was presented to representatives of the Tracy Chamber of Commerce, West Valley Mall, Tracy City Center Association and the Tracy Outlets – and ultimately each of the groups agreed to contribute \$1,000 to the campaign. In addition, the City was able to utilize approximately \$1,500 from the Economic Development FY12-13 budget towards the campaign.

Most of the money collected from our partners has been spent on local advertising in an effort to create excitement about the campaign. The advertising material emphasizes that sales tax from purchases made at Tracy retailers provides funding for our schools, parks, community activities, emergency services, and more. The goal with the advertising is two-fold, to create buzz about the campaign but also to educate residents about the importance of spending their money locally.

An *'iShop Tracy'* logo and tagline were created which appear in all of the marketing material – *"iShop Tracy! Shop Local, Spend Local, Enjoy Local!"* In addition a commercial has been produced which is airing on targeted Comcast channels in Tracy households. A banner ad was created to run on the Tracy Press website throughout the campaign and postcards have been delivered to retail establishments throughout the City, which are being handed out to customers. The campaign is being advertised on the City and Chamber of Commerce webpages and social media outlets as well as our partners.

In addition to a financial contribution, the Tracy Chamber of Commerce has agreed to assist with oversight of the campaign. The Chamber will be the main contact throughout the campaign - fielding questions from the public as well as collecting and tabulating receipts. At conclusion of the campaign staff will be conducting a survey of the merchants to determine the success of the campaign. A sales tax analysis will be completed, but results are likely to be inconclusive – as an increase in sales tax could be the result of an improving economy or a number of other factors. If merchants and the community find the campaign to be effective, staff will evaluate the coordination a similar program next year.

While a 'Shop Local' campaign was not specifically budgeted as part of the FY12-13 budget, funding of \$1,500 was available in the Economic Development budget to direct towards the program. The total campaign cost is \$5,500, with \$4,000 being contributed by local partners.

Council accepted the report.

6. ITEMS FROM THE AUDIENCE – None.

7. COUNCIL ITEMS

- A. Discuss Procedure and Options to Fill Anticipated Vacant Council Seat and Provide Direction to Staff on Council's Preferred Process to Fill the Vacancy - Council Member Elliott recused himself from consideration of the item. Leon Churchill Jr., City Manager, provided the staff report. Mr. Churchill stated that a vacancy will likely be created on the City Council due to the election of Council Member Elliott to the San Joaquin County Board of Supervisors. Government Code section 36512 (b) states "...the council shall, within 30 days from the commencement of the vacancy, either fill the vacancy by appointment or call a special election to fill the vacancy. A person appointed or elected to fill a vacancy holds office for the unexpired term of the former incumbent." The successful candidate would serve the remainder of Council Member Elliott's term which expires in November of 2014.

Mr. Churchill outlined the options for Council consideration

OPTION 1: FILL THE VACANT COUNCIL SEAT THROUGH A SPECIAL ELECTION:

Should the City Council decide to fill the vacancy by special election, Government Code Section 36512(b) states that the Council must call for a special election to be held on the "next regularly established election date" not less than 114 days from the call of the special election.

Elections Code section 1000 establishes the 2013 election dates to include March 5, June 4, and November 5. However, March 5 is less than 114 days from the date the special election is called (December 4, 2012), therefore the earliest a special election can be held is June 4, 2013. Consequently, the City Council would operate with four Council Members during the interim period between Council Member Elliott's last day on the Tracy City Council and the June 4, 2013 special election day.

The Registrar of Voters Office for San Joaquin County estimates the cost of a special election at approximately \$7.50 per registered voter. As of the November 6, 2012 election, 33,654 citizens were registered to vote in the City of Tracy, therefore the estimated cost to hold a special election in 2013 is \$252,405.

OPTION 2: FILL THE VACANT COUNCIL SEAT BY APPOINTMENT:

Should the City Council decide to fill the vacant Council seat by appointment, the Council can do so by a majority vote of the Council and the appointment must be done at a public meeting. The Council, however, cannot make the actual appointment of the new Council Member until the Council seat is officially vacant either via the submittal of a resignation or due to the official seating of the Board of Supervisor seat, which will occur on January 7, 2013. Assuming that the Council seat is officially vacant, two options are presented if Council decides to fill the vacant Council seat by appointment.

