

**March 4, 2014, 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 offered by Pastor Kevin James, New Creation Bible Fellowship.

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 award for March to Stephanie Reyna-Hiestand, Public Works.

Mayor Ives presented a proclamation to Liza Cruz, Regional Manager, San Joaquin American Red Cross, in recognition of American Red Cross Month.

Mayor Ives recognized students from Jefferson, Tom Hawkins, and Anthony Traina Elementary Schools, for their D.A.R.E. graduation.

1. CONSENT CALENDAR - 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 –Closed session minutes of January 7, and January 21, 2014, were approved.
  - B. Acceptance of the Sidewalk Repair Fiscal Year 2013 – 2014, Phase One, A Street and Eleventh Street Sidewalk Improvement – CIP 73139, completed by Extreme Excavation of Tracy, California, and Authorization for the City Clerk to File a Notice of Completion – Resolution 2014-030 accepted the project.
  - C. Approve Professional Services Agreement (PSAs) with TJKM Transportation Consultants (Traffic), and West Yost and Associates (Water), Task Order No. 6 to Master PSA (MPSA) with Storm Water Consulting, Incorporated (Storm Drainage), MPSA (CH-2014) and Task Order No. 1 to MPSA (CH-2014-01) with CH2MHill (Wastewater), and Task Order No. 2 to MPSA (HA13-01) with Harris and Associates (Program Management) for Completion of Various Technical Analyses Related to the Industrial Development of I-205 Parcels M1 and M2, and Authorize the Mayor to Sign the Agreements – Resolution 2014-031 approved the agreements.
2. ITEMS FROM THE AUDIENCE - Benjamin Rose addressed Council expressing support for the City Manager, asking that Council allow him to continue to lead the City.

Ray Morelos addressed Council regarding morals, ethics, and accountability. Mr. Morelos indicated failure of the Council to enforce policies results in public mistrust.

Don Cose addressed Council stating Mr. Churchill has been the best City Manager in Tracy's history and asked that Council give Mr. Churchill their vote of confidence.

Mercedes Silveira addressed Council asking for an update regarding the Spirit of California project. Mayor Ives asked staff to contact Ms. Silveira.

Paul Miles addressed Council stating this was not the first ethical lapse of Mr. Churchill and provided a brief history of events. Mr. Miles stated Council needed to go back to the District Attorney with complete information regarding multiple issues.

Dave Helm addressed Council regarding the personal use of a City credit card by Mr. Churchill. Mr. Helm stated he did not understand how Council can hold one group to a standard and not hold the leader to the same standard.

3. PUBLIC HEARING TO CONSIDER THE ALLOCATION OF COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) AND HOME INVESTMENT PARTNERSHIP PROGRAM (HOME) FUNDS FOR FISCAL YEAR 2014-2015 – Mayor Pro Tem Maciel excused himself from consideration of the item stating his wife served on the Tracy Interfaith Ministries Board, which group was being considered for funding. Council Member Young stated she was a member of the Sow A Seed Foundation, but that she did not have to excuse herself from the discussion.

Barbara Harb, Management Analyst, provided the staff report. Ms. Harb stated that 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. Applicants must meet one of HUD's National objectives and criteria for eligibility.

During FY 2008-2009, Council directed staff to revise the CDBG process so that those eligible applications that best address the local needs of the Tracy community would receive priority for funding. In order to encourage meaningful citizen involvement, public examination, and appraisal of the process, as well as enhance program accountability, a subcommittee of the Parks and Community Services Commission was established to evaluate the CDBG applications and make funding allocation recommendations.

The estimated amount of CDBG funds allocated to the City of Tracy, as a sub-recipient of San Joaquin County, is \$457,746 for FY 2014-2015. HUD regulations state that funding for activities in the Public Services category cannot exceed 15% of the City's annual CDBG allocation. Therefore, the Public Services category is limited to an estimated maximum allocation of \$68,661, leaving a balance of \$389,085 to be allocated in the Public Facilities and Economic Development categories for FY 2014-2015. Additionally, the City is also estimated to receive \$65,648 in federal Home Investment Partnership Program (HOME) funds, which are intended for general housing activity types to include: homeowner and rental construction and/or rehabilitation and first-time homebuyer assistance.

