

February 4, 2014, 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 7:30 p.m., and led the Pledge of Allegiance.

The invocation was provided by Pastor Scott McFarland, Journey Christian Church.

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

Leon Churchill, Jr., City Manager, presented the Employee of the Month awards for February to Dina McAlister, Development Services, and Jeremy Ward, Fire Department

Mayor Ives presented Certificates of Reappointment to Gene Birk and Alex Holguin to the Parks and Community Services Commission.

1. CONSENT CALENDAR - Following the removal of items 1.C and 1.D, by staff, 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 – Special meeting minutes of December 3, and December 17, 2013, were approved.
 - B. The City Council of the City of Tracy Acting as the Governing Body of the Successor Agency for the Community Development Agency of the City of Tracy Approving the Recognized Obligation Payment Schedule (ROPS) – Resolution 2014-015 approved the ROPS.
 - C. Approve Various Amendments to the Professional Services Agreements (PSAs) with Kimley-Horn and Associates for Completion of Roadway Analysis for Cordes Ranch and Tracy Hills Developments, and Authorize the Mayor to Execute the Agreements – Item pulled.
 - D. Approve Various Professional Services Agreements (PSAs) with West Yost and Associates Related to Water Analysis for Cordes Ranch and Tracy Hills Developments and Authorize the Mayor to Execute the Agreements – Item pulled.

Leon Churchill, Jr., City Manager, provided a statement regarding his use of City credit cards for personal use and subsequent reimbursement. Mr. Churchill expressed regret for the distraction it has caused the City and various individuals in the community. Mr. Churchill stated he provided information to the Tracy Press last week, including documents concerning his evaluation, disciplinary action, and correspondence with the District Attorney. Mr. Churchill stated the

Council has evaluated his performance and reiterated its collective faith in him. Mr. Churchill asked that the community allow him the opportunity to build and restore their faith in him.

2. ITEMS FROM THE AUDIENCE – Paul Miles addressed Council regarding the Tracy Police Department's practice of secretly recording persons who are not suspected of any crime while in their homes. Mr. Miles contends there is nothing to support the surreptitious recording of citizens in the course of activities that do not involve criminal conduct. Mr. Miles requested that the City justify or cease this recording practice.

Robert Tanner addressed Council regarding the prescription drug receptacle that was recently placed in the lobby of the Police Department. Mr. Tanner stated information regarding the availability of that receptacle needs to be touted by the City and Tracy Press so it can be used to the fullest.

High school students from Tracy High addressed Council regarding the parking dilemma at their school. The students asked that Council postpone the pilot permit parking program suggesting it will not solve the problem. The high school students voiced their frustration with the lack of on-site parking, and asked that this subject be placed on a future agenda for discussion.

Mr. Churchill stated the parking item was tentatively scheduled for March 4, 2014.

Deviation in agenda.

6. RECEIVE AND DISCUSS THE GRAND THEATRE CENTER FOR THE ARTS ANNUAL REPORT AND ACCEPT THE GRAND FOUNDATION'S FISCAL YEAR 2013-2014 ANNUAL UNDERWRITING SUPPORT AND APPROVE SUPPLEMENTAL APPROPRIATION OF PROCEEDS FOR PROGRAMMING AND TECHNICAL SUPPORT AT THE GRAND THEATRE CENTER FOR THE ARTS – Kim Scarlata, Recreation Services Program Manager, provided the staff report. The Grand Theatre Center for the Arts is entering its seventh year of programming and operations. September 2013, kicked off a new season of programming and presentations.

The Grand Theatre Center for the Arts' sixth Presenting Season featured a diverse set of offerings from September through May. The Season's top headliner, the Willie Nelson Family Band sold 992 tickets over its two day concert performance. Other notable performances included; the Frank D'Ambrosio's Holiday Show, the Sun Kings, Broadway by Jeri (Sager), and Anthony Rapp's Without You that brought in together, another 539 patrons. Additional presenting season entertainment consisted of Friday Night Jazz and Coffee Lounges, a Vaudeville Festival, Annual Haunted House, several Tribute Bands and a Cinematic Treasure Series (Movies) which rounded out the total Presenting Season attendance to a total of 5,356 patrons for 2012/2013. There was \$151,573 in gross revenue generated for Fiscal Year 2012/2013.

The Grand Theatre Center for the Arts' community and commercial rentals totaled 53 in its sixth year. Attendance for Community and Commercial presentations totaled 10,570 with the largest attendance being the Annual Nutcracker performances in December. Rentals have continued to decline since FY 2010/2011. Gross revenue for Community and Commercial rentals totaled \$115,434.

The Exhibitions Program (EP) presented five feature exhibitions collaborating with 98 artists and lenders. In addition, the EP managed Art Co-Opted, a curated sales cooperative, in the Matthews Gallery working with over 40 artists. Gallery attendance grew to 7,598 visitors (averaging 53 daily and 276 weekly), an increase of 932 visitors from the 2011/2012 Exhibition Season. EP revenues exceed projections of \$6,000 with \$7,624 in sales, an increase of 27% and \$31,591 in Creative Work Fund Grant support. In addition, the Program received \$2,500 in underwriting support from the Grand Foundation.

The 2012-2013 Exhibition Season featured two high profile group exhibitions, opening with *Contemporary Fiber Works by California Fiber Artists* and *Animals in Clay* curated by Evan Hobart early 2013. Both of these dynamic exhibits included interactive gallery talks and drew visitors from across the state of California into our community.

