

January 15, 2013, 5:00 p.m.

City Council Chambers, 333 Civic Center Plaza

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1. Call to Order - Mayor Ives called the meeting to order at 5:03 p.m.
2. Roll Call - Roll call found Council Members Rickman and Young, Mayor Pro Tem Maciel and Mayor Ives present.
3. Items from the Audience – Roger Birdsall withdrew his name from the list of applicants to be interviewed to fill the vacant City Council seat.
4. REVIEW, DISCUSS AND FINALIZE CANDIDATE INTERVIEW QUESTIONS AND INTERVIEW PROCESS TO FILL THE VACANT CITY COUNCIL SEAT – At the City Council meeting held on December 18, 2012, the Council reviewed options for selecting a candidate to fill the vacant Council seat. The seat became vacant on December 17, 2012, when Council Member Elliott resigned following his election to the County Board of Supervisors. The Council determined the process should include an interview with the three candidates who ran in the November 2012 election, Roger Birdsall (who withdrew from the process earlier in the meeting), Charles Manne and Ray Morelos.

At the December 18, 2012 Council meeting, the Council appointed a subcommittee consisting of Mayor Pro Tem Maciel and Council Member Rickman to compile a list of questions to be used during the interview process. The following questions were presented for Council consideration:

1. What prompts you to want to be a Council Member?
2. Do you have any specific area or areas of interest that prompt you to apply for consideration?
  - a. What distinguishes you from other applicants?
  - b. What has been your level of community involvement and how does that relate to council service?
3. What do you consider to be the four (4) most significant issues currently facing the Council and the City?
4. What is your understanding of the role of a Council Member in a Council-Manager form of government?
  - a. What is a council member's role regarding operational issues?
  - b. What is a council member's role regarding personnel issues?
  - c. If a council member receives a request or complaint from a citizen regarding city services, how should the council member deal with the matter?
5. What is your opinion regarding the city's economic development practices?
  - a. Do you agree with the practice of creating incentives to encourage some businesses to come to Tracy?
  - b. Would you want to change the practice and if so how?

- c. How should the city fund such incentives?
  - d. What else should the city be doing to promote economic development?
6. What position, if any, should the City take in regard to downtown development?
7. Could you give us your awareness and understanding of the City's General Plan?
  - a. Are you familiar with the growth management ordinance (GMO)?
  - b. What are your feelings regarding development agreements?
  - c. What changes, if any, would you like to see regarding how Tracy deals with growth?
8. What is your opinion regarding public safety in Tracy?
  - a. How should public safety staffing levels be determined?
  - b. Are you familiar with the police department's strategy to combat gang activity in Tracy and what, if any, changes would you like to see made to that strategy?
  - c. If fiscal restrictions forced a reduction to public safety budgets, what should be the council's role in resolving the problem?
9. What is your opinion regarding how the city manages its budget?
  - a. Have you reviewed the city budget?
  - b. What do you feel is an appropriate level of fiscal reserves?
  - c. If the city sees a budget surplus over the next few years as a result of Measure E, what should be done with the funds?
  - d. When Measure E expires what should be done if annual expenses continue to exceed revenues?
10. What is your opinion regarding how the city handles capital improvement projects (CIP)?
  - a. How do you feel CIP priorities should be determined?
  - b. Do you feel there is adequate public input in establishing CIP priorities?
  - c. Should the process be changed and if so, how?
  - d. What are your thoughts regarding CIP funding?

Mayor Pro Tem Maciel stated he and Council Member Rickman had put together the 10 questions. The questions were attached to the staff report and published as part of the Council agenda. Mayor Pro Tem Maciel added that if candidates did not address certain aspects of the initial question, the supplemental questions could be asked.

Mayor Ives invited Council comment.

Council Member Young stated that in order to avoid answering "yes" or "no" to Question 2 the candidates should explain their answers.

Mayor Ives suggested that following the word issues, "and opportunities" should be added to Question 3.