CDBG and HOME applications for FY 2014-2015 were made available on December 18, 2013, with a submittal deadline of January 15, 2014. Staff held a public meeting on January 8, 2014, to answer questions regarding the application requirements. The City received 11 applications in the CDBG – Public Services category, three applications in the CDBG - Public Facilities category, two applications in the CDBG – Economic Development category, and one application in the HOME funds category.

The CDBG subcommittee conducted a public meeting on Thursday, January 23, 2014, to consider the applications and make funding allocation recommendations. The Parks and Community Services Commission conducted a public meeting on Thursday, February 6, 2014, to consider the recommendations made by the CDBG subcommittee.

The CDBG Subcommittee initially recommended fully funding The Coalition of Tracy Citizens to Assist the Homeless Emerson House Renovation/Repair project using HOME Funds in order to maximize funding to as many applicants as possible. Unfortunately, after the CDBG Subcommittee meeting on January 23, 2014, the project was determined to be ineligible for HOME funding. As a result, the application was placed for consideration in the CDBG – Public Facilities category. The application was being reviewed for CDBG funding eligibility by HUD at the time of the Parks and Community Services Commission meeting on February 6, 2014. On February 10, 2014, the County informed the City that the project would be eligible for funding should the applicant secure a 15-year lease prior to the March 4, 2014, Council meeting. The City has received confirmation that a 15-year lease has been secured by the applicant making it eligible for CDBG funding.

The Tri-Valley Housing Opportunity project is a duplication of services already provided by Visionary Home Builders (administered by the County). The County has informed City staff that CDBG funds are not to be used for duplicate services. Therefore, the Parks and Community Services Commission recommend allocating the \$65,648 in HOME Funds to the City of Tracy Down Payment Assistance Program.

There will be no impact to the General Fund. The City of Tracy, as a sub-recipient of San Joaquin County, will be allocated an estimated \$457,746 in CDBG funds for FY 2014-2015. The City will also be allocated an estimated \$65,648 in HOME funds.

Staff recommended that Council allocate \$457,746 in Community Development Block Grant funds and \$65,648 in HOME funds for FY 2014-2015 pursuant to the recommendations listed in the resolution and authorize the Development Services Director to execute the Form Agreements on behalf of the City.

Ms. Harb added that since the Parks and Community Service Commission meeting, the Emerson House Renovation/Repair project did obtain the 15-year lease and therefore was eligible for funding. Ms. Harb stated staff supported the request and asked that Council allocate \$56,219 to the Coalition's Emerson House renovation project and reduce the City's ADA door modification project to \$211,028.

Mayor Ives asked if the new resolution included the changes outlined. Ms. Harb stated yes.

Mayor Ives opened the public hearing.

Kate Macek, Women's Center Youth and Family Services, thanked Council and staff for their diligence and support for their programs in Tracy for the past 10 years.

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

It was moved by Council Member Rickman and seconded by Council Member Young to adopt Resolution 2014-032 allocating Community Development Block Grant and Home Investment Partnership Program funds for Fiscal Year 2014-2015. Voice vote found Council Members Manne, Rickman, Young and Mayor Ives in favor; Mayor Pro Tem Maciel abstained.

4. **AUTHORIZE THE ESTABLISHMENT OF PREFERENTIAL PARKING ON TWELFTH STREET AND BERVERDOR AVENUE BETWEEN MAE AVENUE AND EAST STREET AS A PILOT PROGRAM** – Andrew Malik, Development Services Director, introduced Victoria Dion, City Engineer. Mr. Malik stated staff has met with the school district, who would like to make a presentation. Ripon Bhatia, Senior Civil Engineer, provided the staff report. Mr. Bhatia stated on January 21, 2014, staff introduced an ordinance adding a chapter to the City of Tracy Municipal Code governing preferential parking. Council, after reviewing the parking issues on these streets, did not pursue the introduction of the proposed ordinance and directed staff to implement preferential parking as a pilot program on Twelfth Street and Berverdor Avenue between Mae Avenue and East Street through the school year ending in June 2015. Furthermore, Council directed that associated costs for establishing this pilot program, including installation of signs, issuance of permits and enforcement of preferential parking zones shall be borne by the City.

