

May 7, 2013, 5:45 p.m.

Council Chambers, 333 Civic Center Plaza

Web Site: www.ci.tracy.ca.us

1. Chairperson Rickman called the meeting to order at 5:45 p.m.
2. Roll Call found Directors Maciel, Thoming, Vieira and Chairperson Rickman present.
3. Items from the Audience - None.
4. **CONSIDERATION OF A RESOLUTION APPROVING THE EXERCISE OF POWERS AGREEMENT ESTABLISHING THE TRACY PUBLIC FINANCING AUTHORITY BETWEEN THE CITY OF TRACY AND THE SOUTH COUNTY FIRE AUTHORITY –** Robert Harmon, Senior Accountant, provided the staff report. For many kinds of municipal debt voter approval is required. For example, when forming a Community Facilities District (CFD) – also commonly known as a Mello-Roos District, the formation of such a district is initiated by a vote of either the land owners or the registered voters within the district (depending upon how many registered voters there are within the boundaries of the proposed district). Bonds are then issued within the parameters for the CFD which are established by the voters at the same time and these include such matters as the total amount of bonds authorized to be issued and the maximum tax and tax rate method each property will be subject to.

In the past it was common that the initial bonds were issued prior to development of the properties within the district. For example, the City's CFD 98-1 and CFD 98-3 districts issued bonds prior to development. Subsequently these properties were developed and over 6,000 homes were constructed. A bond owner's security was greatly enhanced from the time of the initial bond issue when the land within the CFD had no development until the time of substantial build out of the district (with over 6,000 homes mostly individually owned). Due to the improved security (lien to value ratios), it has often been possible to subsequently refinance the original debt at lower interest rates thereby providing a combination of reduced special taxes and the funding of new project money.

In order for the City to take advantage of refinancing opportunities due to declining interest rates and improved credit worthiness of various districts, the City used the legal structure of the Tracy Operating Partnership Joint Powers Authority (TOPJPA) as the mechanism to issue such debt. The TOPJPA is a joint powers authority formed between the City of Tracy and the Tracy Community Development Agency (a redevelopment agency) over a decade ago. Since that time the TOPJPA has issued over \$100 million in tax exempt municipal bonds. Approximately 80% of these were for the purposes of refinancing existing debt at lower interest rates. The other 20% was through the issuance of lease back financing.

The use of TOPJPA has provided the City the opportunity to prudently issue municipal debt which due to its tax exempt nature (the bond owners do not have to pay federal or California state income taxes on the interest received) is a low cost form of debt

financing. The City's total annual General Fund debt service is \$1.2 million compared to a total General Fund budget of \$50 million; debt therefore being just 2.4%.

Anything under 5% is generally considered a prudent General Fund debt service level. Municipal debt is commonly used to finance large infrastructure items such as wastewater facilities and lines, buildings and other items that with long useful life. For example, the Tracy Rural Fire District entered into a 10 year municipal lease/debt structure in order to provide funding for construction of Station 93 (New Jerusalem). Like most home owners who could have never purchased their homes without the use of a mortgage (debt), municipal governments also have needed to debt finance big ticket items. Often the financing of such infrastructure removes an impediment to development for not only residential purposes but also for commercial and industrial development – the latter of which is crucial for the City's economic development efforts to secure jobs and sales tax. The City would like to continue to have use of the TOPJPA in the future to facilitate financing of such matters.

Legislation (AB 26) signed by the Governor eliminated all redevelopment agencies in the State of California effective February 1, 2012. This means the Tracy Community Development Agency no longer exists and it was one of the two agencies (the other being the City of Tracy) which formed the TOPJPA. As such the TOPJPA cannot be used in its current form to issue debt in the future (existing TOPJPA issued bonds are not affected). The City therefore would like to create a new Joint Powers Authority to facilitate debt financing in the future and needs another public agency to join in the creation of such. The South County Fire Authority is a local public agency that could join with the City of Tracy to create a new Joint Powers Authority (JPA) for this purpose.

There are two major reasons why the City is requesting the South County Fire Authority to create a new JPA with the City of Tracy. First, since the new JPA would facilitate the issuance of debt to assist in the financing of infrastructure necessary for new development, the taxes generated from such provide additional funding for fire services. For example, virtually all new growth areas of the City are also within the boundaries of the Tracy Rural Fire District. As such, Tracy Rural will receive its share of property taxes (about 11 cents of every dollar paid in property tax) plus the 3 cents per square foot special fire tax. New development therefore improves the financial resources of Tracy Rural which currently funds approximately 30% of all costs of fire services provided by the South County Fire Authority.