Appointment Option 1: Fill the Vacant Council Seat via an Application Process:

The Council's recent past practice has been to fill vacancies via an application process. The last four City Council vacancies, one City Treasurer vacancy, and one City Clerk vacancy have been filled by appointment through an application process. If Council chooses to use an application process, the Council can request that applications from interested persons be submitted by a certain date; review the applications, and appoint the successful candidate by a majority vote of the City Council at a public meeting. If the Council wishes to interview the applicants:

1. The full Council may interview the applicants in a public meeting, or
2. The Council may appoint a Council subcommittee to interview applicants and report back to the full Council with their recommendations.

Appointment Option 2: Fill the Vacant Council Seat with no Application Process:

In lieu of holding a special election, the Council may choose to fill the vacant Council seat by nominating candidates and recommending appointment of the preferred candidate via a Council majority vote and forego an application process. The Council may use any criteria it determines suitable for nominations. The appointment of the successful nominee could occur at an identified Council meeting where the successful candidate could take office immediately.

If the City Council decides to pursue a special election, an appropriation from the General Fund in the amount of \$252,405 would be required. The cost to fill the

vacancy by appointment will be minimal and would include staff time and some resources, and no appropriation of funds would be necessary.

Staff recommended that the City Council discuss the procedure and options to fill anticipated vacant council seat and provide direction to staff on the Council's preferred process to fill the likely Council vacancy.

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

George Riddle, Linda Jiminez, Marvin Rothchild, Pat Howell, Marlene Jones, and Craig Saalwaechter all spoke in favor of the Council appointing the person with the third largest votes – Ray Morales.

Steve Nicolau, 445 W. Eleventh Street, indicated he previously advocated that Ray Morales be appointed, but upon further reflection and as a democratic society, indicated the City should have a special election to elect the next Council Member.

Dave Helm suggested that whatever process the Council selected, he hoped they would explain the thinking process.

Marsha McCray, 560 W. Schulte, stated that it would have been great to look at both Council seats and reminded Council that they were in the position they are because they are elected. Ms. McCray added that she believed the Council would make a decision that would be in the best interests of the citizens of Tracy.

Jim Howell, 340 Hunter Trail, suggested that it was not up to the Council to make the decision.

Kathleen Junqueiro 8865 Velma Lane, stated that if the appointment was about what the public has to say then the Council was taking that right out of the public's hands by appointing an individual.

Steve Abercrombie stated he was disappointed with the nasty e-mails and phone calls he received on the subject and suggested that in the future residents respect the process and our leaders.

Mayor Pro Tem Maciel responded voicing his respect for Mr. Morales, indicating his letter to the editor was about the process and not about who ran. Mayor Pro Tem Maciel stated he would not support anyone short of an application and interview process.

Mayor Ives asked the City Attorney for clarification regarding Mayor Pro Tem Maciel's letter to the editor, and if it disqualified him from this process. Dan Sodergren, City Attorney, indicated Council Members have first amendment rights with one exception, when the Council is acting in a quasi-judicial role when asked to act as unbiased decision makers. Mr. Sodergren stated in a policy mode, Council Members can express their views on the decision.

Mayor Ives also asked for clarification on how the Council has a right to go through the appointment process. Mr. Sodergren stated the entire election process is governed by state law. Mr. Sodergren indicated government code and election code

limits the process whereby the Council is required to fill the vacancy within 60 days either by appointment or election.

Council Member Rickman stated he believed there were three options: 1) A special election, which would be democracy at its best, was expensive and would mean a six month lapse; 2) Application process, but the question is what are we trying to gain from the process when we already have three qualified candidates; 3) Appointment process which ensures the greatest transparency. Council Member Rickman stated he was in support of appointing one of the candidates that ran for Council.

Council Member Young stated each option had its own merit and each a part of the democratic process. Council Member Young stated a special election was costly and meant delays. Council Member Young added that the Council already had a pool of applicants that can be pulled from and indicated many people voted with anticipation that there would be another vacant seat. Council Member Young stated she was in support of an appointment.

Mayor Ives stated that if Council decided to go through with an application process, one could presume that certain individuals would apply and that you would have to open it up for others. Mayor Ives stated the path of least political exposure was to have a special election, but what is best for the City may not be waiting six months and incurring the additional expense.