In 2012 the EP, working artist Anné Klint, received a prestigious grant in media arts from The Creative Work Fund, a program of the Walter and Elise Haas Fund supported by the generous grants from ArtPlace, The William and Flora Hewlett Foundation, and the James Irvine Foundation. The award totaled \$31,591 designating the Grand Theatre Center for the Arts as the first organization in San Joaquin County to receive CWF support. Ms. Klint was Artist-In-Residence in October working on a community-based media project entitled *Inhabit Your City: Voices of Tracy*.

In March 2013, the EP continued its successful collaboration with the Tracy Art League to present the fourth annual *Expressions! Selections* exhibit curated by staff. In June and July, the *Voices of Tracy* project culminated with a documentary screening, feature exhibition, time-based video project on Central Avenue, and interactive gallery talk and panel discussion. Nearly 100 community members contributed to the project including those impacted by the historic home foreclosures, real estate agents, community leaders, musicians, poets, and visual artists.

In 2012-2013, the Arts Education Program (AEP) served 1,723 students through classes, workshops, camps, and special events to participants of all ages in Dance, Drama, Music, and Visual Arts. The AEP generated \$109,992 in revenues in comparison to FY 2012/2011 which was \$127,784 and was budgeted to generate \$148,000 for 2012-2013. The AEP also received \$18,000 of underwriting support from the Grand Foundation. Dance, Music, and Drama offerings declined, largely due to the departure of instructors, and the lingering effects of the economic recession. In October 2012, the AEP in collaboration with the South Side Community Association created the first-ever programming at the Grand to commemorate the Day of the Dead, a traditional Mexican and Mexican-American holiday coinciding with Halloween. Programming consisted of several free hands-on workshops for children and adults, as well as an altar dedicated to the Latino railroad workers and their families who laid the foundations of Tracy's modern life, and a community altar open to any Tracy resident's participation.

In March 2013, the Grand Foundation's Arts Education Advisory Committee provided valuable feedback to the program in its consideration of new classes and other activities proposed by new and continuing instructors. In 2012-2013 the AEP inaugurated a monthly e-newsletter and re-configured its online resources to include additional information about the program, news and events, current instructors, and easier access to detailed class information.

The Presenting Season kicked off on September 13, 2013, with stand-up comedian, actor and producer, Drew Carey. The season continued with 5 Grammy Award Winner and rock blues icon Robert Cray, which was close to a sell-out on Tuesday, September 24, 2013, with 503 tickets sold. The success continued with solo country artist, Uncle Kracker and NBC's "The Voice" semifinalists, the Swon Brothers.

Community co-presents included Mariachi Sol De Mexico on October 19, presented by the City of Tracy and the Tracy Chamber of Commerce and was a complete sell-out at 545 tickets. Happy Diwali, Festival of Lights October 26, 2013, was also a highly attended performance that celebrated cultural and traditional Indian music and dance, with a touch of Bollywood.

Jazz Nights, presented with Main Street Music have become so increasingly popular, patrons are sometimes left with standing room only as an option to attend the event. Holidays at the Grand in December rounded out the first four months of the 2013/2014 Presenting Season with Cirque Du Noel, December 8, and the Nutcracker Ballet presented by The Children's Dance Theatre of Tracy and the City of Tracy on December 21, and 22, 2013.

January 11, 2014, kicked off the New Year with Blues and Brews Night featuring Chris Cain and the Daniel Castro Band. The first four months of the 2013/2014 Presenting Season, mid-September - mid January resulted in 3,736 tickets being sold and \$140,865 in gross revenue generated, which currently meets the projected revenue for the entire 2013/2014 fiscal year. Staff projects revenue will be exceeded for the Presenting Season.

The remaining season consists of the following: Cabaret Night, Sun Kings- Tribute to the Beatles, Trailer Park Troubadours, The Freedom Riders (Celebrating Black History Month), Brubeck Institute and Jazz Reach Concert, Charlotte's Web, Alice in Wonderland and the Mad Hatter's Tea Party, Under the Tuscan Sun (The Movie) together with Wine and Food Tastings, the Grand Foundation's Fundraising Event "Dancing With Your Stars" and a Spring performance to be announced soon.

Community Rentals are steady with \$53,758 being generated to date and \$65,000 being projected for the 2013/2014 fiscal year. The majority of rentals take place in the spring months. Staff expects to exceed revenue projections for the current fiscal year.

In the fall 2013 the AEP initiated and co-organized South Indian dance workshops cross collaborating with the Presenting Program featuring the Diwali Festival of Lights. In October, 2013, the AEP offered a second year of free Day of the Dead programming with increased participation from visual arts workshops, Mexican folkloric dance performances in the Studio Theatre and Lobbies, and a community altar. In early 2014, the AEP will collaborate again with the Presenting Program to offer master classes and educational support to the Brubeck Institute Jazz Reach, Pacific Coast Horns, and Freedom Riders.

The AEP is working to expand enrollments by increasing the number of culturally relevant offerings including bilingual classes and workshops. In 2014, the AEP will increase the number of Spring Break and Summer Camp offerings for children and youth, perennially popular offerings.

The 2013-2014 Exhibition season presents five feature exhibitions in the Souza and GWF Energy Galleries and continues on-going operations of Art Co-Opted in the Mathews Gallery. The season opened in September 2013, with a unique retrospective of calligraphy in the western United States including California, Oregon, Washington, Colorado, and Nevada traveled to experience the life's work of, and to reconnect with, Emeritus Professor Lewis. As part of the annual Holidays at the Grand programming, over 40 artists participated in Co-Op exhibition in November and December.

