

November 18, 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 7:00 p.m., and led the Pledge of Allegiance.

The invocation was offered by Deacon Ryan, St. Bernard's Catholic Church.

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

Mayor Ives presented a Certificate of Appointment to Commissioner Danny Ball and a Certificate of Recognition to outgoing Commissioner Christina Frankel, Transportation Advisory Commission.

Mayor Ives presented a proclamation to Jass Sangha, declaring November Sikh Awareness and Appreciation Month.

Mayor Ives recognized D.A.R.E. graduates from Art Freiler, Bohn, Hirsh, Jacobson and McKinley Elementary Schools.

Council Member Rickman presented Tracy High School jerseys to Council Member Manne and Council Member Young in recognition of the Bulldogs beating West High in the Cross Town Football Classic held on November 7, 2014

1. ITEMS FROM THE AUDIENCE - Lisa DiPasquale, 330 South C Street, thanked Mayor Ives, Council and staff for helping to provide COG funding for sidewalks in her neighborhood. Ms. DiPasquale suggested the City take the lead on any future meetings which might be held in her neighborhood.

Paul Miles stated he disagreed with City Manager Brown's written refusal to investigate an alleged violation by the Police Department.

Steve Nicolaou, 1068 Atherton Drive, referred to previous alleged hate crimes against a City Council member. Mr. Nicolaou stated he had contacted the FBI under the Freedom of Information Act, but the FBI had been unwilling to release the results of their investigation. Mr. Nicolaou entered a number of documents into the record, including a waiver which he suggested the Council Member should sign to allow the FBI to release the documents.

2. CONDUCT A PUBLIC HEARING AND RECEIVE TESTIMONY REGARDING THE RENEWAL OF THE DOWNTOWN TRACY PROPERTY AND BUSINESS IMPROVEMENT DISTRICT AND ADOPT A RESOLUTION OF FORMATION – Barbara Harb, Management Analyst, Development Services, presented the staff report. On September 16, 2014, City Council adopted a Resolution of Intent declaring the City's intention to renew a Property and Business Improvement District known as the "Downtown Tracy Community Benefit District" (the "District"). Pursuant to Government

Code Section 53753, notices were sent by mail on September 30, 2014, to record owner of each identified parcel in the proposed District. Each notice included the total amount of the proposed assessment chargeable to the entire District, the amount chargeable to the record owner's parcel, the duration of the payments, the reason for the assessment and the basis upon which the amount of the proposed assessment was calculated, and the date, time, and location of the public hearing on the proposed assessment. Each notice also included a summary of the procedures for the completion, return and tabulation of the assessment ballots, including a statement that the assessment shall not be imposed if the ballots submitted in opposition to the assessment exceed the ballots submitted in favor of the assessment, with ballots weighted according to the proportional financial obligation of the affected property.

Each notice also included a ballot where the person returning the ballot may indicate his or her name, a reasonable identification of the parcel, and his or her support or opposition to the proposed assessment. All ballots may be received up until the close of the public hearing. All ballots are to remain sealed until the tabulation of the ballots.

The public hearing was duly noticed to be conducted on November 18, 2014, at 7:00 p.m. or as soon thereafter as the matter may be heard in the Council Chambers of City Hall located at 333 Civic Center Plaza, Tracy.

At the conclusion of the public hearing, the City Clerk shall tabulate the assessment ballots submitted in support of, or opposition to, the proposed assessment. A majority protest exists if the assessment ballots submitted in opposition to the proposed assessment exceed the assessment ballots submitted in favor, weighing those assessment ballots by the amount of the proposed assessment to be imposed upon the identified parcel for which each assessment ballot was submitted. If there is a majority protest against the imposition of the assessment, the Council shall not impose the assessment. If there is not a majority protest, then the Council may impose the assessment by adopting a resolution of formation.

Adoption of the resolution of formation and recordation of the notice and map shall constitute the levy of an assessment in each of the fiscal years referred to in the management district plan.

There is a fiscal impact in the amount of \$24,359 to the City's General Fund to cover the assessments of the City owned parcels. This appropriation will be made part of the Fiscal Year 2015-16 budget.