Following a brief discussion, the following process was agreed upon by the Council:

- There would be no limit on the amount of time allowed for candidates' answers.
- Mayor Ives would read all the questions including the supplemental questions.
- Ray Morelos would be interviewed first; Charles Manne would be interviewed second.
- Each candidate would be given the opportunity to present a closing statement.
- Mr. Manne would remain in Room 109 until Mr. Morelos had completed his interview.
- At the end of the interview process, each Council Member would be given the opportunity to comment, after which the Mayor would call for a nomination.

Mayor Ives invited Ray Morelos to approach the podium.

5. INTERVIEW PROCESS AND VOTING PROCEDURE – In response to Question 1, Mr. Morelos referred to his passion for Tracy, his experience as a former Council Member, and his ability to be an independent thinker, and team player. In the 1980s, Mr. Morelos stated he had worked with other Council Members on a number of important projects, including the Residential Specific Plan, the Outlet Mall and bringing in Yellow Freight. Mr. Morelos added he is a team player who can work with others to determine what is good for the City. In the future, the recession will end and new and exciting things will happen, and Mr. Morelos stated he wanted to be a part of that.

In response to Question 2, Mr. Morelos stated he has a business in the Downtown, and had seen what could happen when more business was brought in. Mr. Morelos stated he did not see additional business as competition, but as a benefit to the entire area. Mr. Morelos stated his 40 years of community involvement began as a substitute elementary teacher, and an employee of the South Tracy Improvement Association. He was a Counselor at Tracy High where he also coached cross-country and track. Mr. Morelos was employed for seven years by a company that offered counseling for substance abuse, was a Council Member for six years, and is a past member of Breakfast Lions, and Tracy Rotary. Mr. Morelos has served on Tracy Unified School Budget Committees, the Sutter Tracy Hospital Board, and is the 2012 past Chair of the Chamber of Commerce. Mr. Morelos founded the Tracy Latin Athletic Club and Tracy Hispanic Business Group. He is past president of the Southside Community Organization, and a board member of the Tracy City Center Association. Mr. Morelos also served on the Mayor's Gang Task Force, and the San Joaquin Council of Governments. Mr. Morelos pointed out that when a person leaves the Council, they usually retire or seek higher office. Mr. Morelos added that he has stayed in Tracy, which shows his passion for the community.

In response to Question 3, Mr. Morelos stated the number one issue is the budget, followed by education, public safety and quality of life issues. Mr. Morelos added bringing more businesses into the City and more restaurants into the Downtown will revitalize the entire community and provide additional opportunities for Tracy residents.

In response to Question 4, Mr. Morelos stated the Council is responsible for hiring the City Manager to manage the City. The City Manager is in charge of operations and personnel, and the Council should not be involved. Mr. Morelos added the Council has a responsibility to refer any complaint it hears to the attention of the City Manager. If the complaint is not resolved by staff it can be brought back to the Council.

In response to Question 5, Mr. Morelos stated the City is doing a good job promoting economic development, and agreed with offering incentives such as those that helped bring Macy's to Tracy. However, Mr. Morelos added that changing the practice to increase incentives cannot be done without hurting the budget. Mr. Morelos referred to the City of Manteca, which he felt had "given the ranch away," and added he did not want the City to do something that would hurt Tracy down the road.

In response to Question 6, Mr. Morelos stated he agreed with the position the City has taken with regard to the Downtown. Creating the Tracy City Center Association has helped the area and relieved the City of its responsibility for Downtown. With regard to the City taking the lead on the Transit Station, the Grand Theatre, and the Sixth Street Plaza, Mr. Morelos added that also helped the Downtown, but it is now up to the landowners and merchants to take over the responsibility.

In response to Question 7, Mr. Morelos stated he agreed with how the City deals with growth. The City's General Plan is the roadmap to future growth. It is a planning and policy document which addresses housing, transportation, economic development, public facilities, infrastructure, and open space. The General Plan was updated in 2011 and runs through 2025 when it will be updated again. The Growth Management Ordinance was put into place in 1987 by the City Manager and staff. It deals with all aspects of concentric growth, housing, infill, public facilities, and infrastructure that is already in place, but does not take away from public services, including police, fire and public works.