In February 2014 the EP presents a body of collage-based works by local favorite Angela Johal of Livermore. Ms. Johal will offer a series of special events including hands-on workshops for children/families and artists. March brings the fifth offering of *Expressions! Selections* with the Tracy Art League, and the summer of 2014 will feature the return of the artists-in-residence programming with Bay Area and Central Valley artists working in our community to create educational and fun experiences.

Staff recommended that Council accept the Grand Theatre Center for the Arts Annual Report and accepts the Grand Foundation's Fiscal Year 2013-2014 Annual Underwriting support and approve supplemental appropriation of proceeds for programming and technical support at the Grand Theatre Center for the Arts.

Mike Souza, Chairman of the Grand Foundation, provided the Grand Annual Report. Mr. Souza also provided the Mayor with a check for \$25,450.

Mayor Ives thanked Ms. Scarlata for grand accomplishments and Mr. Souza for their support.

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 Manne to adopt Resolution 2014-016, approving the Grand Theatre Center for the Arts Annual Report and accepting the Grand Foundation's Fiscal Year 2013-2014 annual underwriting support and approving a supplemental appropriation of proceeds for programming and technical support at the Grand Theatre Center for the Arts. Voice vote found all in favor; passed and so ordered.

3. PUBLIC HEARING TO CONSIDER AN APPLICATION TO AMEND THE GENERAL PLAN, APPROVE A VESTING TENTATIVE SUBDIVISION MAP ON A 10-ACRE PARCEL TO CREATE 59 LOTS, AND A PRELIMINARY AND FINAL DEVELOPMENT PLAN (PDP/FDP) AMENDMENT TO ALLOW FOR THE CONSTRUCTION OF 59 SINGLE-FAMILY HOMES LOCATED AT THE NORTHWEST CORNER OF CROSSROADS DRIVE AND SOLOMON LANE. THE APPLICANT AND OWNER IS WILLIAM LYON HOMES, INC.- APPLICATION NUMBERS GPA13-0003, TSM13-0003 AND PUD13-0003 – Victoria Lombardo, Senior Planner, provided the staff report. The subject property is located at the northwest corner of Crossroads Drive and Solomon Lane, within the existing Lyon Crossroads subdivision, north of Eleventh Street. This ten-acre site was formerly designated as a school site, but was deemed by the Tracy Unified School District to no longer be necessary, and now the developer has submitted applications to construct 59 single-family homes similar in size and configuration to those on the adjacent lots.

The current zoning designation is Planned Unit Development (PUD), with a General Plan designation of Public Facilities. The surrounding properties to the north, south and east are also zoned PUD, with a General Plan designation of Residential Low, allowing for 2.1 to 5.8 dwelling units per gross acre, and is developed with single-family homes. The property to the west of the project site is zoned Medium Density Residential, with the General Plan Designation of Residential Medium, with older homes on large semi-rural lots.

The site has a General Plan designation of Public Facilities because it was formerly determined to be a school site. With the School District's determination that a school here is no longer needed, a General Plan amendment to Residential Low to accommodate the developer's proposal for single-family homes on the site is required.

When this property was annexed to the City in 1994, a Concept Development Plan (CDP) was approved for the land that encompassed the 325-acre West Tracy Planning area included in the annexation. In 1998, a Preliminary Development Plan/Final Development Plan (PDP/FDP) was approved for the Lyon Crossroads subdivision. Both the CDP and the PDP/FDP indicated that the subject property would be a school site. Because of this, they must be amended to reflect the construction of houses instead of the school.

The subdivision design utilizes existing street patterns, with the main access point from the existing fully improved Crossroads Drive on the eastern property line, and Solomon Lane, bordering the southern property line. A new street will be stubbed at the northwest corner of the site to the adjacent properties on Berg Road, per the City's Roadway Master Plans. Upon redevelopment of the Berg Road area in the future, this will provide a connection to these and other surrounding houses for better accessibility and traffic flow to Byron Road to the north. The design of this project relating to the existing, proposed, and future development through the use of existing streets and the creation of new ones to future development is a direct result of the City's discussions regarding connectivity.

The proposed houses are one and two stories in height. The Tracy Municipal Code provides that height limits can be established in each PUD, as appropriate. The proposed maximum building height is 35 feet, which is consistent with the zoning regulations of all of the adjacent single-family homes, which are allowed to be up to two and a half stories, or 35 feet, whichever is less.

Should this Vesting Tentative Subdivision Map application be approved, the project will be subject to the requirements of the current (2012) Growth Management Ordinance (GMO) and its Guidelines. The project does not currently have any RGAs and will apply for RGAs in accordance with the 2012 GMO prior to the issuance of any building permits for the project. The project falls within the "Primary Area" of the GMO and is eligible to apply for RGAs in accordance with the GMO Guidelines.

The Tracy Joint Unified School District has determined that the Lyon Crossroads project does not need to dedicate property for a school site within the subdivision. However, in order to mitigate the proposed developments' impacts on school facilities, a Memorandum of Understanding was executed with the School District, which will cause a per-unit fee to be charged for each of the 59 units constructed.

Parks are required to be established within residential neighborhoods to serve the residents of the homes that are established in Tracy. In order to meet the need for park land, projects are either required to build their own park, or pay park in-lieu fees. Since the minimum park size within the City is typically required to be two acres, this project will pay the park in-lieu fees, as the 59 homes proposed would only constitute a need for a half-acre park. (The total population estimate for the project area is 194 residents, based on 59 dwelling units, and 3.28 people per unit.) In addition, community parks are required at a rate of 1 acre of park land per every 1,000 residents, resulting in 0.19 acres of community park area required, or mitigation fees paid.

