

July 16, 2013, 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 7:11 p.m. and led the Pledge of Allegiance.

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

Roll call found Council Members Manne, Rickman, Young, Mayor Pro Tem Maciel and Mayor Ives present.

1. CONSENT CALENDAR - Following the removal of item 1-G by a member of the audience, it was moved by Mayor Pro Tem Maciel and seconded by Council Member Rickman to adopt the Consent Calendar. Roll call vote found all in favor; passed and so ordered.
 - A. Approval of Minutes – Regular meeting minutes of May 7, 2013, May 21, 2013, and Special meeting minutes of May 21, 2013, were approved.
 - B. Authorize the Mayor to Sign a Quitclaim Deed Conveying Vacated Right-of-Way on Schulte Road to the Tracy Public Cemetery District, and Authorize the City Clerk to File the Quitclaim Deed with the San Joaquin County Recorder – Resolution 2013-100 authorized the Mayor to sign the Quitclaim Deed.
 - C. Acceptance of the Tracy Airport Fixed Base Operator (FBO) Meter – CIP 77035A, Completed by Bockmon & Woody Electric Co., Inc. of Stockton, California, and Authorization for the City Clerk to File the Notice of Completion - Resolution 2013-101 accepted the project.
 - D. Acceptance of the Corral Hollow Road Pavement Repair and Resurfacing (North of Linne Road to Peony Drive) – CIP 73127, (Federal Project Number RSTP-5192 (036), Completed by Knife River Construction of Stockton, California, and Authorization for the City Clerk to File the Notice of Completion - Resolution 2013-102 accepted the project.
 - E. Award a Construction Contract for Traffic Related Capital Improvement Projects (CIP 72072, 72080, and 72083) and Authorize the Mayor to Execute the Contract - Resolution 2013-103 awarded the construction contract.
 - F. Acceptance of the Bus Stop Improvements Project (Phase II) on Various City Streets - CIP 77539, Federal Transportation Improvement Program (TIP) No. 212-0000-0457, Grant No. CA-96-X003, Completed by American Asphalt, Inc., of Hayward, California, and Authorization for the City Clerk to File the Notice of Completion - Resolution 2013-104 accepted the project.
 - G. Authorize an Appropriation of \$10,810 from the 2013 Edward Byrne Memorial Justice Assistance Grant (JAG) Program for the Purchase and Installation of Enhanced Technology for the Tracy Police Department's Law Enforcement Programs - Police Chief Gary Hampton, provided the staff report. The Edward Byrne Justice Grant (JAG) Program (42 U.S.C. 3751(a)) is the primary provider of

Federal criminal justice funding to State and local jurisdictions. JAG funds support all components of the criminal justice system by improving the effectiveness and efficiency of criminal justice systems, processes and procedures.

Agencies are allowed to use this grant to support a broad range of activities to prevent and control crime based upon local needs and conditions. The Tracy Police Department has determined the most appropriate use of this grant is to purchase and install several components of technology to enhance the safety of citizens.

The Tracy Police Department intends to purchase electronic digital recorders, surveillance equipment, and automated external defibrillators. The City of Tracy will receive \$10,810 from the 2013 Federal JAG Program. There is no negative impact to the current fiscal budget as no City match is required. Accepting this grant funding requires the funds to be appropriated from the Federal JAG Program and \$10,810 added to the Police Department's Operating Budget.

Staff recommended that Council authorize acceptance of the grant and the appropriation of \$10,810 from the Federal JAG Program to the Police Department's Operating Budget for the purchase of electronic digital recorders, surveillance equipment, and automated external defibrillators.

Paul Miles asked what the nature of the surveillance equipment was and what measures were in place to ensure it was not misused, stating Tracy Police has a record of recording individuals without their knowledge. Police Chief Hampton stated Mr. Miles has not filed a formal complaint specific to the issues he brought up. Police Chief Hampton further stated that Mr. Miles has filed complaints and those complaints have been responded to. In response to the question, Police Chief Hampton stated the grant would be used to purchase remote video recorders which allow police personnel to monitor suspect activity without establishing police presence from several miles up to several hundred feet away.

It was moved by Council Member Rickman and seconded by Mayor Pro Tem Maciel to adopt Resolution 2013-105 authorizing acceptance of the grant and the appropriation of \$10,810 from the Federal JAG Program to the Police Department's Operating Budget for the purchase of electronic digital recorders, surveillance equipment, and automated external defibrillators. Voice vote found all in favor; passed and so ordered.