Engineering and Police Department staff have been working together to finalize the logistics to implement the Council directive and recommend establishing preferential parking between the hours of 7:00 a.m. to 4:00 p.m., Monday through Friday. The procedures for issuance of the parking permits, revocations, exemptions and violations of the permit parking are recommended to apply as follows:

Issuance of Parking Permits, Fees, Revocation - Within 30 days after the designation of a preferential parking area, the Chief of Police shall begin issuing parking permits to any residents of the area.

Each resident is entitled to:

1. One permit for each vehicle registered to the resident's address, up to a maximum of two permits. The resident shall affix the permit to the vehicle.
2. One guest permit although the City may issue an additional guest permit to a property owner who is not a resident
3. Up to ten one-day guest permits for each special event held at a residence.
4. The permit does not entitle the permittee to violate other parking regulations, guarantee a parking space at any particular location, or permit parking for more than 72 hours. There is no fee for the annual parking permit.

The Chief may revoke the parking permit of any person or for any vehicle no longer eligible for a permit, and shall notify the resident in writing of the reason for the revocation.

Parking Permit Exemptions - The following vehicles are not subject to the parking permit requirement in a designated preferential parking area:

- a. An emergency vehicle (See Vehicle Code section 165).
- b. A delivery, utility or service vehicle providing service to a resident or facility in the preferred parking area.
- c. A vehicle used by a disabled individual meeting the requirements of Vehicle Code section 22511.5 and displaying a handicap plate or placard.

Violations - Within a preferred parking area, no person may:

- a. Park a motor vehicle during the limited times without a valid permit properly displayed. The Police Department is authorized to issue a parking citation for a violation.
- b. Falsely represent himself or herself as eligible for a parking permit, or furnish false information in a permit application
- c. Allow the use of a parking permit on a vehicle other than that for which the permit was issued,
- d. Copy or produce a counterfeit parking permit, or display a counterfeit permit, or
- e. Sell, give or exchange a permit to another person.

Police Department staff has determined the parking violation fine for permit parking to be \$50 per violation.

During the items from the audience segment of the February 4, 2014, Council meeting, students from Tracy High School spoke for the need of additional student parking in and around the school to mitigate concerns of the neighboring residents. They further stated that the interim solution being implemented by the City would not resolve the issue and parking issues will spill over to the adjoining neighborhoods.

The City also received two letters, one from a resident on Highland Street and the other from Franklin Street, requesting that the radius for the preferential parking be extended to their streets as well. They were concerned that their streets had been intentionally excluded from the proposed preferential parking areas.

Staff has been working with the neighborhood groups, including Highland Street, for the last several years. However, feedback from Highland residents indicated they were not in favor of preferential parking on their street. There was only an isolated traffic improvement request from Franklin Street, which was followed up with no parking restrictions on a stretch of street which had been already approved and installed.

After reviewing concerns from the residents and students, staff believes that the Council direction to implement the pilot program for preferential parking on Twelfth Street and Berverdor Avenue will mitigate immediate concerns and will allow staff to evaluate its effectiveness and its impacts on the neighboring areas.

It is anticipated that the implementation of the Preferential Parking Pilot Program will have a minimal impact on the Police Department budget; no additional funding is

requested. Required signage will be installed by Public Works Department and parking permits will be issued by Police Department staff.

Council Member Young referred to issuance of parking permit fees, number 4, and the restriction that cars have to move after 72 hours. Mr. Bhatia stated the Tracy Municipal Code (TMC) currently prohibits cars from parking longer than 72 hours.

Council Member Young asked for clarification regarding disabled placards being exempt. Mr. Bhatia stated State code overrides the requirement.

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

Casey Goodall addressed Council on behalf of the Tracy Unified School District (TUSD). Mr. Goodall stated a student made a presentation to the School Board and it was agreed that several members of the Board would work with students to attempt to resolve the issue. Mr. Goodall stated the problem, as understood by the School District, is that there are 2,000 students, 250 student parking spaces, eight handicapped spaces which will increase to 16, three motorcycle spots and more to come upon the completion of construction currently underway.

A Tracy High School student outlined various options explored including: carpooling, park and ride with a shuttle to campus, and a good neighbor program to restore relationships with the neighborhood. The High School student proposed the creation of a committee to come up with long term and short term solutions. The student asked that Council postpone the decision until the committee has an opportunity to meet on March 27, 2014.

A group of students indicated a parking permit will not fix the majority of the issues the neighbors have and apologized for any issues they have incurred. The group asked that Council wait until the end of the school year so they can come up with a solution.