In response to Question 8, Mr. Morelos stated public safety staffing levels are related to the number of police officers per 1,000 population. The Chief of Police makes recommendations to the City Manager, who brings the recommendations to the Council. Mr. Morelos added he was familiar with the City's strategy to combat gang activity and added he believed there should be zero tolerance for gangs. D.A.R.E. is a good program, which provides prevention measures to school children at an early age. Regarding public safety budgets, Mr. Morelos stated that Measure E, the half-cent sales tax, has helped to put more money towards the Police Department, the Fire Department and Public Works. If a reduction in public safety budgets is necessary, Mr. Morelos stated he believed Council's role would be to continue Measure E.

In response to Question 9, Mr. Morelos stated the City had done a great job of managing its budget, and commended Zane Johnston on the excellent job he had done as the City's Financial Officer. Mr. Morelos added he had reviewed the budget and believed the reserve should be higher than 20 percent. The City needs to be conservative. Any budget surplus should be put towards "rainy day" funds. If annual expenses continue to exceed revenues when Measure E expires, Mr. Morelos stated he believed Measure E should be extended. However, the City has to be transparent, and let residents know where the money will be spent. If that is done, Mr. Morelos stated he believed the community would vote to extend Measure E.

In response to Question 10, Mr. Morelos stated the Capital Improvement Process (CIP) works and does not need to be changed. Mr. Morelos stated he had attended a number of public hearings and had seen the public give input. Staff should continue to provide financial breakdowns on how much projects cost. Mr. Morelos stated funding for the CIP

process is working well, and pointed out that money from developers was put aside to pay for City Hall. Taxpayers did not put out the money for City Hall.

In his closing statement, Mr. Morelos stated he would bring history to the Council, his knowledge of the City, and his 40 years of involvement with the community. Mr. Morelos added he loves Tracy and wants to be involved, and no matter what the decision is he will remain involved. Mr. Morelos stated he is a fourth generation Tracyite, who has a sixth generation grandchild, and he is not going anywhere.

Mayor Ives welcomed Charles Manne to the podium.

In response to Question 1, Mr. Manne stated God has given him the ability to work, and a willingness to serve the community. Mr. Manne commented on his long record of service with the Pregnancy Resource Center, Breakfast Lions, Grace Church, San Joaquin Council of Governments, and his four years as a Planning Commissioner. Mr. Manne added he had been encouraged to serve by community leaders who want to see "young blood" on the Council.

In response to Question 2, Mr. Manne stated he had lived in the community since 1989, and had worked with many community service groups, including nonprofits. Mr. Manne added he is in touch with the community, knows why people move here, what they like, and why they stay. Most residents want to get away from the fast pace of the Bay Area to raise their families and build upon a better community. Mr. Manne stated he was accessible to everyone including strangers who have reached out and asked him how to get things done in the City.

In response to Question 3, Mr. Manne stated the City has done a fantastic job with regard to financial stability, and should be commended. The Council stepped up with Measure E, although work still needs to be done to make sure revenues are in place to allow Measure E to sunset. Mr. Manne stated living in a safe community, equipping police and fire, and reassuring the community our schools are safe, as well as quality of life or livability concerns are significant issues. Residents want more amenities including ball fields and parks, not only for kids but for residents of all ages. Tracy is seen as a place to build a better community. Mr. Manne commented on Cordes Ranch and the opportunity it presents. The City can build more warehousing that reflects an image of San Leandro and Hayward, or be more selective and use a layering approach, which includes retail and light industry, to build a community that reflects a Dublin, Pleasanton, or Walnut Creek. Image is important. The City has to give visitors the impression that Tracy is a place where they want to live.

In response to Question 4, Mr. Manne stated the textbook definition of a Council Member is to create policy and give direction to staff. The City Manager gets direction and is responsible for seeing the policy through. The City Council is responsible for hiring the City Manager and the City Attorney. Council Members have a responsibility to be the "first men and women" of the City and to uphold themselves as professionals, not only behind the Council dais but also in the community. The City Manager is responsible for handling operational items and reporting to the Council. Working for Fortune 500 companies, Mr. Manne stated he had learned to respect the chain of command.

