

JOINT CITY COUNCIL/TRACY RURAL FIRE PROTECTION DISTRICT/SOUTH COUNTY  
FIRE AUTHORITY SPECIAL MEETING MINUTES

**September 2, 2014, 6:00 p.m.**

City Council Chambers, 333 Civic Center Plaza

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

1. CALL TO ORDER – Mayor Ives called the meeting to order at 6:00 p.m.
2. ROLL CALL - Roll call found Council Members Maciel, Manne, Rickman, Young, and Mayor Ives present. Tracy Rural Fire Protection District Board Members Smith and Ahmad present. Board Members Thoming and Vieira absent. South County Fire Authority Directors Ahmad, Maciel and Rickman present. Director Thoming absent.
3. ITEMS FROM THE AUDIENCE – None
4. JOINT WORKSHOP WITH THE CITY OF TRACY, TRACY RURAL FIRE PROTECTION DISTRICT, AND SOUTH COUNTY FIRE AUTHORITY TO DISCUSS AND PROVIDE COMMENTS ON DRAFT REPORT ON ALTERNATIVE FIRE GOVERNANCE STRUCTURES

Dan Sodergren, City Attorney, stated the meeting was originally scheduled as a joint meeting of the Tracy City Council, Tracy Rural Fire Protection District, and South County Fire Authority, but since only one of the three bodies had a quorum, it would only be a meeting of the Tracy City Council for Brown Act purposes.

Mayor Ives responded no action was scheduled for any of the bodies

Fire Chief Al Nero provided the staff report. In October of 2011, San Joaquin Local Agency Formation Commission (LAFCo) completed a Municipal Services Review (MSR) of Rural Fire Districts in San Joaquin County. The review questioned the appropriateness of the current governance model for fire services in the South County Fire Authority (SCFA) service area, including the policy of non-detachment when unincorporated territory within the District is annexed into the City. The MSR required that the City “Complete a plan regarding the governance model for Tracy Fire Department and Tracy Rural within 18 months subject to the approval of LAFCo. All subsequent annexation requests shall be consistent with the approved plan”. The timeline was subsequently extended to 24 months.

The City submitted the Fire Governance Implementation Plan to LAFCo in July 2013. The plan was discussed by LAFCo, at length during its July 19 and August 16, 2013 meetings. LAFCo continued consideration until its October 18, 2013, meeting and subsequently to the December 13, 2013, meeting. During both meetings, LAFCo expressed concerns regarding the fiscal impact on the County of the current non-detachment policy when territory is annexed into the City.

The City retained Management Partners to address the fiscal and governance issues. Management Partners completed the draft report “Alternative Fire Governance Structure.” The report was distributed to interested stakeholders in July 2014, for their review and comment. These included the Tracy Rural Fire District Board (Tracy Rural) of

Directors, the Fire Service Steering Committee, San Joaquin County, San Joaquin LAFCo and representatives of labor and management within the Fire Department.

Staff requested that the SCFA, Tracy City Council, and Tracy Rural Fire District Board discuss and provide comments on the draft report on alternative fire governance structures.

Fire Chief Nero introduced Lynn Dantzker, Senior Manager, and Andrew Belknap, Regional Vice President, Management Partners.

Ms. Dantzker stated the meeting was to hear comments on the draft Alternative Fire Governance Structures that was submitted to the City on June 24, 2014, and discuss next steps on a financially sustainable fire service for all providers. Ms. Dantzker provided a Powerpoint presentation.

Mayor Ives asked if the final draft of the Alternative Fire Governance Structures report will be provided to LAFCo at their October 24, 2014 meeting. Ms. Dantzker responded the report will be submitted to the City and their recommendation is to convey the report to LAFCo with a cover letter or memo.

Mayor Ives asked if the language received from LAFCo to complete a plan was more analysis than a governance model. Fire Chief Nero responded several reports have been provided to LAFCo over the last 18 months. At the December 2013, meeting, LAFCo stated the last thing they need is a financial analysis for consideration on this issue.

Mayor Ives asked if the report answered LAFCo's concerns regarding the rejected options, fiscal analysis and impact on the County and governance. Fire Chief Nero responded yes. LAFCo's question was specifically regarding detachment versus non-detachment and the effect on the County.

Ms. Dantzker stated at LAFCo's October 2014, meeting a policy statement regarding the direction the City may be headed would be expected. Management Partner's recommended indicating to LAFCo that an option is being looked at but a business model will be looked into to see if it works.

Mayor Ives asked if that would be with a presumption that the current model is unsustainable. Ms. Dantzker responded no.

Mayor Ives stated LAFCo's issue was sustainable governance. Ms. Dantzker responded she had not talked to LAFCo's Executive Director about a financial sustainable model.

Mayor Ives stated the reason for changes are to benefit the tax payer or if there is something broken or unsustainable about the current governance model. Mayor Ives further stated he wanted to make sure that there were no hidden issues that Management Partners or staff picked up on during their discussions with LAFCo and that all entities were on the same page.