Steve Nicolaou asked Council to give the kids a chance to find a solution without involving government.

Douglas Palmer stated the First Presbyterian Church has similar parking problems.

A resident of Twelfth Street stated the issue is not just with students littering, it includes those attending football games. The resident stated it was unfair that residents have to go to City Hall so visitors can come to their home. Mr. Bhatia stated each resident will be issued one guest permit.

Mayor Pro Tem Maciel asked if the guest permit is issued to the household so they can allow a variety of visitors to use the permit. Mr. Bhatia stated the guest permit is not for any particular vehicle, and can be displayed in any car for any visitor.

As there was no one further wishing to address Council on the matter, the public comment portion of the item was closed.

Mayor Pro Tem Maciel stated the students should be credited for their involvement in the matter; that they are part of the solution. Mayor Pro Tem Maciel stated a parking permit was only part of the answer.

Mayor Ives asked Mr. Goodall if there were continued discussion with staff and students on the issue. Mr. Goodall stated staff intends to meet with the students and no options have been dismissed. Mr. Goodall further stated that regardless of a Council decision, the School District intends to address parking concerns.

Council Member Young commended the students for presenting their ideas and solutions. Council Member Young stated she was in support of postponing a decision so the students have an opportunity to come up with potential solutions.

Council Member Manne also commended the students for addressing Council, stating the permit parking was a bandaid solution. Council Member Manne stated he was in favor of postponing a decision in order to give the students and residents an opportunity to resolve the issue.

Mayor Pro Tem Maciel asked Mr. Goodall how much time they needed. Mr. Goodall stated they would be prepared to return to Council within 30-45 days, but that a long term solution would take longer.

Council Member Manne asked if the School District intended to include residents of the neighborhood. Mr. Goodall stated they have not considered that option, but indicated they do need to engage the residents to solve the problem.

Council Member Rickman stated the students did a good job.

Mayor Ives stated the issue was a school impact and theirs to mitigate. Mayor Ives stated the difference now is that there is an action plan and they are engaged. Mayor Ives added it was a wonderful idea to engage the residents. Mayor Ives stated he was willing to wait and was not sure he was in favor of a permit situation.

It was Council consensus to postpone taking action on the establishment of preferential parking on Twelfth Street and Berwerdor Avenue between Mae Avenue and East Street for 60 days.

Mayor Ives called for a recess at 8:35, reconvening at 8:44 p.m.

5. **ACCEPT REPORT REGARDING THE CITY'S FINANCIAL CONTROLS AND REPORTING PRACTICES** – Jenny Haruyama, Administrative Services Director, provided the staff report. Ms. Haruyama stated staff has recently received several Public Records Act requests related to credit card use by City employees as well as travel expenses and reimbursements.

The City has several policies and procedures related to financial reporting, budget practices, and internal controls. The City's financial and budget policies address issues such as reserves, capital projects, use of one-time resources, and debt issuance. Examples of administrative and internal control policies include cell phone use and

stipends, credit card issuance, travel expense and reimbursement, petty cash handling, and purchasing practices.

The Tracy Municipal Code requires that all funds, accounts, and financial transactions of the City be subject to an annual audit by an independent certified public accountant that is selected by the Council. The audit is performed in compliance with auditing standards generally accepted in the United States and standards applicable to financial audits contained in the Government Auditing Standards, issued by the Comptroller General of the United States.

The Municipal Code further specifies that after the close of the fiscal year, an annual financial report covering all funds and financial operations shall be prepared and submitted to Council.

The City's audit process is comprised of three phases; the first two involve an audit of the City's financial statements and internal controls. The third phase is a single audit or federal program compliance audit. The fourth, or last phase, involves the reporting of the audit results, findings, and management action plan.

During the first phase of the financial statement audit, the auditors perform an interim audit, known as a preliminary survey, prior to the close of the fiscal year (May or June). The auditors evaluate potential risks to the City's financial system and documents existing internal controls. This process determines if the City's established policies and procedures are reliable and are being implemented correctly. The results of the testing determine the scope of the audited transactions that occur in phase two.

The second phase of the financial statement audit involves a field audit, which is performed shortly after the end of the fiscal year (July and August). During this phase, the auditors perform extensive testing of all financial transactions; the objective of the auditors is to ensure that the financial record keeping and internal processes are done accurately and in accordance with federal auditing standards. This phase also includes a more involved review of financial transactions and procedures regarding cash handling, purchase orders, travel reimbursements, and credit card purchases.