The project is exempt from the California Environmental Quality Act per Section 15162 pertaining to projects with a certified Environmental Impact Report (EIR) where the project does not propose substantial changes that will result in a major revision of the previous EIR. On February 1, 2011, the City of Tracy adopted the General Plan. The associated EIR (SCH# 1992 122 069) was certified February 1, 2011. The project does not propose new significant changes to the environment that was not analyzed in the General Plan EIR, including the areas of traffic, air quality, and aesthetics. Therefore, no further documentation is needed.

The Planning Commission held a public hearing to discuss this project on January 8, 2014. There were comments and questions regarding traffic (stop signs and Berg Road connection) and the proposed building setbacks, and after some discussion, the Planning Commission unanimously recommended project approval.

The applicant has paid the appropriate application fees which cover the required staff time to review the proposed project. The applicant will also pay all the applicable building permit and development impact fees upon the commencement of construction and other improvements. Development of the 59 homes will enhance the City's property tax revenue base.

Staff and the Planning Commission recommended that Council approve the General Plan Amendment Application Number GPA13-0003, the Lyon Crossroads Unit 9 Vesting Tentative Subdivision Map, Application Number TSM13-0003, and the amendment to the Preliminary and Final Development Plans, Application Number PUD13-0003, based on the findings and subject to the conditions contained in the City Council Resolution dated February 4, 2014.

Mayor Ives opened the public hearing.

Scott Roylance, William Lyon Homes, stated he appreciated staff's hard work and was excited to be back in town. Mr. Roylance stated they worked with the school district and paid the necessary fees. Mr. Roylance further stated they met with the neighbors and worked to accommodate their requests.

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

It was moved by Mayor Pro Tem Maciel and seconded by Council Member Rickman to adopt Resolution 2014-017, approving a General Plan Land Use Designation Amendment of a 10-acre site in the Lyon Crossroads subdivision, APN 238-040-07 from Public Facilities to Residential Low. The applicant and owner is William Lyon Homes

Incorporated – Application Number GPA13-0003. Voice vote found all in favor; passed and so ordered.

It was moved by Mayor Pro Tem Maciel and seconded by Council Member Rickman to adopt Resolution 2014-018, approving the 59-lot Lyon Crossroads Unit 9 Vesting Tentative Subdivision Map and Amendment to the Preliminary and Final Development Plans for a 10-acre site located at the northwest corner of Crossroads Drive and Solomon Lane – Application Numbers TSM13-0003 and PUD 13-0003. Voice vote found all in favor; passed and so ordered.

4. PUBLIC HEARING TO CONSIDER A REZONE APPLICATION FROM LIGHT INDUSTRIAL (M-1) TO MEDIUM DENSITY RESIDENTIAL (MDR) FOR A SITE COMPRISED OF TWO PARCELS ON SOUTH C STREET BETWEEN THIRD AND FOURTH STREETS, ASSESSOR'S PARCEL NUMBERS 235-070-64 & 66. THE APPLICANT IS ANDRE STAMBUK AND THE PROPERTY OWNERS ARE JAVIER AND JUANA DIAZ – APPLICATION NUMBER R13-0001 – Kimberly Matlock, Assistant Planner, provided the staff report. The site is located on the east side of South C Street, north of Third Street and south of Fourth Street adjacent to Tracy's downtown area. The site is comprised of two parcels totaling approximately 0.726 acres. Both parcels have access to King Alley, which runs east-west on the rear of the parcels. The site is surrounded by existing residences.

The site is zoned Light Industrial (M-1), and is designated Residential Medium in the General Plan. The site's zoning of M-1 is currently not in compliance with the General Plan designation of Medium Residential.

The parcel on Third Street was formerly occupied by the Mi Ranchito Tortilla Factory (addressed 27 W. Third Street). In the 1980s, the tortillaria received City approval to rezone both parcels from high and medium density residential to light industrial and approval for the expansion of their facility and parking lot improvements; however, the expansion was never constructed. The original tortilla building remains on the southern parcel today but has been out of operation for years. There are also two single-family residences on the site that are unoccupied and dilapidated. The parcel on Fourth Street was never developed and remains undeveloped today.

The City does not have records of any light industrial uses at the site since the closure of the tortilla factory. During the General Plan update process, the City determined that due to the site's proximity to existing residential neighborhoods and the Downtown, and because there has not been an interest for light industrial uses at the site in recent years, the site would be better suited for residential uses to match properties in the vicinity and re-designated the site from Industrial to Residential Medium. Rezoning the site to MDR would bring the site's zoning into conformity with the General Plan and allow for development of residential uses in the range of 5.9 to 12 units per gross acre in accordance with the General Plan.

The property owner intends to develop single-family and two-family dwellings on the site. The property owner has proposed preliminary development plans for the parcel on Third Street and is working with staff to ensure the final development plan would comply with MDR standards, subject to Council approval of the rezone request.

Planning Commission held a public hearing on January 8, 2014, to review and consider the proposal and unanimously voted in favor of recommending City Council rezone the site as proposed.

The proposal does not change the development density established by the General Plan for which an Environmental Impact Report (EIR) was certified on February 1, 2011, (State Clearinghouse Number 2008092006). Therefore, in accordance with California Environmental Quality Act (CEQA) Guidelines Section 15183, no further environmental assessment is required.

The applicant has paid City Council adopted application fees, which covers the required staff time to review and process the proposed rezone.

