

**November 19, 2013, 7:00 p.m.**

City Council Chambers, 333 Civic Center Plaza

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

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

The invocation was provided by Pastor Kevin James, New Creation Bible Fellowship.

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

Wayne Schneider and Bill Swenson presented the Sports Hall of Fame plaque to Mayor Ives.

1. CONSENT CALENDAR - It was moved by Council Member Rickman and seconded by Council Member Young to adopt the consent calendar, minus Item 1-D. Roll call vote found Council Members Rickman, Young, and Mayor Ives in favor; Council Member Manne and Mayor Pro Tem Maciel absent. It was moved by Mayor Ives and seconded by Council Member Young to adopt consent item 1-D. Voice vote found Council Member Young and Mayor Ives in favor; Council Member Manne and Mayor Pro Tem Maciel absent; Council Member Rickman abstained.
  - A. Approval of Minutes – Regular meeting minutes of September 17, 2013, were approved.
  - B. Rescind Resolution 2012-247 Approving Utility Agreements with Pacific Gas & Electric (PG&E) and the West Side Irrigation District for Relocation and Modification of Their Facilities for the Eleventh Street East Tracy Overhead Bridge Replacement Project CIP 73063 and Federal Project Number BHLS-5192(020) and Approve New Agreements to Include Buy American Requirements as Required by the Federal Highway Authority on Federally Funded Projects and Authorize the Mayor to Execute the Agreements – Resolution 2013-174 rescinded Resolution 2012-247 and approved the Agreements.
  - C. Authorize the Mayor to Sign a Memorandum of Understanding (MOU) Between the City of Tracy and the Women’s Center Youth and Family Services in Order to Enhance Community Education, Prevention and Recovery for Victims of Domestic Violence and Sexual Assault – Resolution 2013-175 authorized the Mayor to sign the MOU.
  - D. Authorize the City Manager and Chief of Police to Execute a Memorandum of Understanding (MOU) Between the Regional Auto Theft Team (RATT) Task Force to Jointly Combat Vehicle Theft Crimes July 1, 2013, through June 30, 2015 – Resolution 2013-178 authorized the City Manager and Chief of Police to execute the MOU.
  - E. Authorize the City Manager and Chief of Police to Execute a Memorandum of Understanding (MOU) Between the County of San Joaquin Metropolitan

Narcotics Task Force (METRO) from July 1, 2013, to June 30, 2016 – Resolution 2013-176 authorized the City Manager and Chief of Police to execute the MOU.

- F. Approve a Resolution Exercising the Option to Extend a Lease Agreement with Mizuno Farms, Inc., for One Additional Two-Year Period, for Farming Operations at Property Located at the Corner of Eleventh Street and Chrisman Road and Amending Certain Language Regarding Termination in the Event of a Third Party Sale, and Authorize the Mayor to Execute Amendment No. 1 – Resolution 2013-177 approved extending the lease agreement.

2. ITEMS FROM THE AUDIENCE – Robert Tanner expressed disappointment in the condition of the flags that were installed on Eleventh Street in celebration of Veteran's Day and the fact that the flags were taken down the next day. Mr. Tanner asked that extra care be taken with the flags and torn ones disposed of properly. Mr. Tanner asked why a street has not been named after Vietnam Veteran William Pushner. Mr. Tanner indicated there were currently eight military individuals killed in action and hoped that future developers would consider naming streets after the veterans.

Paul Miles addressed Council regarding the investigation and reinstatement of Police Sargent Miller, stating the arbitrator's report points to significant bias and negligence on the part of police leadership and the lack of process to protect the public and police officers against capricious leadership. Mr. Miles stated he could find no records that document policies and procedures have been put in place for dealing with misconduct by the Chief of Police. Mr. Miles asked the Mayor to have staff direct him to the policies and procedures and to documents that demonstrate that the policies and procedures have been followed.

Steve Nicolaou provided Council with a legal opinion from the City of Oakland which outlines City Council censure law and procedures dated July 11, 2013. Mr. Nicolaou stated he could not find similar rules for the City of Tracy and asked Council to direct staff to prepare a thorough report setting forth what policies and procedures are in place that would allow Council to legally reprimand or censure one of its own if warranted, and for that item to be placed on the next agenda. Mr. Nicolaou stated if no procedures are in place, it is incumbent on Council to devise such policy or procedure.

Dave Helm referred to Council Member Rickman's request for Council to consider an investigation regarding the airport. Mr. Helm asked that airport issues including the \$50,000 and the attempt to shorten the runway length be discussed at a City Council meeting. Mr. Helm stated he did not believe that there was not a deal. Mr. Helm added that according to the Secretary of State's website, the fuel service operator's limited liability company is still suspended which represents a liability. Mr. Helm asked that a Council member sponsor an agenda item regarding the airport.