Secondly, the City of Tracy is requesting the South County Fire Authority to join the City in the creation of a new JPA because it fosters local cooperative relationships that have a benefit of reducing costs for residents and businesses. The City can form a new JPA with a statewide organization designed for this purpose but this organization charges a fee of \$30,000 to \$40,000 to do so. By forming a new JPA with another local agency such as the South County Fire Authority this fee can be avoided. An on-going cooperative relationship between the City, Tracy Rural, and the South County Fire Authority serves all parties.

By forming a JPA with the City of Tracy neither the South County Fire Authority nor its member agencies (Tracy Rural and the City of Tracy) are exposed to any debt liability of the JPA. Payment of bonds is strictly limited to the revenues associated with such bond issue. Government Code Section 6508.1 permits the JPA agreement to be written so that the debts of the JPA are not debts of the members of the JPA. As such, if the City and

the South County Fire Authority formed a new JPA for financing purposes as requested by the City, the following section would be part of the formation agreement:

Section 2.03. Non-Liability of Members and Directors For Obligations of Authority.

The debts, liabilities and obligations of the Financing Authority shall not be the debts, liabilities and obligations of any of the Members. No member, officer, agent or employee of the Financing Authority is individually or personally liable for the payment of the principal of or premium or interest on any obligations of the Financing Authority or be subject to any personal liability or accountability by reason of any obligations of the Financing Authority. Nothing herein contained relieves any such member, officer, agent or employee from the performance of any official duty provided by law or by the instruments authorizing the issuance of any obligations of the Financing Authority.

No Member shall assume any liability or responsibility for any debts, liabilities or obligations which may be incurred by the other Member in connection with the issuance of bonds or otherwise, and no Member shall assume any liability or responsibility for any debts, liabilities or other obligations of the Financing Authority.

The proposed name for the new JPA would be the "Tracy Public Financing Authority" and it would be formed upon the approval and execution of the Exercise of Powers Agreement between both the City of Tracy and the South County Fire Authority. After this action to form the Authority, it is not anticipated that there would be any necessity for future actions by the South County Fire Authority Board related to the Tracy Public Financing Authority. The Board of Directors of the financing authority would be the members of the Tracy City Council. Whenever the Tracy Public Financing Authority is used for the purposes of issuing debt, all matters related to that specific debt issue would be considered by the Board of the new JPA as well as by the City Council. Since City Council Members would also serve as Board Members of the new JPA, it is anticipated that meetings of both the City Council and the new JPA would be held jointly during the time of regularly scheduled City Council meetings.

There is no fiscal impact to the City of Tracy or the South County Fire Authority in forming the Tracy Public Financing Authority. The cost of legal services to prepare the Exercise of Powers Agreement are covered within the fee for bond counsel services which will be paid from bond proceeds upon closing of the first bonds issued by the financing authority. Also the City could avoid a General Fund expense of \$30,000 to \$40,000 – the fee charged by a Sacramento organization to create a financing authority using that organization and the City of Tracy.

Staff recommended that the Board of Directors of the South County Fire Authority approve and authorize the Exercise of Powers Agreement between the City of Tracy and the South County Fire Authority to form the Tracy Public Financing Authority.

Director Maciel asked if the action had anything to do with the day-to-day operations of the Fire Department or if it was solely a funding mechanism for capital projects. Mr. Harmon stated it was solely a funding mechanism for issuing debt for capital projects.

Chairperson Rickman asked if this action would save the City between \$30,000 and \$40,000. Mr. Harmon stated yes.

There were no audience members wishing to address the Fire Authority.

It was moved by Director Maciel and seconded by Director Thoming to adopt Resolution 2013-003 approving and authorizing the Exercise of Powers Agreement between the City of Tracy and the South County Fire Authority to form the Tracy Public Financing Authority. Voice vote found all in favor; passed and so ordered.

5. Adjournment - It was moved by Director Maciel and seconded by Director Thoming to adjourn. Voice vote found all in favor; passed and so ordered. Time: 5:58 p.m.

The above are summary minutes. The above agenda was posted at Tracy City Hall on May 2, 2013.

Chairperson

Attest:

Secretary