Staff and the Planning Commission recommended that Council introduce an Ordinance rezoning Assessor's Parcel Numbers 235-070-64 and 66 from Light Industrial (M-1) to Medium Density Residential (MDR).

Council Member Manne asked if staff believed the owners of the property intended to build homes. Ms. Matlock stated yes, and added that the owners have already submitted building plans for the southern parcel.

Mayor Ives asked if there were existing curbs, gutters, and sidewalks at the property. Ms. Matlock stated there were some improvements and there were plans for new sidewalks.

Mayor Ives opened the public hearing.

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

Mayor Pro Tem Maciel thanked the property owners for developing the site.

The Clerk read the title of proposed Ordinance 1193.

It was moved by Mayor Pro Tem Maciel and seconded by Council Member Manne to waive reading of the text. Voice vote found all in favor; passed and so ordered.

It was moved by Mayor Pro Tem Maciel and seconded by Council Member Manne to Introduce Ordinance 1193. Voice vote found all in favor; passed and so ordered.

5. **ADOPT A RESOLUTION APPROVING LOCAL GOALS AND POLICIES FOR COMMUNITY FACILITIES DISTRICTS (CFDs) AND PROVIDE DIRECTION REGARDING THE REQUIREMENT OF A FISCAL IMPACT ANALYSIS (FIA) TO ASSESS PUBLIC SERVICES COSTS AS A RESULT OF NEW DEVELOPMENT –** Jenny Haruyama, Administrative Services Director, provided the staff report. The updated policy establishes local goals and policies for Community Facilities Districts (CFDs) and provides guidance and conditions for the conduct by the City of proceeding for, and the issuance of bonds secured by special taxes levied in, a CFD established under the Mello-Roos Act.

The City's previous CFD policy was adopted in 1998 (Resolution 98-020) and repealed in 2012 (Resolution 2012-221). Since the adoption of the City's original CFD policy, the Mello-Roos Act has been subsequently amended resulting in new changes and requirements. The updated policy reflects these new changes, including the prioritization of the financing of public services and if applicable, services to be provided by other public agencies. It also reflects experiences by public finance professionals, including bond counsel and bond underwriters, with Mello-Roos Act financings over the past 15 years. For example, the Mello-Roos Act is sometimes used to finance developers' fee obligations and/or privately-owned facilities that advance a city-identified public policy. These types of changes were instrumental in avoiding payment defaults on bonds issued under the Mello-Roos Act during the most recent recession.

Other policy changes state more clearly the City's expectation of private developers that apply for financing under the Mello-Roos Act. For example, the proposed amendments clarify the nature of property owners' ongoing disclosure (both to successor property owners and bond investors) and process for applying for financing under the Mello-Roos Act.

The updated policy reflects amendments that provide additional detail about the differences between use of the Mello-Roos Act by non-residential developers and residential developers, with respect to special tax levels and annual escalation of maximum special taxes.

Historically, the City of Tracy has required developers to prepare Finance and Implementation Plans (FIP) to demonstrate that public facilities required to serve a project will be funded and constructed in a timely manner. To date, the City has had no such requirement related to public services. In addition to the FIP, many other cities require that developers prepare a Fiscal Impact Analysis (FIA) that compares ongoing revenues (i.e., property tax, sales tax) generated by the project to ongoing costs incurred by the city from provision of public safety services, park and street maintenance, and other city services. The FIA estimates the fiscal surplus or deficit that will result from development of a project and determines whether a new funding mechanism is needed to mitigate project impacts. Given the constraints of municipal budgets, requiring an analysis of fiscal impacts, and implementing fiscal mitigation measures is becoming more common among cities and counties.

Preparation of a FIA is generally required in order for a proposed development to demonstrate compliance with city or county general plan goals and policies. Because compliance with the General Plan is a requirement for general plan amendments, specific plan approvals, rezoning, and other legislative acts, a project can be conditioned to provide a fiscal analysis to demonstrate such compliance. The earlier an FIA is prepared in the planning process, the easier it is to make adjustments or reevaluate service standards if it is determined that the proposed project cannot possibly pay its own way.

For a residential or mixed-use project, it is not unusual that an FIA will determine that a fiscal deficit will result from development of the project, either in the early phases, at buildout, or both. Unless the project contemplates high-end residential units, generally the property tax, sales tax, and other revenues generated from residential units will be insufficient to cover the costs associated with providing services to the new residents. As

a result, more and more public agencies are requiring that mechanisms be put in place to fund public services and mitigate projected fiscal deficits.

Due to the flexibility inherent in the Mello-Roos Community Facilities District (CFD) Act, and the fact that there is no finding of special benefit required for special taxes levied within a CFD, Mello-Roos is generally the preferred mechanism for funding public services. A CFD can be formed over a designated geographic area with either a registered-voter election if there are 12 or more registered voters in the CFD, or a landowner vote if there are less than 12 registered voters when the CFD is formed. Formation of a CFD requires a two-thirds vote, which, in the case of a landowner election, is based on acreage owned within the CFD. Pursuant to the Mello-Roos law, a CFD may pay for the following public services to the extent that the services are in addition to those provided in the area before the CFD was formed:

- Road maintenance
- Police protection
- Fire protection
- Recreation program services
- Library services
- Park and open space maintenance
- Flood and storm protection services
- Removal or cleanup of hazardous substances
- Sandstorm protection
- Seismic retrofitting
- Maintenance and operation of any real property or facility with an estimated useful life of five years or more
- School facilities maintenance

Many of the General Plan goals and policies support establishing a new funding mechanism, which in most cases would be a CFD, if there is a finding that revenues generated from a project will be insufficient to pay for public services that will be provided to the project. In fact, it is not unusual for a city or county to include map conditions that require a CFD or alternative funding solution be established before a final map is recorded to ensure that there will be adequate funding for public services.