Ms. Harb concluded her presentation by recommending that Council conduct a public hearing and receive testimony regarding the renewal of the Downtown Tracy Property and Business Improvement District, and if the weighted returned ballots support District formation to adopt the resolution of formation to renew the District.

Mayor Ives opened the public hearing and announced the public hearing would allow for any additional testimony or for any outstanding ballots to be handed to the City Clerk

Bob Carter, 901 Central, handed in a ballot and stated he had not been informed of how he had benefited from the money previously collected.

Mayor Ives closed the public hearing.

Mayor Pro Tem Maciel motioned to direct the Clerk to tabulate the assessment ballots and report back to the Council. Council Member Rickman seconded the motion. Voice vote found all in favor; passed and so ordered.

Mayor Ives announced agenda Item 2 would be continued until after the ballots had been tabulated.

Following the conclusion of agenda item 3, Mayor Ives reconvened agenda item 2.

Carole Fleischmann, Interim City Clerk, announced the tabulation of the ballots show that ballots received in favor of the assessment total \$81,237.94 which represents 87.7 percent of the weighted support; ballots received in opposition to the assessment total \$11,371 which represents 12.3 percent of the weighted opposition; therefore a majority protest does not exist.

Mayor Ives thanked Tracy City Center Association for the improvements they have made to the downtown area.

Mayor Pro Tem Maciel motioned to adopt Resolution 2014-191, a Resolution of Formation of the City of Tracy to renew a Property and Business Improvement District known as the Downtown Tracy Community Benefit District. Council Member Rickman seconded the motion. Voice vote found all in favor; passed and so ordered.

3. RECEIVE PRESENTATION AND PROVIDE DIRECTION ON THE PRELIMINARY DESIGN FOR THE JOE WILSON POOL RECONSTRUCTION – Ed Lovell, Management Analyst, Public Works Department, presented the staff report. On June 17, 2014, as part of the approval of the City's Fiscal Year 2014/15 Budget, Council approved the use of \$3.5 million for the reconstruction of the Joe Wilson Pool. On August 19, 2014, Council approved a Professional Services Agreement with RJM Design Group Inc., for design and construction management services for the Joe Wilson Pool Renovation Project (CIP 78152). The timeline for completion of the Joe Wilson Pool reconstruction was originally scheduled for spring 2016. Since then, RJM Design Group and staff revised the timeline for completion of the project from Spring 2016 to Labor Day 2015.

On October 22, 2014, staff and the Consultant conducted a public workshop to receive community feedback on the preliminary pool design options. Approximately 20 people attended the workshop. In general, comments and feedback were focused on topics such as parking, programming, depth of lesson pool, storage of equipment, and having enough shade for patrons. Based on the feedback received at that meeting, a revised design was created and presented for commissioner and public feedback at the November 6, 2014, Parks and Community Services Commission (Parks Commission) meeting.

There were approximately 15 attendees at the November 6, 2014, Parks Commission meeting. The revised design addressed a majority of the concerns brought up at the first public meeting. The revised design was a six lane lap pool with two diving boards that was 12 feet deep at one end and 3.5 feet deep at the other. The pool would connect into a smaller pool that would be three feet deep at one end and slope up to a zero depth entry. The existing shade canopies would be relocated onsite and an additional shade

structure would be added at the west end of the facility. The design of the inside of the building would remain the same from the initial concept, with the relocation of the showers and the relocation of the ADA accessible toilets facilities. Additional parking would connect the two onsite parking lots creating a total of 76 onsite parking spaces, up from the existing 41 spaces currently onsite. It was also proposed that the berm located at the park be removed as part of the project. The revised concept also showed room for an optional splash pad within the pool area. This was listed as an option only because it would cost an additional \$300,000 and cause the project to be over budget.

The revised design was well received by both the commissioners and the public. Comments and feedback on the revised design were focused on not removing the berm and instead, increasing the depth of the shallow end of the lap portion of the pool from three and a half feet to four feet and adding a seventh lane in the lap portion of the pool. It was also suggested that some piping for a future splash pad could be installed either within the fenced pool area or to a separate location in the park.