Maria Hurtado, Assistant City Manager, stated LAFCo's Executive Director has requested full clarity regarding the property tax implications for the County. In addition, LAFCo was not satisfied with the Fire Implementation Government Structure presented approximately a year ago and wanted full clarity on the fiscal impact. Ms. Hurtado further stated if the body agrees to examine the proposed annexation to Tracy Rural, it

does not mean the City will annex. The mixed phase of analyses will start which includes understanding government structure, administrative implications with regards to operations and the fiscal implications for Tracy Rural, the City and anyone that contracts to provide fire services. The analyses have not been done and would be the next step if directed to explore one option. Ms. Hurtado added it does not mean that the current Joint Powers Authority (JPA) structure is broken; it means that LAFCo is not comfortable with the structure because it is different from other districts that do not have the financing mechanism structure which sets the JPA apart from the rest of the County.

Ms. Dantzker stated it is likely LAFCo will ask the City what the governance plan is at their October 2014, meeting. The City may respond that there is a governance plan and it is working.

Council Member Rickman stated contract negotiations were mentioned which could be out of the City's scope depending on the service provider. Council Member Rickman asked about the effect on California Public Employees Retirement System (CALPERS) and employees.

Ms. Dantzker responded there were two very significant issues. Whoever is employer of employees does the collective bargaining. CALPERS is a very big issue. If employees transfer to Tracy Rural, CALPERS would have to be contacted regarding whether they would be considered classic employees in the new system that went into effect two years ago.

Mayor Pro Tem Maciel stated he served on LAFCo and raised the question of whether there were any concerns about the level or quality of service. Mayor Pro Tem Maciel further stated LAFCo acknowledged that the service is excellent. The point was made that the current JPA was not in compliance and another issue is the financial aspect. Mayor Pro Tem Maciel added the \$0.03 per square foot annual fee is a solid revenue source and if detachment occurs, would go away for those detached properties. Mayor Pro Tem Maciel further stated if other jurisdictions within the county do detach, it will strain the revenue flow to those rural districts. Mayor Pro Tem Maciel stated the City has a solution which is being challenged. The fee is a significant revenue source that would benefit the future fire service in this area. Mayor Pro Tem Maciel added the general concept of the City being annexed has positive aspects and maybe the least worst solution. Mayor Pro Tem Maciel stated if a new entity is formed there should be no change in status and the employee contracts should be honored. The investment those individuals have made in their careers should be at the same level. Mayor Pro Tem Maciel added there is a great deal of motivation at LAFCo to have the issue resolved before the end of 2014.

Board Member Smith stated he appreciated the work that was done on the report. Board Member Smith added if the fire governance structure becomes Tracy Rural, dynamics need to be worked out. Board Member Smith added he was not sure LAFCo's question had been addressed in the report regarding financial impact. Tracy Rural has hired a consultant (Citygate) to review the report. Board Member Smith stated there needed to be a change and the JPA is a broken system. Board Member Smith further stated Tracy Rural has no issue with assisting with the studies, but would like the City to implement the studies.

Steve Abercrombie, Fire Governance Oversight Committee Chair, stated he would like clarity from LAFCo regarding their concerns about the JPA.

Dwayne Mills, Citygate Associates, stated Tracy Rural asked for a review of the study. Mr. Mills further stated Management Partner's recommendations regarding going forward are correct and have spelled out a great deal of work that needs to be done. Mr. Mills added it may be premature to say the answer is annexation to the District; it may well be that a modification to the JPA is appropriate. The analysis looks at moving money back and forth within the 12 annexed areas, but the question of cost to provide fire service in those growing areas has not been asked. Mr. Mills stated the first step to resolving the property tax distribution issue with the County needs to be based on a solid fiscal analysis of continuing to provide the level of fire service. The property tax split question can be answered after issues such as terms of employees, process of annexation and determining the appropriate governance have been addressed. Mr. Mills added what should be looked at is the cost to provide fire service, and what is left over to share with the County. There needs to be approximately a 6-12 month study. A draft scope of service has been prepared with the questions Tracy Rural needs to have answered in order to make decisions regarding the proper governance.

Mayor Ives stated the agenda item is not an action item so a scope of work cannot be developed for continuance of this issue. Mayor Ives asked staff to clarify the direction from the assembled body.

Ms. Hurtado responded Council to provide input on the report. City staff plans to attend the LAFCo meeting in October, 2014. LAFCo will ask for a recommendation and the steps for moving forward. The consultant recommended to further explore the option of the City annexing into Tracy Rural. Ms. Hurtado stated if Council agrees with that recommendation staff will inform LAFCo that the next level of analysis will begin. Ms. Hurtado added if directed to explore any of the other options, staff can communicate that to LAFCo also. Ms. Hurtado further stated the critical decision point for the City is for LAFCo to not impose the detachment. Showing movement towards resolving the governance structure will help.

Mayor Ives asked the body for input for staff to relay to LAFCo at the October 24, 2014, meeting.