Should Council choose to require a FIP for public services for residential and/or non-residential developments, staff will present a recommendation for implementation (e.g. via a development agreement) at a future meeting.

Adopting the updated CFD policy will not result in a fiscal impact to the General Fund, or any other City Fund. Likewise, requiring a FIA for new development will not impact the General Fund as the cost of the analysis is borne by the development community. The FIA is a valuable financial planning tool for the City as it will help establish a baseline for future revenue and expenses, including, but not limited to: public safety, road and park maintenance, and recreation.

Staff recommended that Council adopt a resolution approving local goals and policies for CFDs and provide staff direction regarding the requirement of FIAs as a result of new development.

Mayor Ives referred to a bullet in the staff report titled "Police Protection", asking if that included animal shelter services. Ms. Haruyama stated it would be considered a public facility.

Chris Lynch of Jones Hall, stated the list of goals and policies was a general statement of policy and authorizes the formation of the facilities and the services allowed under the Mello Roos Act. Mr. Lynch suggested keeping the language as is which can be changed from time to time.

Council Member Rickman asked if the CFD was limited to the residents. Ms. Haruyama stated it be an obligation of the property owners and passed on through the sale of the property.

Council Member Rickman asked what the tax rate would be per year. Susan Goodwin, Goodwin Consulting, stated no rate was currently proposed for any CFD at this time. Ms. Goodwin added that when the Mello Roos CFD is proposed for formation, Council will be asked to determine the rate (tax formula) and the rate depends on what services are being offered.

Mayor Ives asked if the CFD has any bearing on commercial property. Ms. Goodwin stated that would be determined by the developer and the City and could be on any taxable land use.

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

Robert Tanner indicated the previous Mello Roos was reversed in 2012, and asked if all Mello Roos districts were eliminated. Ms. Haruyama stated just the policy was rescinded. Andrew Malik, Development Services Director, stated any new development that would be utilizing a CFD funding mechanism would be subject to this policy.

Mayor Ives asked if requirements of a Mello Roos could vary from project to project. Mr. Malik stated that as each area comes forward, a resolution of intent would outline what would be funded through that particular CFD for that particular area.

Council Member Rickman asked if property owners and residents would have to vote on the Mello Roos. Ms. Haruyama stated only the property owners and land owners of the property that is being developed.

Council Member Young asked for clarification regarding what has been in place since the CFD policy was rescinded in 2012. Mr. Malik stated there have been no CFDs in place since that time.

It was moved by Mayor Pro Tem Maciel and seconded by Council Member Rickman to adopt Resolution 2014-019, approving local goals and policies for Community Facilities Districts. Voice vote found all in favor; passed and so ordered.

Ms. Haruyama provided information regarding the Fiscal Impact Analysis (FIA) and asked Ms. Goodwin to explain how the FIA works with the CFD process.

Ms. Goodwin explained that the connection in determining how much can be collected to pay for services through the CFD, relies on a fiscal study and a revenue analysis. Ms.

Goodwin added that it looks at entire combination of general fund costs versus revenues to determine net impact of the project. Ms. Goodwin stated these analysis are often required as part of the original application for development. Ms. Goodwin added that the results of a fiscal study do not dictate what the special tax will be; it identifies the impacts of the development.

Council Member Rickman stated then in fact, it is a tax. Ms. Goodwin stated it was a levy of a special tax and goes into a special fund for that CFD.

Council Member Rickman stated this has not been done in the past asking why it was being considered now. Ms. Haruyama stated the services CFD was brought forward by the developer and provides opportunities for the developer to off-load some of the costs that might go into a Home Owners Association (HOA).

Council Member Rickman asked if the City would be creating more of a bureaucracy by approving the item. Ms. Haruyama stated she did not believe approval of this action would be creating more of a bureaucracy, that it helps staff understand what the impacts are, not necessarily who pays for them.

Leon Churchill Jr., City Manager, stated it helps take out the guess work.

Council Member Rickman asked what the cost of the study would be for the developer and how much more time would it add to their project. Ms. Goodwin stated the report would cost approximately \$20,000 and could be completed within 30-45 days.

Mayor Ives stated in the past development impact fees existed that relate to public facilities and is nothing different than what is being proposed. Mayor Ives asked if somehow the City has not collected fees well, or somehow things were missed in early assumptions. Mr. Malik stated before 1995 the property tax sharing was 35% County/65% City; currently at the tax sharing was 25%/75% in the County's favor. Mr. Malik added that previous CFDs were based on infrastructure.

Mayor Ives asked if the impact fee was to fund facilities. Mr. Malik stated yes.

Mayor Pro Tem Maciel stated staff should be commended for looking into ways to efficiently assess the City's future fiscal needs. Mayor Pro Tem Maciel stated the proposal is new with a number of projects that have been in the works for some time. Mayor Pro Tem Maciel added that he has received comments from the development community to delay a decision on this item so they can fully understand what this means.

Maria Hurtado, Assistant City Manager, clarified that this particular Service CFD was not City initiated and was pursued at the request of a developer. Ms. Hurtado stated the City is very comfortable with and has done community CFDs in the past. Ms. Hurtado added that the developer has a specific idea of what they want to fund with the Service CFD and the Council may want to understand what the total impact is going to be on all services before the development occurs. Ms. Hurtado further stated a lot of discussion is to be had between the developer and the City to come to a point where the cost per unit will be acceptable and competitive, and that by having an analysis completed, does not mean the City will ask the developer to fund it entirely.