While many have viewed the berm in Dr. Powers Park as unnecessary, there were comments regarding its relevance to the pool project. It is not connected to the pool itself and could be removed with no impacts, however, various commissioners and members of the public expressed that money saved from not removing the berm could be better spent on the pool facility itself.

The comments regarding the pool itself focused primarily on programming use. While a shallow end of 3.5 feet is acceptable, it was asked if the depth could be changed to four feet in order to make it a little deeper for taller people who may be doing flip turns while swimming laps. Additionally, while uncommon to have a seven lane pool, it was suggested that by adding an additional lane, it would allow for a little more programming as well as a place for users to swim laps during other programming such as recreational swimming or swim lessons.

The cost for removal of the berm and installation of irrigation to that area is approximately \$75,000 - \$85,000. After doing some analysis, the cost to increase the depth of the shallow end of the lap portion of the pool would cost approximately \$20,000 - \$25,000 and the cost to add a seventh lane would be approximately \$140,000. By not removing the berm, some of the savings could be used toward increasing the depth of the shallow end of the pool while still remaining within budget. Adding a seventh lane to the pool would cause the project to go over budget, regardless of the berm being removed or not.

Even though the splash pad option was not recommended due to the cost exceeding the budget, there was discussion surrounding whether or not it should be located inside the pool facility, or outside the facility in the park. One side favored having a splash pad in the pool facility as a way to attract more people into the pool. Those who favored having the splash pad outside of the pool area wanted to be able to have a free option for the community.

The cost for a splash pad, whether inside or outside of the pool facility, is approximately \$300,000 in construction costs. This cost would not include any associated costs from staff for design, engineering, or contingencies. A splash pad does not have to be connected to the pool infrastructure and could be a standalone project that is added at a later date. However, if located inside the pool area there would need to be some pipe

installed and sloping of the deck during the construction of this project in order to prohibit tearing up the deck later to install a splash pad. It is estimated that making the necessary improvements to install the splash pad at a future date would cost at least \$25,000. There is no allowance in the current budget for that improvement. Additionally, a splash pad could be installed in the turf area of the pool facility at a later date as well without having to spend money on its infrastructure now. A separate CIP could be developed for a splash pad at Dr. Powers Park as part of the budget process for Fiscal Year 2015/16.

After discussion from the public, the Parks Commission recommended that the design presented be used with the following changes in the following priority:

1. Do not remove the berm.
2. Increase the depth of the shallow end of the lap portion of the pool to four feet deep.
3. Add a seventh lane to the lap portion of the pool.
4. Lay pipe to be capped off for a future splash pad expansion (being inside or outside the facility to be determined)

The final preliminary design presented includes the addition of an optional seventh lane as well as the optional splash pad. By going with the recommendation of the Parks Commission and accepting changes 1, 2 as listed above, the project will be able to remain within the allotted budget.

The next step is to complete the engineering design drawings for the facility. Staff anticipated that the complete design and construction package will be ready for bid in early January 2015; construction is expected to start in April 2015. Construction should take approximately five months to complete. While it is not possible to open the pool at the beginning of the 2015 summer season, it may be possible to open the pool by late summer.

The approved budget for this project is \$3.5 million. The design option with changes 1, 2 listed above as recommended by the Parks Commission, can be built within the approved budget. Any additional elements, such as a splash pad, would require additional funds to be identified and appropriated to CIP 78152.

John Courtney, Consultant for RJM Design, gave a brief history of the project, discussed the \$3.5 million budget, and concluded with an overview of the new design. Mr. Courtney used a powerpoint in his presentation and also reviewed the soft costs and the cost for the site work.

Mayor Ives stated these were preliminary estimates and added it is possible the bids could come in under estimate.

In response to a question from Council Member Rickman regarding the cost to pre-plumb the spray ground, Mr. Courtney responded the cost would be \$15,000 - \$20,000 approximately. The cost to add the additional lane at a later date would be dramatic.

Mayor Ives asked if the bid package could include options of an additional seventh lane and an internal and/or external splash pad. Troy Brown, City Manager, stated yes, and added decisions could be made when the item is brought back to Council.