Deviation in agenda.

5. AUTHORIZE A FY2013-14 SUPPLEMENTAL APPROPRIATION OF COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS AND GENERAL PROJECTS FUND 301 MONIES – Scott Claar, Associate Planner, provided the staff report. Community Development Block Grant (CDBG) funds are allocated to cities and counties by the United States Department of Housing and Urban Development (HUD) for use

in projects, programs, and services that demonstrate a benefit to low and moderate income individuals and families.

San Joaquin County's CDBG program allocations increased slightly for FY2013-14, from the estimated allocations used in the 2013 Notice of Funding Availability. Due to this, the City of Tracy will receive an additional allocation of \$39,985 of CDBG program funds for FY2013-14. These additional funds have not been appropriated by City Council.

Staff recommended that a portion of the available funds be used to add additional amenities to the Lolly Hansen Senior Center Outdoor Recreation Area Project, CIP 78136.

The amenities have been requested by seniors who use the facility. The amenities were also part of the original vision for the Senior Center Recreation Area Project but, due to funding limitations, were not included in the scope of work that was recently completed by the contractor, American Asphalt.

Staff recommended that Council appropriate \$14,450 of CDBG funds for FY 2013-14 to the Senior Center project and that \$5,000 be appropriated to the project from General Projects Fund 301 monies, in order to cover overhead expenses, staff time, and contingency, all of which are not readily reimbursed with CDBG funds.

Staff recommended that Council appropriate \$25,535 of CDBG funds for FY2013-14, to the City's Sidewalk ADA Improvements Project. On February 19, 2013, City Council allocated \$75,000 of CDBG funds for FY2013-14 to the City's Sidewalk ADA Improvements Project. If Council appropriates these additional CDBG funds to this project, the total allocation for FY2013-14 would be increased to \$100,535. The project includes construction of missing sidewalks, reconstruction of broken sidewalks, curbs and gutters, installation of new wheelchair ramps, and relocation of storm drainage facilities to accommodate wheelchair ramps within the greater downtown area.

The City has received an additional allocation of \$39,985 of CDBG funds for FY2013-14. Approval of this agenda item would result in the appropriation of \$14,450 of CDBG funds for FY2013-14 and \$5,000 of General Projects Fund 301 monies to the Lolly Hansen Senior Center Outdoor Recreation Area Project, CIP 78136, and the appropriation of \$25,535 of CDBG funds for FY2013-14 to the City's Sidewalk ADA Improvements Project.

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 Council Member Rickman and seconded by Council Member Young to adopt Resolution 2013-182, appropriating \$14,450 of Community Development Block Grant Funds for Fiscal Year 2013-2014 and \$5,000 of General Project Fund 301 Monies to the Lolly Hansen Senior Center outdoor recreation area project, CIP 78136, and appropriating \$25,535 of CDBG Funds for Fiscal Year 2013-2014 to the City's Sidewalk ADA Improvements Project. Voice vote found Council Members Rickman, Young, and Mayor Ives in favor; Council Member Manne and Mayor Pro Tem Maciel absent.

3. PUBLIC HEARING TO ADOPT AMENDMENTS TO THE CITYWIDE ROADWAY AND TRANSPORTATION, AND STORM DRAINAGE MASTER PLANS, THE ESTABLISHMENT OF ROADWAY AND TRAFFIC, WATER, RECYCLED WATER,

WASTEWATER, STORM DRAINAGE, PUBLIC SAFETY, PUBLIC FACILITIES, AND PARK DEVELOPMENT IMPACT FEES AND THE ASSOCIATED AB1600 FEE STUDIES FOR ALL NEW DEVELOPMENTS WITHIN THE CITY – Kuldeep Sharma, City Engineer, stated in order to properly address comments received from the development community, staff would bring a completed agenda item for Council consideration at the December 3, 2013, meeting.

Staff recommended that Council open the public hearing and continue consideration of the item to the December 3, 2013, City Council meeting.

Mayor Ives opened the public hearing. As there was no one wishing to address Council on the item, the public hearing was closed.

It was Council consensus to move consideration of the item to December 3, 2013.