In response to Question 5, Mr. Manne stated as a Planning Commissioner he had received great reviews regarding economic development practices, and commended the City Manager on significant changes which have been made. The City has become more business friendly, and Mr. Manne referred to a number of new businesses in the City including BevMo, Macy's and Amazon. Mr. Manne stated the City has an opportunity to pick up some peripheral businesses in the next few years. Incentives are appropriate and should be used to help Tracy compete with other cities and to recruit new businesses which would benefit the City and its residents. Mr. Manne added he would not change the practice, but would continue to use incentives.

In response to Question 6, Mr. Manne stated the City has made its position clear through the General Plan, and the Downtown Specific Plan. The General Plan calls for infill development as a high priority and the City has spent tens of millions of dollars on Downtown over the last decade. The City's position should be to recruit businesses, in particular an anchor store or additional restaurant, or two, for the Downtown. Mr. Manne added a strong downtown core benefits the entire Downtown. The next step should be to follow the General Plan guidelines regarding infill, and to attract anchors to the town.

In response to Question 7, Mr. Manne stated as a Planning Commissioner he has had experience with the General Plan. It is the City's principal policy planning document, which is vetted publicly by the Planning Commission and the Council, as well as end users and stake holders. Mr. Manne added he was part of the process to update the Plan in February of 2011. Part of the document includes the Growth Management Ordinance which details how, when and where future development will occur. Mr. Manne stated Developer Agreements could be used on some projects, but not on others. Mr. Manne stated today's banking systems want to see Developer Agreements to ensure development can move ahead. Developer Agreements have to be mutually beneficial to the City and the developer, and as long as they are used appropriately Mr. Manne stated he was in favor of Developer Agreements. Future growth needs to be market based and focused on jobs and amenities which will improve the City.

In response to Question 8, Mr. Manne stated he felt safe in his home but added his expertise is in finance. The City's focus is on maintaining a safe place to raise children and conduct business. Mr. Manne added he had spoken with Chief Hampton and has confidence in his strategy. The Council is blessed to have two Council Members with experience in public safety. Mr. Manne stated he would rely on Mr. Hampton's 29+ years of experience in law enforcement to fill staffing levels, combat gangs and to fulfill public safety responsibilities. Mr. Manne stated he was familiar with the process of prevention/intervention/suppression which is a great tool. As a Council Member he will receive updates to make sure the process is doing its job. If fiscal restraints impact public safety in the future, Mr. Manne added he would rely on the City Manager and the Police Chief to determine the best options so that the level of safety that he and the residents of Tracy have come to expect would not be jeopardized.

In response to Question 9, Mr. Manne stated he had reviewed the budget. The City's 2012/13 budget totals just over \$112.8 million, and the General Fund balance at the end of March was approximately \$23 million. As a Financial Advisor he believed fiscal reserves of 20 per cent for fiscal year 2012/13 were reasonable and add a buffer of protection. As Measure E expires the City will need to forecast and plan accordingly to

make sure it has the revenues to make up for Measure E. Mr. Manne added any surplus should be added to the reserves for economic uncertainty, and used to incentivize and attract new businesses and job makers to Tracy.

In response to Question 10, Mr. Manne stated he has had more experience than most with Capital Improvement Projects (CIPs). CIPs include all future improvements such as widening Grant Line Road, repaving Bessie Avenue, and the addition of a sports complex or an animal shelter. A shortage of funds extends the timeframe for CIPs to come to fruition. If an item is listed as a CIP it means the City had foresight in putting the project together and the project is more apt to get funding. Staff provides updates on the CIP process to the Planning Commission, and Mr. Manne stated he had seen priorities change over the last three years due to the lack of funds to complete a project. Mr. Manne added the City does a great job of informing the public and receiving public input, but added he would encourage even more public input on how the City prioritizes its CIPs.

In his closing statement, Mr. Manne stated the Council had heard from two capable and qualified applicants, and he thanked Mr. Morelos for his service to the community and for running a clean campaign. Mr. Manne asked Council for their nomination and their vote. Mr. Manne stated his appointment as a Planning Commissioner, his experience on San Joaquin Council of Governments and his Master's degree in finance will benefit the City during budget and finance discussions. Mr. Manne stated he understood the role of a Council Member and would not be beholden to any special interest group but would keep the best interests of Tracy in mind. Mr. Manne added that no matter who was selected he would support the Council's decision and work with everyone to make Tracy a special place. He thanked Council for their consideration and added he looked forward to the outcome.