Marsha McCray, 560 W. Schulte, stated the new design will accommodate a wider range of amenities and added that she would like to see the project brought in at the original authorized budget amount. Ms. McCray thanked Council and staff for the new pool design and stated she was looking forward to seeing the finished project.

Sandy Taylor, thanked Council, the Consultant and staff for bringing this pool to fruition, but added the pool serves one element of the community. Ms. Taylor stated this project takes the City back to where it was 10 years ago and asked Council not to lose sight of what the City needs.

Linda Jimenez, stated the splash pad should be inside the swim area which should be suitable for all age groups. Ms. Jimenez encouraged Council to pre-plumb the area for the splash pad, and added she supported the addition of the seventh lane.

Christina Frankel, 175 Victoria Street, stated the focus needs to be on public safety and not on money. Ms. Frankel added everyone should know how to swim and suggested investing in a pool where everyone can learn to swim. Ms. Frankel encouraged Council to support the additional lane and make the pool as big and as productive as it can be.

Dave Helm stated he supported pre-plumbing the area for the splash pad. The pool provides a benefit, but the City has a limited amount of money. Mr. Helm stated the community needs to figure out a way to pay for what they want.

Mayor Pro Tem Maciel stated he would support the addition of the seventh lane, and the additional depth, but believed the splash pad should be deferred until a later date.

Council Member Manne stated he believed the project should be put out to bid with all the options included.

Council Member Young stated she agreed with leaving the berm and adding the seventh lane, and the increased depth. Council Member Young added the City should do as much as it can within the \$3.5 million budget.

Council Member Rickman asked about the next steps. Mr. Lovell responded the next step is to complete the engineering work and bring the project back for final approval before it goes out to bid. Council Member Rickman stated he agreed with the addition of the seventh lane, and with leaving the berm in place.

It was moved by Mayor Pro Tem Maciel and seconded by Council Member Rickman to direct staff to prepare the bid documents and to include the seventh lane and the additional depth of the pool in the base bid. Voice vote found all in favor; passed and so ordered.

4. REVIEW AND APPROVE THE SENIOR LINK-TRACY PROGRAM – Kim Scarlata, Division Manager II, presented the staff report. On September 16, 2014, Council received a staff report that included an update on the current and future needs of senior citizens in Tracy based on the results from the Community Conversations. Council directed staff to recommend a formal process for senior citizens in Tracy to voice their concerns and needs on issues that impact them directly. Council also requested that the Parks and Community Services Commission determine their role and the process that would assist in the collection of senior concerns and how they would be addressed.

To address Council's direction, staff has developed the following program: Senior Link–Tracy, which will provide a process and an opportunity for senior citizens in Tracy to voice their concerns, share their needs and identify resources that will assist them in living a full, vibrant and independent life with access to agencies and service providers that specialize in senior needs. A postcard has been created to market the Senior Link–Tracy program. The postcards will be mailed to residents throughout the community.

Additionally, staff has created the Local Senior Services and Resources Guide which includes information on various local agencies that provide seniors access to a wide array of opportunities and assistance. The Senior Services and Resources guides are located at the Lolly Hansen Senior Center, City facilities, the City's website and at various locations throughout the community.

Using various media outlets, staff will market the Senior Link-Tracy program and Local Senior Services and Resources Guide at locations including the Lolly Hansen Senior Center, City facilities and other locations where seniors gather. Marketing efforts will also include reaching out to non-profits and other organizations that provide services to seniors.

The Parks and Community Services Commission's Community Involvement subcommittee met on October 20, 2014. The subcommittee discussed how they will meet their goal to increase the Commission's visibility in the senior community. The Commission will meet their goal by:

- Hosting a special meeting three times a year during the day at the Lolly Hansen Senior Center, Transit Station and Library to gather information from seniors on current needs and concerns. Based on the information received, the Commission will provide staff with the recommended action steps to address their concerns.
- Over the next six months the Commission will schedule presentations with various service groups in the Tracy community. These presentations will include the role of the Parks and Community Services Commission, information on the Senior Link-Tracy Program, Local Senior Services Resources Guide, and the opportunity for feedback and questions. Local service groups may include: Sunrise Rotary, Noon Rotary, Tracy Breakfast Lions Club, Loyal Order of Moose Lodge, Tracy Elks Lodge, Soroptimist International of Tracy, Westside Pioneers and various community organizations.
- Over the next year the Commission will be present at local community events and City events such as the Community Health & Wellness Fair and Senior Center Open House & Resource Fair.