2. ITEMS FROM THE AUDIENCE – Paul Miles addressed Council regarding comments made by Mayor Pro Tem Maciel at a previous Council meeting pertaining to Mr. Miles' website. Mr. Miles commented on the unfortunate actions of individuals against Council Member Young.
3. PUBLIC HEARING TO CONSIDER A PROPOSED INCREASE TO WASTEWATER RATES AND INTRODUCTION OF AN ORDINANCE TO REVISE WASTEWATER RATES – Steve Bayley, Project Specialist, provided the staff report. The goal of any rate setting process is to establish the fair and equitable distribution of costs among users. The 2013 Wastewater Revenue Program Update has been prepared by CH2M Hill using the City's wastewater revenue program model. A City Council workshop on the

rate study was held on April 16, 2013, to review the update. This study calculates rates based on revenue requirements for the upcoming years. The rate study recommendation is for a rate increase for the single-family home as well as rate increases for the multifamily, commercial, and industrial user classes. Expenses have been carefully managed and wastewater rates were last increased in 2006.

The need for the proposed rate increase is in large part to fund the construction of a second outfall pipeline project. The existing outfall pipeline was installed in the late 1970's so it will be nearly 40 years old by the time a second outfall can be constructed. The existing outfall is comprised of asbestos cement pipe. Asbestos cement is a very brittle material which can be easily damaged. There is currently only one outfall pipeline which makes it a single point of failure, meaning if the pipeline broke the City would have no other way to dispose of nine million gallons per day of treated wastewater. Were there to be a significant release of treated wastewater to the environment, there would likely be significant regulatory fines and the potential for third party lawsuits. The existing outfall pipeline is at capacity. The new, second outfall pipeline would parallel the existing outfall pipeline and would be approximately 3.5 miles long. Final design and permitting are nearly complete and the project will be ready for bidding this year. A redundant pipeline is needed in order to ensure continued long-term reliable disposal of the treated wastewater effluent.

Wastewater rates are calculated using the quantity of wastewater discharged (Flow) as well as the strength of the wastewater (BOD and Suspended Solids). Different types of users have different volumes and strengths of wastewater. The rate study establishes rates for user categories in proportion to Flow, BOD and Suspended Solids. Leprino Foods, as a large industrial user, has flow measured and samples taken daily in order to determine accurate monthly charges.

The proposed rate for a single-family home is to increase to \$34.00 per month. The current charge is \$31.00. Property owners were mailed a notice of the proposed increase indicating that a public hearing on the matter would be held at the City Council meeting on July 16, 2013. If a majority protest does not exist, the Council may act on the proposed increase to the wastewater system charges. A majority protest would be a majority of the owners of the parcels affected by the rate increase.

The proposed rate increase is needed to fund the Wastewater Enterprise Fund's share of the outfall pipeline project. The outfall pipeline project is to construct a new 42 inch diameter pipeline which will be 3.5 miles long with the associated pumping facilities. The new pipeline will have a capacity of 16 million gallons per day (mgd) and its estimated cost is \$25 million. The existing ratepayers' share of the project is a proration based on existing flow and new pipeline capacity. The existing flow is nine mgd, so the ratepayers' share would be 9/16, or 56%, which equals \$14 million. This cost may be financed with bonds. New developments' share of the project would be \$11 million.

Staff recommended that the Mayor open the public hearing and, upon close of the hearing, if there is not a majority protest, that Council introduce the ordinance to revise wastewater rates.

Council Member Manne asked what the lifecycle of the existing pipeline was. Mr. Bayley stated the existing pipeline was nearly 40 years old. Mr. Bayley added that the pipeline broke once 15 years ago. Mr. Bayley further stated it was prudent risk management to

replace the pipeline before it fails. Council Member Manne asked when a second replacement might be necessary. Mr. Bayley stated with new materials a new pipeline could last approximately 60-80 years.

Council Member Manne asked if it was fair to say the current system needed to be replaced immediately. Mr. Bayley indicated staff has been working on the project for five years, obtained permits which took three years, and to delay the project further may subject it to new environmental guidelines which would be more expensive.

Council Member Manne asked Mr. Bayley to provide an example of a catastrophic event. Mr. Bayley explained that if the pipe broke or was damaged, the City would have to shut down the treatment plant to repair the pipeline. Also, if the pipe broke, water could be discharged onto private property or into the river at a rate of nine million gallons per day, which could subject the City to severe fines.