The third phase is a compliance audit of federal programs. This audit involves further transaction testing in accordance with the Office of Management and Budget (OMB) Circular A-133 and is conducted in January following the close of the fiscal year and issuance of the CAFR. The OMB Circular A-133 establishes auditing standards for federal programs used by local government. In addition to this audit, the City undergoes several other specialty audits, which include a review of transit funding, gas tax, and state grants.

In the final phase, the audit results, findings, and management action plan is compiled into a report and is distributed to applicable executive management and Council. Although follow-up is considered a separate process, it is an integral part of audit work. If a significant finding (correction) is made, it must be addressed by a target date as provided in the management action plan.

Although City auditors have indicated that the City's financial statements are presented fairly and comply with generally accepted accounting principles, staff will explore options



to further enhance its financial processes and informational transparency practices, which include the following:

1. Best Practice Review of City Internal Control Policies - A best practices review of the City's administrative and financial policies is already underway. This policy research will include, but is not limited to policies and procedures related to credit card issuance, travel expense and reimbursement, cell phone use, issuance and stipends, petty cash handling, and purchasing practices. The City's policies will be updated as needed to reflect best practice approaches to administrative and financial processes. Employee training will be provided on these policies and/or procedures. Staff is also considering an external, independent audit to review selected processes, and identify suggested improvements.
2. Improving Informational Transparency and Accessibility - The Council adopted a Governance Strategy that promotes communication and civic engagement, financial transparency, and fiscal stewardship. Over the past several months, the City has been in the process of implementing an open government financial software to improve public access, promote understanding, and build trust regarding its financial reporting practices.

Additionally, as part of the FY 13/14 CIP budget, Council approved the upgrade of a new financial and human resource system. This upgrade will improve the City's overall financial reporting and tracking capabilities, particularly transactions related to internal control items such as credit card charges and travel expenses and reimbursements.

Staff is also exploring ways to broaden the financial data posted on the City's website to include key administrative and financial policies related to the City's investment practices, reserves, and credit cards.

Staff recommended that Council accept the report regarding the City's financial controls and reporting practices.

Council Member Rickman asked if the new program would allow individuals to look online and see credit card purchases. Ms. Haruyama stated staff would be able to drill down to get the information which can be compiled in a report and made available.

Council Member Rickman asked if the public can access the information from the website. Ms. Haruyama stated she was not sure and would have more information on April 1, 2014.

Mayor Pro Tem Maciel stated he would like to see the City's financial business publically accessible. Mayor Pro Tem Maciel further stated the system should be designed so that a layperson can successfully navigate through it.

Council Member Manne asked how long Moss Levy & Hartzman has worked for the City. Ms. Haruyama stated approximately ten years. Ms. Haruyama stated typically after five years a city would send out an RFP for the services, however, it would be a good idea to keep Moss Levy & Hartzman on board while the City go through the finance upgrade.

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

Steve Nicolaou applauded Ms. Haruyama for bringing the City into the 21<sup>st</sup> Century. Mr. Nicolaou stated this effort was not just about dollars and cents, but about people having faith in their government. Mr. Nicolaou stated the rules need to apply to everyone, indicating expense reimbursement for elected officials, board members, and commissioners should be included.

Mayor Pro Tem Maciel asked Ms. Haruyama if there was anything that exempted elected officials. Ms. Haruyama stated no.

Mr. Nicolaou suggested Council consider a position of ombudsman under the Finance Director.

Bill Durban addressed Council in support of the idea of an ombudsman. Mr. Durban thanked Police Chief Hampton for bringing integrity back to the police force.

Linda Jiminez, addressed Council regarding travel expenses asking why it took an audit to find problems. Ms. Jiminez asked if the new system will check for errors. Ms. Haruyama stated automation does not mean authorization. Ms. Haruyama further stated parameters would be set up through the system. Ms. Haruyama stated there were several staff members who perform due diligence on expense reports before they are submitted to her and that the process will carry forward electronically.

Dave Helm asked how many credit cards were issued to City staff. Ms. Haruyama stated approximately 50 cal cards and 99 store cards. Mr. Helm asked why a notation was not made in the CAFR report. Ms. Haruyama stated the auditors rendered a decision because the receivable was paid off within the month and they were able to close the books.