Staff will provide annual updates to the Council on the effectiveness of the Senior Link-Tracy program, and report on the findings of the Parks and Community Services Commission activities to engage seniors that they will commence over the coming months.

Ms. Scarlata concluded her presentation by stating staffing for the Senior Link–Tracy program is estimated at \$6,350 and is provided in the existing Fiscal Year 2014/2015 Senior Budget. Approximately, \$600 for printing flyers and marketing will be absorbed by the Fiscal Year 2014/2015 Senior Budget.

In response to a question from Council Member Young, Ms. Scarlata outlined the process for how seniors would contact a specialist with the Senior Link-Tracy program. Council Member Young stated she believed this was a great start, but suggested a one-stop shop where seniors would be able to go to for specific action.

Linda Jimenez, P.O. Box 1065, Tracy, thanked staff for the program which she believed would be useful for the entire City. Ms. Jimenez stated the City offers many activities for seniors, and suggested it be made clear that the Parks Commission oversees the Senior Center program.

Robert Tanner, referred to a program which would be held on Monday, December 8, 2014, at the Transit Station, entitled "Getting to Know your Community. Presentations would be made by a number of local and county agencies.

Mayor Ives stated the next step is to get the word out to the seniors. The program will be refined over time and Mayor Ives stated he had no doubt staff will continue to improve the program.

Council Member Young suggested the Golden Agers and Tracy Senior Advocacy Association be added to the program.

Council directed staff to proceed with Senior Link-Tracy program.

5. AUTHORIZATION TO NEGOTIATE A DEVELOPMENT AGREEMENT WITH BATES STRINGER VENTURES, INC., RELATED TO LANDS OWNED BY BATES STRINGER VENTURES INC., LOCATED AT 25380 LAMMERS ROAD, APPLICATION DA 14-0001-Resolution 2014-1927. Bill Dean, Assistant Director, Development Services presented the staff report. In 2004, per Resolution 2004-368, City Council adopted Development Agreement (DA) procedures. These procedures establish a two-step process for evaluating DA applications. The first step requires an application for a DA to include information such as property owner signatures, proposed term of the agreement, proposed public benefit, a description of the property and proposed land uses, among other information related to the property. The DA procedures also first require City Council authorization to negotiate prior to staff entering into negotiations. The second step involves Planning Commission review and City Council review and consideration of the DA at public hearings. This step typically occurs after staff and the applicants have negotiated draft terms and have returned to Council for review and direction.

In October 2013, applications were filed for a General Plan Amendment, rezoning, and a Tentative Subdivision Map for approximately 60 acres of property at 25380 Lammers Road. The applications would result in the development of 212 residential lots in an area long-envisioned for residential development. At the same time as work on these applications progresses, other City efforts have progressed on organizing funding solutions for expansion to several utility systems to accommodate new development, including improvements to wastewater conveyance and treatment systems.

The DA is envisioned as a method to address the timing of infrastructure funding. Also contemplated is an idea whereby the developer would meet their required parks obligation through a combination of paying required fees and developing parks within their project area. Such an approach is common; however, initial discussions with the developer have led to an informal request for on-site parks that are smaller than the

Parks Master Plan standard of four acres, in exchange for a cash contribution for other off-site amenities. While these ideas are preliminary, they would potentially result in amendments to the Parks Master Plan and would be explored in DA negotiations.