Mayor Ives opened the public hearing.

A member of the public asked if the \$3 increase just covered the pipeline or included maintenance of the plant. Mr. Bayley explained that a portion of the fee goes to the outfall pipeline and a portion to cover the increased rates of the collection systems. Mr. Bayley added that 56% of the \$25 million cost would be borne by rate payers, and the remainder paid by future development.

The resident asked how long it would take to pay off the bond. Mr. Bayley indicated the term of the bond would be 20 or 30 years.

Paul Miles asked what size of a community could be supported by the new pipeline. Mr. Bayley stated the new pipeline would be capable of discharging 16 million gallons per day.

As there was no one further wishing to address Council, the public hearing was closed.

Council Member Rickman asked when the rate increase would take effect. Mr. Bayley stated sometime in September 2013. Council Member Rickman asked when the project would go out for bids. Mr. Bayley indicated sometime in January 2014, with an award in February or March 2014. Mr. Bayley added the bond sale would probably occur at the same time.

Council Member Rickman indicated he would like an agenda item to discuss the fees in relation to the bid amount. Mayor Ives suggested the future agenda item for awarding the contract include a discussion regarding the increased fee versus the contract cost. Council Member Rickman stated Council should be able to take action on the discussion when the award of contract returns to Council for adoption.

Mayor Ives indicated the action is necessary to protect a public asset.

The Clerk read the title of proposed Ordinance 1185. It was moved by Council Member Rickman and seconded by Council Member Manne to waive the reading of the text. Voice vote found all in favor; passed and so ordered.

It was moved by Council Member Rickman and seconded by Mayor Pro Tem Maciel to introduce Ordinance 1185. Voice vote found all in favor; passed and so ordered.

4. APPROVE RESPONSES TO THE SAN JOAQUIN COUNTY GRAND JURY REPORT ON THEIR REVIEW OF (1) PUBLIC SAFETY IN SAN JOAQUIN COUNTY (CASE NO. 0912); (2) SAN JOAQUIN COUNTY MOSQUITO AND VECTOR CONTROL BOARD (CASE NO. 1112); (3) IMPROVING DISPOSAL OF CITY AND COUNTY SURPLUS PUBLIC ASSETS (CASE NO. 0312) AND AUTHORIZE THE MAYOR TO SIGN THE RESPONSES – Police Chief Gary Hampton provided the staff report. The 2012-2013 San Joaquin Grand Jury (Grand Jury) studied (1) the County's law and justice system in an effort to develop ideas to help reduce crime throughout the County; (2) the Mosquito and Vector Control District's Brown Act compliance and other issues; and (3) improving disposal of City and County surplus public assets.

Regarding the 2012-2013 San Joaquin Grand Jury report on Public Safety in San Joaquin County, the Grand Jury report addressed three areas within the law and justice system: law and justice staffing; county jail capacity; and law enforcement leadership.

Regarding the 2012-2013 San Joaquin Grand Jury report on the Mosquito and Vector Control Board, the Grand Jury investigation was structured to focus on five specific issues: lack of transparency and compliance with the Brown Act at District Board meetings; lack of understanding about action related to health insurance benefits; Trustees' knowledge of District finances; appointment of Trustees to the District Board; and the best governance structure of the District Board to serve the public.

Regarding to the 2012-2013 San Joaquin Grand Jury report on improving disposal of City and County surplus public assets, the Grand Jury report investigated the disposition of local government's surplus public assets, in an effort to promote public transparency and consistency while disposing of capital assets.

Staff recommended that City Council approve the City's responses to the San Joaquin County Grand Jury reports and authorize the Mayor to sign each of the three response letters.

Council Member Rickman asked if the City had a gang unit. Police Chief Hampton stated yes; the City has an officer deployed to a regional special enforcement team that not only deals with street violence, but focuses on gang activity.

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

Robert Tanner stated he was surprised that the City does not have a policy regarding the disposal of assets. Dan Sodergren, City Attorney, clarified that the City does have general procedures in the Tracy Municipal Code for real property and surplus equipment and supplies. Mr. Sodergren explained that the Grand Jury wants additional administrative procedures in place regarding disposition of equipment and vehicles.

Mayor Ives indicated the City's responses are appropriate.

Council Member Rickman referred to the Grand Jury responses regarding pulling resources to help Stockton. Police Chief Hampton indicated the City of Tracy will assist the City of Stockton or another city when it benefits the City of Tracy. Police Chief

Hampton added that he would rather deal with crime in another city before it reaches Tracy.