Michele Bazinet asked if there was a change in policy that allows staff to answer questions raised by the public. Mayor Ives stated there was a difference in Items from the Audience and an item that has been placed on the agenda.

Mr. Bazinet stated the City was taking a step in the right direction by looking at internal controls and checks and balances. Mr. Bazinet further stated we learn from our mistakes and move forward.

Mr. Durban asked where he could find the \$68 million in intangibles listed in the audit. Ms. Haruyama stated she would work offline to answer Mr. Durban's questions.

Paul Miles discussed an open source system, intent to defraud, and the lack of respect for critics.

Council Member Young asked if Council would receive an update on what policies have been updated or changed. Ms. Haruyama stated the Council Policies will return and an informational report would be provided regarding Administrative Policies.

Council Member Young stated she was concerned with travel and entertainment policies, indicating there appears to be room for improvement. Ms. Haruyama asked if

Council Member Young was referring to employee administrative policies or Council adopted travel expense policies. Council Member Young stated both.

Council Member Young stated it was important that residents are aware of the time that is spent on public records act requests. Council Member Young stated Council works for the community and serves the community because they care for the community.

Maria Hurtado, Assistant City Manager, asked if Council Member Young was requesting that staff bring back a public records act request log as part of the two step process. Council Member Young stated yes.

Mayor Pro Tem Maciel asked if there was system for tracking public records act requests. Ms. Hurtado stated a log is kept on all public records act requests.

Council Member Manne thanked staff for the agenda item and suggested it was time to recycle the City's auditor.

Mayor Ives asked what the CAFR is supposed to do for a government. Ms. Haruyama stated a CAFR is a snapshot in time of what the transactions were for a fiscal year, as well as an overview of the City's fiscal health.

Council accepted the report regarding the City's financial controls and reporting practices.

6. CONSIDER A REQUEST BY CITY COUNCIL TO DISCUSS COMPLAINTS BY BRIAN VAN LEHN REGARDING THEIR CONCERNS RELATIVE TO NOISE EMISSIONS FROM THE LEPRINO FOODS PROCESSING PLANT AT 2401 NORTH MACARTHUR DRIVE – Ana Contreras, Code Enforcement Manager, provided the staff report. Ms. Contreras stated that City staff, Leprino, and the Van Lehn's have worked together to address certain noise issues related to operations at the Leprino facility since December 2, 2008. The outcome of those early discussions resulted in Leprino constructing noise barriers near the refrigerated rail cars adjacent to the residential neighborhood on the west side of their facility located at 2401 North MacArthur Drive. The rail car barriers were installed based on a recommendation by an acoustical engineer hired by Leprino Foods to analyze and make a recommendation as to the best way to reduce noise levels. Noise readings conducted after the barriers were constructed concluded that Leprino was not in violation of their 1994 Noise Exemption.

Ms. Contreras provided a brief case history of the actions taken to date to address the Van Lehn complaint:

Staff recommended Council provide Brian Van Lehn an opportunity to discuss the issue of noise from the Leprino Foods plant as agreed to at its City Council meeting of January 7, 2014.

Andrew Malik, Development Services Director, added should Council direct staff to make changes to the noise ordinance Leprino would be grandfathered into any change.

Mayor Pro Tem Maciel asked if the current ordinance addresses noise in decibels. Ms. Contreras stated yes. Mayor Pro Tem Maciel asked if there was a different metric that

noise could be measured and if so, do current ordinances encompass it. Alan Bell, Senior Planner, stated the City ordinance measures sound in A-weighted decibels; a measure of noise frequency that is recognized as audible to people.

A discussion ensued regarding Leprino Foods, their application and approval for a noise exemption, sound limits for residential and commercial uses, noise levels, land uses, and the current noise ordinance.

Council Member Young discussed the Leprino expansion and vibrations. Council Member Young indicated she wanted to hear from the Van Lehn's and hoped that Council could help resolve the issue. Council Member Young stated Leprino should not be grandfathered in. Mr. Bell added that there was no question that the character, quality and duration of the noise had changed, however, at no time has Leprino exceeded the allowed 67 decibel level.