Bates Stringer Ventures, Inc. submitted a letter dated October 27, 2014, requesting a DA and outlining the initial public benefit and generally requested terms for a DA. While still requiring negotiation, the list generally includes

Developer Benefits

- Vesting Rights – “locking in” development approvals to existing laws/standards
- Securing utility capacity in wastewater conveyance lines and wastewater treatment plant

Public Benefits

- Funding for off-site recreational amenities or other community facilities identified in the City’s Parks Master Plan and Public Facilities Master Plan

Following Council approval, staff would begin negotiating a DA with Bates Stringer Ventures, Inc. Prior to completing a draft DA a summary of the proposed terms and DA status will be brought to Council for consideration and direction. Once DA terms are finalized, the DA will be drafted and environmental review under the California Environmental Quality Act (CEQA) will be conducted (typically with the other development applications being sought by the developer). The applicant has expressed a desire to complete these processes in 2015.

Mr. Dean concluded his presentation by stating negotiating a DA is funded by the applicant in accordance with a City approved Cost Recovery Agreement dated March 2014. Upon completing a draft DA, staff will return with an expanded fiscal impact discussion, if any, of what the DA represents.

In response to a question from Council Member Manne regarding whether this was considered infill, Mr. Dean stated because the project is not surrounded on four sides by development it does not meet the definition of infill.

Council Member Rickman referred to the projects staff is currently working on and asked if staff would be able to handle this deadline. Troy Brown, City Manager, responded the action is to initiate what will probably be a long program with the developer. Since this project is in the early stages of development it is not anticipated it will impact the priorities as they relate to current projects.

Scott Stringer, Bates Stringer Ventures, Inc., spoke in favor of the project.

It was moved by Mayor Pro Tem Maciel and seconded by Council Member Rickman to adopt Resolution 2014-192 authorizing staff to negotiate a Development Agreement with Bates Stringer Ventures, Inc., related to lands owned by Bates Stringer Venture, Inc., located at 25380 Lammers Road, Application DA 14-0001. Voice vote found all in favor; passed and so ordered.

6. REJECT BIDS FOR THE CIVIC CENTER WATER TOWER REPAINTING – CIP 71080, AND UPDATE THE SCOPE OF WORK TO INCLUDE STRUCTURAL SAFETY IMPROVEMENTS FOR CONSIDERATION IN THE FISCAL YEAR 2015/16 BUDGET – Kul Sharma, Utilities Director, presented the staff report. The 140 foot tall inactive water tower in front of City Hall was built in the early 1920's. The water tank has been a target for graffiti and the City has done temporary painting to clean up the graffiti several times in the past.. The tank and its support have localized corrosion at the tower base and anchor bolts at its foundation.

The scope of work of the existing Capital Improvement Program (CIP) 71080 provides painting to the tower including the tank and does not include any structural repairs of the superstructure and its foundation. Paint on the existing tank is several years old. The existing budget of the project provides cleaning, removal of the existing paint, priming and repainting the tank and its supporting legs. A total of \$75,000 was allocated from the General Fund to this CIP to cover the cost of this project.

Engineering staff prepared the plans and specifications and advertised the project for competitive bids on August 8, and 15, 2014. Eight bids were publicly opened at 2:00 p.m. on Tuesday, August 26, 2014, with the following results:

Contractor Base Bid:

A Plus Painting, Roseville, CA	\$ 79,000
Blastco, Downey, CA	\$101,312
Onpoint Construction, Burlingame, CA	\$125,250
Painting & Décor, Oregon, CA	\$137,300
AK Builders & Coating, Inc., Sacramento, CA	\$156,000
Industrial Coating, Oceanside, CA	\$165,000
Olympos Painting, Van Nuys, CA	\$211,000
F.D. Thomas, Central Point, OR	\$298,500

The low bid received from A Plus Painting exceeds the available funds of \$75,000, for this project which includes the cost of preparing specifications and contract documents. Since the bid amount is higher than the available funding for this project, it is recommended that the bids be rejected. Based upon the site inspection, it is also recommended that the project scope of work be updated to include the structural safety improvements and presented to Council for review and approval in the Fiscal Year 2015/16 budget.

Council Member Young stated she would be in favor of rejecting the bids and looking further into the structural aspects of the water tower.

Council Member Rickman asked if the tower posed a safety issue. Mr. Sharma responded it is safe, but once the bids are rejected staff will look into more detail and bring back a cost estimate for the project for the next fiscal year's budget.

Council Member Manne asked if regular safety reviews of the towers were carried out. Mr. Sharma responded there are no routine reviews carried out, but once staff becomes aware of a problem it is investigated.