It was moved by Mayor Pro Tem Maciel and seconded by Council Member Rickman to adopt Resolution 2013-106 approving responses to the San Joaquin County Grand Jury Report on their review of (1) Public Safety in San Joaquin County (Case No. 0912); (2) San Joaquin County Mosquito and Vector Control Board (Case No. 1112); (3) Improving disposal of City and County surplus public assets (Case No. 0312), and authorizing the Mayor to sign the response letters. Voice vote found all in favor; passed and so ordered.

5. APPROVE A PROFESSIONAL SERVICES AGREEMENT (PSA) WITH CH2MHILL FOR DESIGN AND PREPARATION OF IMPROVEMENT PLANS AND CONSTRUCTION DOCUMENTS FOR CORRAL HOLLOW ROAD SEWER AND WATER SYSTEM IMPROVEMENTS REQUIRED TO SERVICE SOUTH SIDE DEVELOPMENTS IN ACCORDANCE WITH THE CITY'S APPROVED MASTER PLANS AND DETERMINE THE FORMAL REQUEST FOR PROPOSAL PROCEDURE IS NOT IN THE BEST INTEREST OF THE CITY IN THIS INSTANCE – Kuldeep Sharma, City Engineer, provided the staff report. Citywide Water and Wastewater Master Plans were adopted by City Council on January 15, 2013. In order to serve new south side developments within the City, new sewer and water lines need to be designed and constructed on Corral Hollow Road. Since these lines will be crossing the Delta Mendota Canal (DMC-owned and operated by the Bureau of Reclamation and the San Luis – Delta Mendota Water Authority) and California Aqueduct (owned and operated by the California Department of Water Resources) along with Union Pacific Railroad Tracks (UPRR) and WSID Canal, the design and construction will need to meet requirements of these agencies. The proposed water and wastewater utility system will require multiple permits from various Federal, State, and local agencies. In addition, pump station, force mains, and improvements to the existing sewer lines need to be constructed to serve the new developments.

Since the majority of the infrastructure is essential to service Tracy Hills, the developers have agreed to fund their portion of the cost of design of the infrastructure upfront. The City will pay the remaining cost of this from Development Impact Fees already collected from Standard Pacific for the Muirfield subdivision. Due to the complexity of the work and involvement with various agencies, services of an experienced consultant are needed to complete this work.

Staff has received and negotiated a proposal from CH2MHill to complete the task for design, completion of improvement plans, and construction bid documents for a cost not to exceed \$2,360,000. Tracy Hills developers have also reviewed the proposal and have requested the City to acquire the services of CH2MHill for this task.

CH2MHill is a world renowned consultant, specializing in this type of utility work. They are familiar with the City's infrastructure and have worked with Federal and State agencies. Staff recommended that Council determine the formal request for proposal procedure is not in the best interest of the City and award the contract to complete the design of the Corral Hollow Road Sewer and Water System Improvements to CH2MHill in accordance with section 2.20.140 of the City of Tracy Municipal Code.

Tracy Hills developers are working with the City to enter into a cost recovery agreement to address staff timing and cost of other services. This PSA will not be executed until the cost recovery agreement is executed by the developer.

The item is consistent with the City's Economic Development Strategy and meets goals to ensure physical infrastructure and systems necessary for development.

A portion of the cost of services under the recommended PSA with CH2MHill will be borne by Tracy Hills and the remainder of the cost will be paid by the City from Wastewater Development Impact Fees already received from Standard Pacific Developers for the Muirfield subdivision as follows:

Total Cost of the Professional Services Agreement	\$2,360,000
Tracy Hills Cost	\$1,710,131
City of Tracy Cost (Paid by Standard Pacific)	\$ 649,869

Authorization to proceed will be limited to the existing funds that have already been received by Standard Pacific and to the amount which will be received from Tracy Hills development.

Staff recommended that City Council; 1) Determine the formal request for proposals procedure is not in the best interest of the City in this instance; and approve a Professional Services Agreement (PSA) with CH2MHill for the design and preparation of improvement plans and construction documents for Corral Hollow Road Sewer and Water Improvements for a not-to-exceed cost of \$2,360,000.

Council Member Rickman asked why the City did not go out to bid. Mr. Sharma stated the selection of consultants is based on qualifications. Mr. Sharma stated staff sends out a request for proposals and the consultant is chosen based on their qualifications and experience.