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

Brian Van Lehn thanked Council Member Young for bringing this item to Council. Mr. Van Lehn asked that Council hear the new evidence and re-consider their position on the noise issue. Mr. Van Lehn stated the noise that is most offensive has not been captured.

Derek Watry, an acoustical engineer hired by the Van Lehn's, provided Council with information regarding low frequency tonal noise experienced by the Van Lehn's. Mr. Watry discussed low frequencies, wave lengths, vibrations and the shaking of the Van Lehn's house because of sound waves. Mr. Watry stated all noise readings conducted by the City missed this low frequency. Mr. Watry further stated the problem is not a noise ordinance issue and needed to be dealt with outside the noise ordinance. Mr. Watry stated he has met with Leprino Foods and they have committed to work with him. Mr. Watry indicated the Van Lehn's will track when this phenomenon occurs and once the issue is isolated, Leprino will work to fix it.

Mayor Ives stated it was refreshing to find the source of the issue and was encouraged by the fact that Leprino is working to isolate the source.

Mayor Pro Tem Maciel stated no one doubted the Van Lehn's had an issue, the question was, is it in the Council's purview to correct the issue. Mayor Pro Tem Maciel stated since Leprino is working with the Van Lehn's, it may be premature for the City to get involved.

Mr. Van Lehn asked Council to acknowledge that there was a true noise issue in his neighborhood and to encourage Leprino to identify the problem.

Paul Miles stated maybe noise is not the correct metric but was in fact a public nuisance. Mr. Miles recommended that Council not act until something is identified and to keep an open mind.

Mayor Ives stated staff might contact Leprino and thank them for being willing to look at their equipment and allow access from Mr. Watry.

Council Member Young asked if the City had a good neighbor policy. Leon Churchill, Jr., City Manager, stated a good neighbor policy would originate from the corporation and not from the City. Mr. Malik added that staff met with Leprino Foods this morning and had a good dialogue with them.

7. ITEMS FROM THE AUDIENCE – Rhodesia Ransom addressed Council commending Council on the work they have done. Ms. Ransom encouraged Council to find a way to move forward and get back to the business of Tracy including economic development and quality of life.

Sandy Taylor thanked Council for all they have done to lead the City into the future. Ms. Taylor stated based on all the good things the residents are experiencing, the record for positive progress speaks for itself. Ms. Taylor stated the negative comments are harmful to the City.

Paul Miles, responding to the “enough is enough” remark, stated he has reported explicit violations of criminal law which have not been dealt with. Mr. Miles stated this situation will not go away; it needs to be addressed openly and honestly.

Marsha McCray addressed Council regarding negative comments made at Council meetings and in letters to the editor. Ms. McCray stated good things do not happen in a city despite leadership, they happen because of the leadership. Ms. McCray stated she believes Council is working for the greater good of the community.

Linda Jiminez addressed Council stating every citizen should be able to come forward and speak their mind whether we agree or disagree. Ms. Jiminez stated everyone should be respected.

8. STAFF ITEMS – None.

9. COUNCIL ITEMS

- A. Determine Whether to Direct Staff to Place an Item on a Future Council Agenda Regarding Options to Address Infrastructure Issues in the Mount Oso, C Street and Mount Diablo Area - Maria Hurtado, Assistant City Manager, provided the staff report. Ms. Hurtado stated at the City Council meeting held on February 18, 2014, Council Member Young referenced the various code enforcement, public works and infrastructure issues Lisa De Pasquale’s raised at a previous Council meeting and stated she would like to sponsor an agenda item related to the infrastructure issues in that area. Councilmember Young would like Council to consider a future Council agenda regarding options to address infrastructure issues in the Mount Oso, C Street, and Mount Diablo area.

Approval of Council Member Young’s request would result in an agenda item being placed on a future Council agenda allowing Council to discuss the item and determine any action related to the item.

It was Council consensus to place an item on a future Council agenda regarding options to address infrastructure issues in the Mount Oso, C Street, and Mount Diablo area.

Mayor Ives asked how long it would take for an item to return to Council on the matter. Leon Churchill Jr., City Manager, stated May 6, 2014. Mr. Churchill outlined some of the issues in the area stating there are fairness issues and if the City wants to pursue infrastructure there could be an \$80 million exposure.

Mayor Pro Tem Maciel stated the more options Council has to consider the better.

Mayor Ives stated a history of the area would be helpful.