4. APPROVE AGREEMENTS RELATED TO RECONSTRUCTION AND WIDENING OF THE ELEVENTH STREET OVERPASS BRIDGE CIP 73063, FEDERAL PROJECT NUMBER BHLS-5192(020) AND AUTHORIZE THE MAYOR TO EXECUTE THE AGREEMENTS – Kuldeep Sharma, City Engineer, provided the staff report. The existing 1,441-foot long Eleventh Street Bridge, constructed by Caltrans in 1936, was widened from two lanes to four lanes in 1960 and crosses three Union Pacific Railroad (UPRR) tracks. Pacific Gas and Electric Company (PG&E) overhead electric facility and underground gas pipe line run along the bridge and the West Side Irrigation District (WSID) has an open irrigation channel along the north side of the bridge. Since the proposed bridge will be wider than the existing bridge, it is necessary to acquire additional right-of-ways from affected adjacent properties, including a temporary construction easement from UPRR. In addition UPRR has to grant a “Highway Easement” to allow construction of the bridge.

Necessary right-of-ways from the WSID have already been acquired. Approval of the subject agreements will conclude the remaining required right-of-ways and temporary construction easements from adjoining properties for the reconstruction and widening of the bridge.

On February 5, 2013, Council directed staff to negotiate the terms and conditions of the agreement with UPRR. Staff, in coordination with Interwest Consulting Group, the City’s consultant for right-of-ways services, and the City Attorney’s office, concluded negotiations of the terms and conditions of the UPRR agreement. This agreement grants the City a “Highway Easement” for the cost of \$139,629.

Under condition of the agreement, the City of Tracy will secure a temporary construction easement from UPRR for 24 months from award of the construction contract at a total cost of \$242,758.

During construction of the bridge, UPRR personnel will coordinate train movement and provide inspection of the construction activities within their right-of-way boundary. The estimated cost of the item is \$205,000 and the City of Tracy will receive invoices for work from UPRR during construction.

The total cost of UPRR granting the City of Tracy “Highway Easement” (temporary construction easement) and providing construction inspection is estimated to be \$587,387. With regard to the other agreements with MAGJJ Overpass Properties, LLC

and Joe Alvarez Revocable Survivor's Trust, the City will acquire (right of land in real and temporary construction easements) for the reconstruction and widening of the bridge.

The total cost of the right-of-ways and temporary construction easements with MAGJJ Overpass Properties, LLC (0.38 acres in fee acquisition and 2.65 acres in temporary construction easement) is \$84,000. The cost for 0.05 acres in fee acquisition and 0.45 acres of temporary construction easements including relocation of utility for Joe Alvarez, Trustee, will be \$79,000. The costs of these items are included in the total costs of the bridge replacement.

The cost of "Highway Easement", temporary construction easements and operational cost of UPRR, land acquisition for right-of-ways and construction easements from MAGJJ Overpass Properties, LLC and Joe Alvarez Trustee will be paid from the approved CIP 73063, for the Eleventh Street Bridge reconstruction and replacement.

There will be no impact to the General Fund. Staff recommended that Council, by separate resolutions, approve the agreements for reconstruction and widening of the Eleventh Street Overpass Bridge CIP 73063, and Federal project BHLS-5192(020) and authorize the Mayor to execute the agreements.

Council Member Rickman asked when the start of construction was expected. Mr. Sharma stated staff would be advertising for construction bids in July, 2014, awarding the contract in September, with completion expected in September, 2016.

Mayor Ives referred to the wall treatment on the overpass and asked if staff has considered the potential for graffiti and its removal. Mr. Sharma stated instead of having one vertical wall, there will be three walls of varying heights creating a stepped effect which will prevent access to the top of the bridge. Mr. Sharma added that landscaping and vines were to be included to discourage graffiti, along with the use of materials that are graffiti-resistant.

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

Robert Tanner asked why there needed to be vista points on the bridge. Mr. Sharma stated the intent is to have that portion of the bridge a little wider so that once MacArthur Drive has been re-aligned, no changes to the structure of the bridge will have to be made.

Mr. Tanner asked why bike paths were needed on the bridge. Mr. Sharma stated the bridge was designed anticipating future needs and the planned MacArthur Drive intersection improvements. Mr. Sharma stated the City needed to consider what can be accommodated now and for the future.

Mr. Tanner stated he thought the MacArthur Drive intersection was going to be completed at about the same time as the overpass. Mr. Sharma stated the MacArthur Drive intersection was a separate project and part of the master plans. Mr. Sharma added that staff was working on acquiring the needed right-of-ways and that the MacArthur Drive area still had to be annexed into the City.

Paul Miles stated he understood that the vehicle code prohibits riding bicycles on the sidewalk unless you are a child. Mr. Miles commented that if there are future federal

funds available that Council consider a perimeter system allowing better movement around the City north to south and east to west.