Council Member Manne stated he liked the idea of a baseline, but did not like how it might impact future development. Council Member Manne asked how this Council or future Councils could not apply costs that have been identified to a particular development. Council Member Manne stated establishing a baseline on development may detract from future development.

Mr. Churchill stated there needed to be a mechanism to look at development as a whole.

Council Member Young asked how the CFD is built in to development impact fees. Mr. Malik stated that historically CFDs were used for infrastructure.

Council Member Young asked if this Service CFD was requested by a developer, will a CFD be placed on all future development. Mr. Malik stated it depended on Council direction.

Council Member Young stated she does not want Council to be put in the position of perceived favoritism and that it had to be across the board.

Mayor Ives stated this has the potential of adding an additional impact fee based on the analysis. Ms. Haruyama clarified that the Service CFD would have to be paid by the new property owner and the fee would appear on the property tax bill.

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

Mike Souza, on behalf of Tracy Hills, explained that what was requested was a Service CFD to pay for landscape maintenance, and in the long term, fund capital replacement of facilities as they aged. Mr. Souza stated during discussions of the Tracy Hills annexation it was mentioned that Tracy Hills has a lower tax sharing agreement and that this Service CFD mechanism would place them on par with other development. Mr. Souza stated he had concerns establishing a new policy that will result in a new tax for new development. Mr. Souza reminded Council that when the General Plan was adopted they looked at the balance between commercial, industrial, and residential. Mr. Souza suggested that Council not go down the road outlined by staff.

Mayor Ives asked if Tracy Hills would be paying a similar property tax but the share the City will be receiving is less. Mr. Souza stated yes. Mayor Ives stated the public expectation is that services are the same across the board.

Robert Tanner stated property tax for the City from Tracy Hills is zero and they would still need police and fire services and that the City needs the FIA to determine how much will be needed for those services.

Andrew Malik stated that approximately 40% of the Tracy Hills property detached from the Fire District and that the City will receive property taxes from the 40%.

Linda Jiminez stated as long as fees are known up front by the property owner it should not be a problem.

Paul Miles encouraged Council to move forward.

Mayor Pro Tem Maciel suggested Council needed more information.

Council Member Rickman asked if you can have a CFD without a FIA. Ms. Haryuama stated yes.

Mayor Pro Tem Maciel asked if further clarification was needed. Ms. Haruyama stated some assumptions can be made along with scheduling meetings with the development community and consultant.

It was moved by Mayor Pro Tem Maciel and seconded by Mayor Ives to direct staff to develop more of an analysis for Council consideration. Voice vote found Council Members Rickman, Young, Mayor Pro Tem Maciel and Mayor Ives in favor; Council Member Manne opposed.

Mayor Ives called for a recess at 9:28 p.m. reconvening at 9:36 p.m.

7. ADOPT A RESOLUTION AUTHORIZING THE CITY MANAGER TO TERMINATE THE FUEL SALES AND FUEL FACILITY LEASE AGREEMENT BETWEEN THE CITY OF TRACY AND TURLOCK AIR CENTER, LLC – Ed Lovell, Management Analyst II, provided the staff report. On October 18, 2011, the City entered into a Fuel Sales Operator and Fuel Facility Lease Agreement with Turlock Air Center, LLC., (TAC) to oversee the airport fuel service operation. The Original Agreement was amended on June 18, 2013.

Since the Agreement was entered into, TAC has been in default of numerous of its requirements. Staff has on a number of occasions provided TAC written notice of its failure to comply with the terms of the Agreement. Most recently, TAC was hand delivered a notice of default on October 31, 2013, outlining requirements of the Agreement that TAC has failed to comply with. Since that time, these deficiencies have not been cured by TAC.

If the Agreement is terminated, City staff would assume full responsibility for the operations of the fuel facility and assess other options for managing the facility. Staff would then return to Council at a later date with a recommended long term Airport Fuel Facility Management Plan.

It should also be noted that staff understands that the status of TAC as a limited liability company has been suspended by the State and was at the time it entered into the Amendment. Therefore, TAC did not have the legal authority to enter into the Amendment, and, at the City Council's discretion, it could be voided. However, TAC's current suspended status is not relevant to staff's recommendation that the City terminate the entire Agreement for noncompliance, including the Amendment.

Under the terms of the agreement, TAC is required to make an annual payment of \$50,000, due by April 1. To date, the City has not received payment, for the current fiscal year, which would normally be counted as revenue to the Airport Fund. If funds are not received, the Airport Fund will not realize its anticipated revenue for FY13/14. Further, should the Council direct staff to manage the Airport Fuel Facility, the City would incur additional operational costs that cannot be absorbed by the Airport Fund.

Staff recommended that Council adopt a resolution authorizing the City Manager to send a notice of Termination to TAC, LLC.

Mayor Ives indicated Council had received correspondence from Steve Stuhmer and his attorney.

Council Member Rickman, referring to the handout from TAC's attorney, asked if Council terminated the agreement, would it be unreasonable and unfair. Dan Sogergren, City Attorney, discussed the terms of terminating the agreement, stating he did not believe terminating the agreement was unfair.

Mayor Pro Tem Maciel asked for clarification regarding Mr. Stuhmer's license status with the State. Dan Sodergren, City Attorney, stated Mr. Stuhmer continues to claim his license is current. Mr. Sodergren added that staff checked the license status today and it is still suspended.

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

Steve Nicolaou asked for clarification regarding the notice given to Mr. Stuhmer on October 31, 2013, suggesting the City serve another notice and note the license suspension.