Mayor Pro Tem Maciel stated he believed LAFCo has stepped away from their position of not approving any future annexations. Mayor Pro Tem Maciel further stated he is a Commissioner on LAFCo and impressed upon LAFCo the benefit to Tracy and the entire County to have the Ellis and Cordes Ranch projects move forward. Mayor Pro Tem Maciel added if LAFCo decided to fall back on that relationship, the City would bear the brunt on the freeze on annexations. Mayor Pro Tem Maciel further stated he has concerns about the proposal to annex the City into the Rural District. If that annexation were to occur, the citizens who do not currently pay that fee will in the future. Mayor Pro Tem Maciel indicated it is the least worst option and unless staff can show some advantages to the other options, he was in favor of proceeding along the path of annexing the City into the Rural District but recognizing there are many details to be worked out.

Board Member Smith agreed with Mayor Pro Tem Maciel that LAFCo would be satisfied if the path of annexing the City into the Rural District was being pursued. Board Member Smith stated the Scope of Service that Management Partners put together should be distributed to the community and LAFCo to show the next step.

Mayor Ives stated there is nothing unsustainable about what the City and Tracy Rural are doing and he was only in favor of filing the report at the October, 2014, meeting.

Mayor Pro Tem Maciel stated for clarity that is what the report suggests as an option and the report as it stands is fine.

Mayor Ives stated the report almost implies that the best course of action is to annex the City of Tracy fire service to the Rural Fire Protection District. Mayor Ives stated he did not think that was a good idea.

Mayor Pro Tem Maciel asked if the report will be modified.

Mayor Ives stated if he had the unilateral say he would modify the report, and file the report without any specific recommendation from a consulting firm.

Council Member Young stated the current system may have some broken parts while others feel it has worked well over time. Council Member Young indicated she was in support of submitting the report and moving forward. Council Member Young indicated she was in favor of Scenario 1.

Council Member Manne stated there is no harm in filing the report with LAFCo and asking for a response. A comment should be included that it is Management Partners preliminary recommendation based on not having 1 - 2 years of financial data. Council Member Manne further stated if LAFCo has questions, those questions can be addressed at that time. A financial feasibility study on all options is the next step.

Council Member Rickman stated he did not have a problem with filing the report. Council Member Rickman asked staff what will happen if the report is filed.

Ms. Hurtado responded the potential implication is if the City does not present LAFCo with a recommended structure to either stay as is or move forward, LAFCo may approve annexations without the financial structure so they would be detached from Tracy Rural and Tracy Rural would not get the \$0.11 cents or the \$0.03 cents per square foot.

Ms. Dantzker stated it is unknown what LAFCo will do in the face of the report, but they have an option to consider annexations with detachment.

Council Member Rickman stated there is so much unknown and he would rather get feedback by submitting the document.

Mayor Ives urged Mayor Pro Tem Maciel, as a representative of LAFCo, to not allow a response from LAFCo to the City of Tracy absent discussion at the commission level. Mayor Ives added the commission should have an understanding of the importance of the options and determine whether it is important to their mission of providing public services, and not where the money goes when those services are provided. Mayor Ives stated the direction is to file the report and let LAFCo respond.

Troy Brown, City Manager responded if the direction is to file the report, the report should be altered to not lean toward a direction or a recommendation. The report should be filed with the three options outlined.

Board Member Smith stated he agreed with Mr. Brown. Board Member Smith further stated to file the report and move to the next step. There are so many studies that have to be done. LAFCo has already been told that we are heading down that direction and they may have issues if we take that off the table.

Mayor Ives asked Fire Chief Nero if LAFCo has been told the body is heading in specific direction. Fire Chief Nero responded the statement was made to LAFCo that the current structure would be maintained while the possibility of forming a standalone fire agency is being looked at.

Mayor Ives asked if there was still a consensus on filing the report without any specific recommendation from the consultant.

Mayor Pro Tem Maciel responded yes. Mayor Pro Tem Maciel stated in the report there is a reference to when the JPA was originally established and there was an understanding the ultimate goal would be a single fire service entity at some point down the road.

Fire Chief Nero stated that is what LAFCo expressed at the beginning of this entire process.

Mayor Pro Tem Maciel asked if that was LAFCo's interpretation or was there something actually applied when the original JPA was formed. Mayor Pro Tem Maciel asked if LAFCo had stated this has been going on for 12 years with no progress. Fire Chief Nero responded LAFCo expressed the way the JPA is currently operating did not fit into what they felt was an appropriate governance structure. Fire Chief Nero added LAFCo was under the impression 15 years ago, when the JPA was formed, it was the initial step and there would be changes in the future.

Mayor Pro Tem Maciel stated there were no written words in the agreement that made that commitment. Fire Chief Nero responded there are no written words in any agreement that he is aware of.

Mayor Pro Tem Maciel stated perhaps the answer is to tune down the report and eliminate the recommendation and LAFCo to be clear on their feedback.

5. Adjournment – It was moved Mayor Pro Tem Maciel and seconded by Council Member Manne to adjourn. Voice vote found all in favor; passed and so ordered. Time: 7:11 p.m.

The above agenda was posted at City Hall on August 28, 2014. The above are summary minutes.

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Mayor

ATTEST:

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Interim City Clerk