Lisa DiPasquale thanked Council Member Young for sponsoring her item. Ms. DiPasquale encouraged Council and staff to see what other cities are doing regarding a beautification ordinance.

- B. Determine Whether to Direct Staff to Place an Item on a Future Council Agenda to Discuss How Best to Respond to Items From the Audience - Maria Hurtado, Assistant City Manager, provided the staff report. Ms. Hurtado stated at the City Council meeting held on February 18, 2014, Council Member Maciel requested that Council consider placing an item on the agenda to discuss how best to respond to items from the audience when inaccurate information is presented by members of the public and additional factual information can provide further clarity. If Council or staff does not have the factual information readily available, Council can discuss a practice that provides flexibility to bring the factual information back at a future Council meeting.

Approval of Council Member Maciel's request would result in an agenda item placed on a future Council agenda allowing Council to discuss the item and determine any action related to the item.

Mayor Pro Tem Maciel clarified that his intent was to cover items from the audience as well as items on the agenda.

Mayor Ives asked if this item would reside with the City Attorney. Dan Sodergren, City Attorney, stated he could provide a report of what the Brown Act provides.

It was Council consensus to have an item placed on a future agenda addressing Mayor Pro Tem Maciel's request.

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

Paul Miles stated he would welcome Mr. Sodergren coming back with an exposition of what the Brown Act does and does not allow. Mr. Miles stated he has disagreed with some of the responses by Council that have effectively accused members of the public of being dishonest and then not allowing the

public to respond in a timely manner. Mr. Miles added that the agenda item Mayor Pro Tem Maciel requested at the last meeting centered on restoring confidence and not responding to members of the audience.

Mayor Pro Tem Maciel stated the agenda item presented by staff dealing with financial information would have been part of what he originally would have proposed and since then, the topic has been narrowed.

Linda Jiminez stated she fully supports the item because the Parks and Community Services Commission encounters the same issue.

Michel Bazinet stated there was a broader issue which related to free speech and provided several examples.

Council Member Young commented on Mayor Pro Tem Maciel's original request and how Mayor Pro Tem Maciel was able to articulate the crux of his request and how this item came about.

Leon Churchill, Jr., City Manager, suggested the agenda item return to Council on April 15, 2014.

- C. Appoint Applicants to the Measure E Residents' Oversight Committee – It was moved by Council Member Rickman and seconded by Council Member to appoint John Ferguson, Kevin Tobeck and Teresa Kandes to the Measure E Residents' Oversight Committee to serve three year terms which will expire on March 1, 2017. Council Member Rickman stated Larry Fragoso and Brooke Fell were placed on an eligibility list.
- D. Appointment of City Council Subcommittee to Interview Applicants for Vacancies on the Planning Commission - Mayor Pro Tem Maciel and Council Member Manne were appointed to interview applicants to fill three upcoming term expirations on the Planning Commission.

Council Member Young asked for an update on previous requests regarding: 1) A citizens committee to address complaints; 2) Individuals being recorded in their home; and 3) Findings from the Senior Steering Committee. Council Member Young requested that the Steering Committee be utilized in putting the information together.

Mayor Ives asked if the items raised by Council Member Young were being worked on. Leon Churchill, Jr., City Manager, stated an item regarding a citizen committee was scheduled for March 18, 2014. Regarding individuals being recorded in their homes, Police Chief Hampton provided Council with the policy and asked Council to determine if the item requires any additional visibility. Regarding the Senior Steering Committee, Mr. Churchill asked if the Council needed additional information. Mr. Churchill indicated the report has been referred to the Parks Commission for action.

Council Member Young asked if it was possible for the steering committee to help in the process. Mr. Churchill encouraged those members to contribute and participate in the Parks Commission discussion and again when it comes back to Council at a joint meeting.

Mayor Ives stated Council did get a report on recording individuals in their homes.

Council Member Young stated she may need further clarification. Mr. Hampton availed himself to further discuss the policy with Council Member Young.

Council Member Rickman wished his daughter Allison a Happy Birthday.

Mayor Ives indicated Council would recess to the adjourned closed session meeting.

10. ADJOURNMENT - It was moved by Council Member Manne and seconded by Council Member Young to adjourn. Voice vote found all in favor; passed and so ordered. Time: 11:15 p.m.

The above agenda was posted at the Tracy City Hall on February 27, 2014. 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