Jeff Brown, a pilot and resident of the County, stated since TAC came into the picture he has seen a significant decline at the Tracy Airport. Mr. Brown stated he does not buy fuel in Tracy if he does not have to. Mr. Brown added that there are approximately 11 airports within 50-60 miles that have cheaper fuel rates than Tracy. Mr. Brown suggested Council terminate the agreement.

Trina Anderson encouraged Council to accept staff's recommendation and terminate the agreement.

Mayor Ives asked for clarification regarding providing an additional notice to TAC. Mr. Sodergren stated he was comfortable in his belief that the City's recommendation is defensible.

Mayor Ives asked how the City was going to ensure there was no lapse in service if the agreement is terminated. Mr. Lovell stated there would be a short gap in service to transition the City to sell fuel. Mayor Ives asked how pilots would get a message regarding the gap in fuel service. Mr. Lovell stated through a "Notice to Airmen" which is published through the Federal Aviation Administration.

Mayor Pro Tem Maciel stated it might be good to give Mr. Stuhmer additional time, specifically regarding his license.

Mr. Lovell added that the transition could be made within a week or two after Mr. Stuhmer has vacated the premises.

Council Member Young asked if the contract would be terminated immediately or would the City be providing a 30-day notice. Mr. Lovell stated it would be an immediate termination. Council Member Young stated she rather err on the side of caution and allow Mr. Stuhmer to attend a Council meeting to discuss the situation in person.

Council Member Rickman asked what the liability was to the City because TAC's license is suspended. Mr. Sodergren stated there is no direct liability as long as the City has current insurance certificates.

Council Member Rickman asked about Mr. Stuhmer's authority to enter into the amendment. Mr. Sodergren stated Mr. Stuhmer had no corporate authority to enter into the amendment.

Council Member Manne stated he was ready to move on.

It was moved by Council Member Manne and seconded by Council Member Rickman to adopt Resolution 2014-020, authorizing the City Manager to terminate the Fuel Sales and Fuel Facility Lease Agreement between the City of Tracy and Turlock Air Center, LLC. Voice vote found all in favor; passed and so ordered.

8. ITEMS FROM THE AUDIENCE – Dave Helm addressed Council regarding Leon Churchill's misuse of a city credit card. Mr. Helm stated he will continue to file public records act requests to ferret out the truth. Mr. Helm called upon the Chief of Police to seek a fair and unbiased investigation into the matter.

Tina Anderson thanked staff for their reports regarding the airport and Council for their action.

Several Tracy High students addressed Council regarding the proposed pilot permit parking program and voiced concerns regarding the lack of on-site parking and parking in the residential neighborhoods. One student indicated she had proposed that the school district create a driving policy for students that would decrease the number of students allowed to drive to school and park. One student suggested they be allowed to park at City Hall. One student suggested the permit parking will also impact a church located on Beverdor Avenue. All students asked that the Council delay consideration of the pilot permit parking program.

Steve Nicolaou asked that Council look into reversing the action taken on November 20, 2012, appropriating \$450,000 to effectuate a name change for a portion of Naglee Road to Auto Mall Parkway and use the funds allocated to that project to pay for the installation of sidewalks and sewer lines on the south side of the City. Mr. Nicolaou suggested Council look at fronting the cost for putting in the sidewalks and sewer lines, with the intent that property owners pay the appropriate hook-up fee and any cost for the sidewalks. Mr. Nicolaou stated the City needed to provide a better life for everyone in the community.

9. STAFF ITEMS – None.

10. COUNCIL ITEMS

- A. Appointment of City Council Subcommittee to Interview Applicants for Vacancies on the Measure E Residents' Oversight Committee – Maria Hurtado provided the staff report. The Measure E Residents' Oversight Committee was created on March 1, 2011, to serve in an advisory capacity to City Council and to oversee the revenues and expenses pertaining to the portion of the sales tax generated by Measure E.

The authority to levy the tax imposed will expire on April 1, 2016. On March 1, 2014, terms will expire for three of the Measure E Residents' Oversight Committee members. Although the three year term for the appointed committee members will end on March 1, 2017, a year after the expiration of the collection of the sales tax, as stated in the Measure E Residents' Oversight Committee by-laws adopted by Resolution 2011-019, appointments shall be until the reporting period for the last one-half cent sales tax collected pursuant to Measure E.

The upcoming vacancies have been advertised and the recruitment closed on January 27, 2014. As of January 27, 2014, no applications have 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. The recruitment has been extended and will close on February 11, 2014. 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 as the two-member subcommittee to interview applicants for vacancies on the Measure E Residents' Oversight Committee.

Council Member Rickman noted it was World Cancer Day stating his thoughts and prayers went to those battling cancer. Council Member Rickman reminded everyone of the Relay for Life event being held on Saturday and Sunday May 17, and 18, 2014, at the West Valley Mall.

Council Member Rickman congratulated the Tracy Girls Futbol Club Xplosion, (under age 12 group), for winning the indoor soccer championship.

Council Member Young reminded everyone of upcoming events at the Grand Theatre, noting the Freedom Riders play, February 20, 2014, in time for National Black History Month.

11. ADJOURNMENT - It was moved by Mayor Pro Tem Maciel and seconded by Council Member Manne to adjourn. Voice vote found all in favor; passed and so ordered. Time: 10:29 p.m.

The above agenda was posted at the Tracy City Hall on January 30, 2014. The above are summary minutes. A recording is available at the office of the City Clerk.

Mayor

City Clerk