Dan Sodergren, City Attorney, suggested that in order not to violate the Brown Act, the meeting should be opened up for public comment. Mayor Ives invited public comment.

Dave Helm stated the City was fortunate to have qualified Council Members and encouraged the Council to make an appointment so the City would have a full Council. Following the Council's decision, Mr. Helm asked for an explanation of why one candidate was chosen over the other candidate.

Mr. Morelos' daughter expressed support for her father, Ray Morelos.

Matthew Palomino expressed support for Ray Morelos and asked for feedback following the Council's decision.

Alma Morley, 4262 Middlefield Drive, expressed support for Charles Manne, and added she would like to see new people with different ideas appointed to the Council.

Linda Jimenez, P.O. Box 1065, stated the City has two qualified candidates; both are businessmen with financial backgrounds. Mr. Morelos has served the City as a former Council Member; Mr. Manne currently serves as a Planning Commissioner. Ms. Jimenez also commended Mayor Ives on his many successful elections and for the leadership that he has brought to the City.

John Morley, 4262 Middlefield Drive, expressed support for Charles Manne. Mr. Morley added that although both candidates have financial backgrounds Mr. Manne's degree and his experience as a Planning Commissioner are more recent.

Margaret Edwards, Gomes Court, Tracy resident for 23 years, agreed with Ms. Morley and expressed her support for Charles Manne.

Mayor Ives invited Council comment.

Mayor Pro Tem Maciel thanked all three candidates and commented on the high quality of their campaigns. The City is fortunate to have two exceptional individuals. Mr. Morelos is a gentleman who has a long history with the City and is deeply involved with the community. Mayor Pro Tem Maciel added he agreed with Mr. Morelos' comment that the Downtown should now stand up for itself, but disagreed with his comment regarding continuing Measure E. Mr. Manne's experience is more recent; he has experience with the Council of Governments, and specific expertise in budgets, growth and the CIP process. Mayor Pro Tem Maciel expressed support for Mr. Manne, and congratulated both candidates on having done an excellent job.

Mayor Ives stated he was looking for the best candidate for the City. Mayor Ives added that person needs to:

- understand issues and opportunities, especially fiscal issues;
- have a great view of economic development;
- recognize the opportunities related to the 580 corridor;
- have a good grasp of the current General Plan and Downtown Specific Plan;
- understand and be passionate about economic development, budget issues and Measure E.

Mayor Ives expressed his support for Mr. Manne, for his relevant current experience, his views on the 580 corridor, his knowledge of fiscal issues, including the budget, and his position on Measure E.

Council Member Rickman stated both candidates recognize the importance of public safety, improving the quality of life in Tracy, budgeting, and bringing more jobs to town. However, regarding community involvement Council Member Rickman stated that after leaving the Council in the 1980s, Mr. Morelos stayed in town, worked and became involved in the community. Council Member Rickman expressed his support for Mr. Morelos.

Council Member Young stated both candidates are smart men, business people with different experiences. Both have their own businesses, although Mr. Manne has more financial expertise. Council Member Young added it was important to have fresh ideas as the City moves forward, although she did not believe that an older candidate would not have fresh ideas. Council Member Young stated both men are involved in various civic organizations in Tracy and pointed out that Mr. Morelos had remained in the community since he left the City Council. However, as a Planning Commissioner Mr. Manne's experience is more current, and Council Member Young added she agreed with Mr. Manne's opposition to extending Measure E. Council Member Young commented



on how much experience she had gained during the past two years, and pointed out there would be another election in 2014. Council Member Young expressed her support for Mr. Morelos for his experience, forward thinking and for his value to the Downtown.