Council Member Rickman asked how the City knows if the contract is competitive if it does not go through the bidding process. Mr. Sharma stated the bidding process is usually limited to construction contracts which include competitive bidding and sealed bid documents.

Council Member Rickman stated on its face it looks like a monopoly. Council Member Rickman asked what the original price was for the consultant. Mr. Sharma stated when negotiations began they started at \$35,000 - \$45,000.

Council Member Young stated she was also concerned that the bidding process was not followed.

Mayor Ives asked the City Attorney to explain the process. Dan Sodergren, City Attorney explained that public works construction contracts are governed by State law and anything over \$5,000 has to go out for bid and awarded to lowest responsible bidder. The contracting of consultant services procedures is governed by municipal code. In the City's purchasing ordinance for consultant services a provision states that if the contract is under \$50,000 an informal request for proposal procedure can be followed; contracts over \$50,000 require the City to obtain at least three proposals. Mr. Sodergren further explained that the City can also take into account the proposers past

experience or other items such as a local business preference. This is usually stipulated in the request for proposals.

Mayor Pro Tem Maciel asked if the City has contracted with other consultants other than CH2MHill on similar projects. Mr. Sharma listed various companies the City had used in the past.

Mayor Pro Tem Maciel asked if any General Fund monies were involved. Mr. Sharma stated no. Mayor Pro Tem Maciel asked if Tracy Hills believed it was in their best interest. Mr. Sharma stated yes.

Council Member Manne asked if stakeholders other than Tracy Hills were involved in the selection process. Mr. Sharma stated three developments would benefit from the project and all were made aware of the proposal and provided a copy of the Agreement.

Council Member Manne asked how removing the bid process could impact the timeline for completion of the project. Mr. Sharma stated the developer's goal was to complete the design and environmental work within their own timeline.

Council Member Rickman asked how many times over the last few years has the City used CH2MHill. Mr. Sharma stated the last major project completed by CH2MHill was the relocation of a force main on the north side of the City.

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

Robert Tanner asked if the new project would be paid by the development community or would it cause a rate increase. Mr. Sharma stated the design and construction of the project will be paid by the development community with no rate increase to users.

Mayor Ives asked if the pipeline would be depreciated and money put aside for its replacement in the future. Mr. Sharma stated yes.

Mike Souza, Tracy Hills, stated the reason they wanted to use CH2MHill was because they would be able to prepare plans quicker, and their permitting experience with other entities was extensive.

Council Member Rickman asked Mr. Kumar if he understood his perspective regarding bidding the project. Vijay Kumar, CH2MHill, outlined the number of projects they have successfully bid on and received which totals less than ten percent of the jobs.

Council Member Rickman indicated he wanted to ensure that the City was getting the best deal. Mr. Kumar outlined the project, the experience of his staff and how he adjusted prices. Mr. Kumar stated he believed he was providing the City with the best price.

It was moved by Council Member Manne and seconded by Council Member Rickman to adopt Resolution 2013-107 approving a Professional Services Agreement with CH2MHill for design and preparation of improvement plans and construction documents for Corral Hollow Road sewer and water system improvements required to service south side developments in accordance with the City's approved master plans and determining the

formal request for proposal procedure is not in the best interest of the City in this instance. Voice Vote found all in favor; passed and so ordered.

6. ITEMS FROM THE AUDIENCE – None.

7. STAFF ITEMS

- A. Receive and Accept the City Manager Informational Update – Leon Churchill, Jr., City Manager, provided the report. Council accepted the City Manager's informational update.

8. COUNCIL ITEMS

- A. Council Designation of Voting Delegate and up to Two Voting Alternates for the League of California Cities 2013 Annual Conference Business Meeting – Mayor Ives stated he wanted to be sure that the City was well represented on any tax sharing item. Mayor Pro Tem Maciel indicated he attended last year and would attend this year as well. Council Member Young indicated she would like to attend as well.

Mayor Pro Tem Maciel was designated as the voting delegate and Council Member Young was designated as the alternate for the League of California Cities 2013 Annual Conference Business Meeting.

Council Member Rickman encouraged everyone to take advantage of the many events happening throughout the City this summer.

9. ADJOURNMENT - It was moved by Mayor Pro Tem Maciel and seconded by Council Member Rickman to adjourn. Voice vote found all in favor; passed and so ordered. Time: 8:53 p.m.

The above agenda was posted at the Tracy City Hall on July 11, 2013. The above are summary minutes. A recording is available at the office of the City Clerk.

Mayor

City Clerk