Dave Helm asked for clarification regarding a left turn pocket onto MacArthur Drive occurring at the apex of the bridge and limited visibility. Mr. Sharma stated that during the design phase, safety features will be looked at, noting the plan was still 10-15 years into the future.

It was moved by Council Member Rickman and seconded by Council Member Young to adopt Resolution 2013-179, approving a New Public Highway Overpass Crossing Agreement between Union Pacific Railroad Company and the City of Tracy covering the reconstruction and widening of the Eleventh Street Overpass Grade Separated Public Road Crossing at Railroad Mile Post 83.27 – Tracy subdivision, D.O.T. Number 753069A in the City of Tracy, San Joaquin County, State of California, City CIP 73063, and Federal Number BHLS-5192(020) and authorizing the Mayor to execute the agreement. Voice vote found Council Members Rickman, Young, and Mayor Ives in favor; Council Member Manne and Mayor Pro Tem Maciel absent.

It was moved by Council Member Rickman and seconded by Council Member Young to adopt Resolution 2013-180, approving Real Property Acquisition Agreement of Fee Interests and Temporary Construction Easement between the City of Tracy and MAGJJ Overpass Properties, LLC, for reconstruction and widening of the Eleventh Street Overpass Grade Separated Public Road Crossing at Railroad Mile Post 83.27, CIP 73063, and authorizing the Mayor to execute the agreement. Voice vote found Council Members Rickman, Young, and Mayor Ives in favor; Council Member Manne and Mayor Pro Tem Maciel absent.

It was moved by Council Member Rickman and seconded by Council Member Young to adopt Resolution 2013-181, approving a Real Property Acquisition Agreement of Fee Interests and Temporary Construction Easement between the City of Tracy and Joe Alvarez, Trustee of the Joe Alvarez Revocable Survivor's Trust as set forth in the Alvarez Trust for the reconstruction and widening of the Eleventh Street Overpass Grade Public Road Crossing at Railroad Mile Post 83.27., CIP 73063, and authorizing the Mayor to execute the agreement. Voice vote found Council Members Rickman, Young, and Mayor Ives in favor; Council Member Manne and Mayor Pro Tem Maciel absent.

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 update.

Council Member Rickman asked if there was any news regarding Panera Bread or Red Robin. Mr. Churchill stated there would be announcements coming soon.

Council Member Rickman stated Shedskin, a reptile store located in the mall, held a convention which attracted a large number of individuals to the mall. Council Member Rickman announced an event "Homes for the Holiday" being held November 23 and 24, 2013.

Council accepted the City Manager's Informational Update.

## 8. COUNCIL ITEMS

- A. Appointment of City Council Subcommittee to Interview Applicants for Vacancies on the Tracy Arts Commission – Maria A. Hurtado, Assistant City Manager, stated that on December 31, 2013, terms will expire for three of the Tracy Arts Commissioners. The upcoming vacancies have been advertised and the recruitment is scheduled to close on November 19, 2013. As of November 14, 2013, one application has been received by the City Clerk's office. As stated in Resolution 2004-152, in the event there are not two or more applicants than vacancies, the filing deadline will be extended. An eligibility list was established during the previous recruitment, but has since expired.

In accordance with Resolution 2004-152, a two-member subcommittee needs to be appointed to interview the applicants and make a recommendation to the full Council.

Council Member Young and Council Member Rickman were appointed to interview applicants to fill three upcoming vacancies on the Tracy Arts Commission.

Council Member Rickman congratulated the Tracy High Bulldogs, who made it to the playoffs, inviting everyone to the Friday night game on November 22, 2013.

Council Member Young also congratulated to the Tracy High Bulldogs for making it to the playoffs.

Council Member Young stated there will be a candle light vigil at Tracy Sutter Hospital on November 20, 2013, between 6:00 – 8:00 p.m. to bring attention to the proposal to take away 30 beds from the hospital.

Council Member Young wished everyone a Happy Thanksgiving. Council Member Young mentioned several places in town where free dinners were being offered to those in need.

Council Member Rickman wished everyone a Happy Thanksgiving.

9. ADJOURNMENT – It was moved by Council Member Young and seconded by Council Member Rickman to adjourn. Voice vote found Council Members Rickman, Young, and Mayor Ives in favor; Council Member Manne and Mayor Pro Tem Maciel absent. Time: 8:08 p.m.

The above agenda was posted at the Tracy City Hall on November 14, 2013. The above are summary minutes. A recording is available at the office of the City Clerk.

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Mayor

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City Clerk