Mayor Ives requested a motion. Mayor Pro Tem Maciel motioned to appoint Charles Manne to fill the vacant seat on the City Council. Mayor Ives seconded the motion. Roll call vote found Mayor Pro Tem Maciel, and Mayor Ives in favor; Council Member Rickman and Council Member Young opposed. The motion failed due to a tie vote 2:2.

Council Member Young motioned to nominate Ray Morelos for City Council. Council Member Rickman seconded the motion. Roll call vote found Council Member Young and Council Member Rickman in favor; Mayor Pro Tem Maciel and Mayor Ives opposed. The motion failed due to a tie vote 2:2.

Mayor Ives stated the Council was deadlocked and asked Dan Sodergren, City Attorney for other options. Mr. Sodergren stated if Council fails to make an appointment within 60 days of the vacancy, it will automatically go to a special election. The 60-day period will run until February 15, 2013.

Mayor Pro Tem Maciel motioned to direct staff to prepare for a special election. The motion failed due to the lack of a second.

Mayor Ives asked Maria Hurtado, Assistant City Manager, to comment on how other cities handled similar situations.

Ms. Hurtado referred to a memo which had been distributed to Council prior to the meeting. Ms. Hurtado stated the Council determines the process to fill a vacant Council seat. However, the research showed there is no specific uniform procedure. Most cities utilize an open application process to avoid a special election. The City of Pleasanton has a local ordinance that requires a special election be conducted, by mail, to fill a vacant Council seat. Ms. Hurtado stated the Council could conduct another round of discussions or hold a special election, but emphasized the decision is up to the Council.

Mayor Ives summed up the options which included hearing more from the candidates this evening, continuing the process to another Council meeting, a candidate could bow out, or a special election could be held.

In response to a question from Council Member Young, Mr. Sodergren stated a special election would be open to all candidates and could be conducted through an all mail ballot. The timing would be the same; the cost may be different.

Maria Hurtado, Assistant City Manager, added the Council also has the option to conduct an open application process before February 15, 2013, which would allow any Tracy resident to apply for the position prior to a special election being held. Council Member Young stated she was not in favor of opening up the process to more candidates.

Mayor Ives suggested the interview process could be repeated with the two candidates or it could be opened up to more applicants; the Council could continue to hear more

from the two candidates tonight; or, if a decision cannot be made a special election would be held in June 2013. Continuing the process would give the Council the basis for another round of nominations. However, if the end result is the same then the process would be futile. Mayor Ives added that unless there are any other ideas on furthering the process between these two candidates or opening up the process to include other applicants, then the only other option is a special election.

Council Member Rickman stated another session could possibly result in the same vote. A special election could cost the City \$250,000, would not be fiscally responsible and could not take place until June 2013. The possibility of more deadlocked decisions could jeopardize the economic development gains the City has made. Council Member Rickman stated the City is on the right track and he did not want to jeopardize any future possibilities. The Council has two great candidates, and needs to come together for the common good. Council Member Rickman stated he believed the strength of a City Council is determined by the difficulty it is able to overcome. Council Member Rickman added it is not possible to please everyone, but whoever is appointed will be welcome and the Council will work hard to make Tracy a better place. The City has two great candidates, both with strong support. Council Member Rickman suggested taking the candidates out of it, and considering what would be best for the City. Tracy is a unique City with a small town atmosphere and Council needs to put this aside and work together. Council Member Rickman stated that for the sake of the town he would change his nomination.

6. Appointment of Successful Candidate - Council Member Rickman motioned to appoint Charles Manne to the City Council. Mayor Pro Tem Maciel seconded the motion. Roll call vote found Council Member Rickman, Mayor Pro Tem Maciel and Mayor Ives in favor; Council Member Young opposed. Motion carried 3:1.
7. Swearing In Ceremony – Mayor Ives congratulated Mr. Manne and administered the Oath of Office. Council Member Manne took his seat on the dais.
8. Adjournment – Mayor Pro Tem Maciel motioned to adjourn the meeting. Council Member Rickman seconded the motion. Voice vote found all in favor; passed and so ordered. Time: 7:04 p.m.

The agenda was posted at the Tracy City Hall on January 10, 2013. The above are summary minutes. A recording is available from the City Clerk's office.

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Mayor

Attest:

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City Clerk