It was Council consensus to not pursue a special election.

Council Member Rickman asked what would be the criteria for nominating an individual for council.

Mayor Ives indicated an application and interview process was the best way to go.

Mayor Pro Tem Maciel asked how Council had an opportunity to vet out those who were interested in serving as a Council member.

Mayor Ives indicated he was in favor of the application process and not the nomination process.

Council Member Rickman indicated he was in favor of limiting the interview process to the three candidates that ran for Council.

Council Member Young suggested a process of establishing criteria and nominating.

Mayor Pro Tem Maciel indicated he would be biased with those who ran for Council. However, the challenge was for the Council to decide how to fill the vacant seat.

Mr. Churchill clarified that Council should discuss the process but that the process could not take place before the seat was vacant.

It was moved by Mayor Pro Tem Maciel that Council establish a process to be applied when a vacancy occurs that would entail soliciting applications from the community, establishing questions and interviewing applicants in open session.

Mayor Ives asked if the Council was establishing this as an on-going process, or just a process for this situation. Mayor Pro Tem Maciel stated the motion was for this process at this time.

Mayor Pro Tem Maciel clarified that the Council would solicit applications, develop questions to be asked and interview applicants in open session.

The motion was seconded by Mayor Ives. Roll call vote found Mayor Pro Tem Maciel and Mayor Ives in favor; Council Member Rickman and Council Member Young opposed. Motion failed 2:2.

Council Member Rickman stated he did not understand what the Council was trying to gain by obtaining more applicants.

Mayor Pro Tem Maciel explained that this was a separate process and that it should be opened.

Mayor Ives indicated it was his belief that those who ran in November 2012, would rise to the top of the list.

Council Member Rickman stated he was opposed to opening up the application process to anyone who did not run during the election.

Council Member Young suggested that staff look at other city's procedures or criteria for nominations.

Mr. Sodergren indicated it could be by nomination, motion or appointment and the decision was up to the Council.

Mr. Churchill suggested that Council not raise their expectation for receiving additional input from staff, but that staff would certainly conduct research with other cities.

Mayor Ives asked for clarification on the nomination process and if it included a set of questions. Mayor Ives suggested Council consider a set of questions that could be used for the process.

It was Council consensus to have a discussion item at the December 18, 2012 Council meeting regarding this item.

- B. Cancel the Regular City Council Meeting Scheduled for Tuesday, January 1, 2013, and Provide Direction to Staff - Maria Hurtado, Assistant City Manager, provided the staff report. Ms. Hurtado stated that the City's first regularly scheduled Council meeting of 2013 falls on January 1, a national holiday and that Council needs to determine whether to reschedule the January 1 meeting to a later date. Ms. Hurtado further stated that should a situation arise prior to January 15, 2013, which required Council action, a special Council meeting could be scheduled.

Staff recommended that Council cancel the City Council meeting scheduled for Tuesday, January 1, 2013.

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

Steve Abercrombie suggested moving the meeting to January 4, 2013.

Robert Tanner suggested a special meeting in January would be appropriate based on current situations.

It was moved by Mayor Pro Tem Maciel and seconded by Council Member Rickman to cancel the January 1, 2013, Council meeting. Voice vote found all in favor; passed and so ordered.

Council Member Rickman asked when an agenda item would return to Council regarding the Tracy Ball Park.

Council Member Rickman announced various high school recipient awards and congratulated the recipients. Council Member Rickman also indicated the new Parks & Recreation activity guide was available and urged residents to take advantage of the classes offered.

Council Member Young indicated her son was playing on the West High Wolfpack team.

Mayor Pro Tem Maciel urged residents to support the local non-profits during the holiday season.

Mayor Ives thanked Sandra Edwards, City Clerk, for her eight years of service.

8. ADJOURNMENT - It was moved by Council Member Rickman and seconded by Mayor Pro Tem Maciel to adjourn. Voice vote found all in favor; passed and so ordered. Time 10:44 p.m.

The above agenda was posted at the Tracy City Hall on November 29, 2012. The above are summary minutes. A recording is available at the office of the City Clerk.

ATTEST:

Mayor

City Clerk