Following a brief Council discussion, Troy Brown, City Manager stated the action before Council was to reject the initial bids

Dave Helm suggested staff take into consideration the fact that the tower may have lead based paint and suggested Council consider taking the water tower down.

Mayor Ives stated the water tower is a symbol of Tracy, and if the project does become too expensive there will be other options for the Council to consider in the future.

It was moved by Mayor Pro Tem Maciel and seconded by Council Member Rickman to adopt Resolution 2014-193 rejecting bids for the Civic Center Water Tower Repainting and update the scope of work to include structural safety improvements for consideration in the Fiscal Year 2015/16 Budget. Voice vote found all in favor; passed and so ordered.

7. ACCEPT STATUS REPORT ON THE CITY'S INTERNAL CONTROL WORK PLAN – Jenny Haruyama, Administrative Services Director, presented the staff report. Ms. Haruyama stated this report provides a status report regarding the progress of the City's work plan to audit, evaluate, and modify applicable internal control policies and procedures to ensure the continued protection of City assets and resources. The work plan is comprised of three phases: Phase 1: Credit Card Audit and Best Practice Review; Phase 2: Open Government Initiative; and Phase 3: Financial Review and Policy Update. It is anticipated that the work plan will be implemented and completed over a period of 12 months.

On May 20, 2014, staff presented Council an overview of the City's multi-phased Internal Control Work Plan, which included work plan goals, objectives, and tasks.

Phase one of the Internal Work Control Work Plan involves an audit of the City's credit card practices, update of the City's Credit Card Policy, and employee trainings for cardholders and administrative staff.

Nearly all of Phase 1 tasks have been completed:

- In Spring 2014, an inventory of all City credit cards and store cards was completed; approximately 160 credit cards (106 store cards and 54 CAL-cards) had been issued city-wide. The total number of active credit cards has been reduced to 68; there are 53 CAL-cards and 11 Chevron gas cards. All store cards have been eliminated. The gas cards are primarily for police motorcycle officers, who are required to use higher grade fuel which is not available at the City Corp Yard.
- The City retained Chavan and Associates to conduct a credit card audit, which was completed in late Spring 2014. Subsequent to the completion of the audit, a community meeting was held on June 25, 2014 to discuss the preliminary audit findings. Subsequent to the completion of the credit card audit, another audit was conducted to determine if there was evidence of fraud with respect to the past transactions of specific employees.
- A draft credit card policy has been developed in coordination with the independent auditors and reflects recommendations as noted in the audit findings. Internal organizational review of the draft policy is underway. Employee training will be scheduled in late Fall 2014.

The results of the audit findings and feedback from the community meeting are summarized below:

The City engaged Chavan and Associates to review credit card transactions from July 2012 through January 2014 and identified several control weaknesses, including but not limited to:

- Inconsistent approval hierarchies
- Insufficient documentation to support expenditures at time of card payment
- Lack of control over issuances of credit cards and credit card handling
- Lack of city-wide staff training in relation to credit card policies and procedures

Specific examples of these weaknesses include missing initials, dates, and signatures by applicable manager or department head; insufficient supporting documentation, including missing receipts and credit card logs “checking out” credit cards, and lack of evidence of finance review. While the deviations found as part of the audit are common among local governments, the frequency in which they typically occur is usually much lower.

The auditors also confirmed that the City’s past practices of purchasing and selling alcohol, purchasing raffle items with public funds for city-sponsored block parties, and using city credit cards to purchase employee retirement gifts (that were later reimbursed by the purchasers) should be prohibited by the City’s credit card policy.

On June 25, 2014, a community meeting was held to discuss the project scope of the audit, preliminary findings, and recommendations. Participants expressed appreciation of the audit, but were concerned about the City’s decentralized purchasing practices and use of store cards (non-city credit cards), which could increase the City’s risk exposure. Members of the community requested that provisions be put in place to ensure reduced liability, stricter accounting of items purchased via credit card, and consistency regarding the management and oversight of purchases. It was also recommended that the City explore centralizing its purchasing processes.

A Fraud Audit was also conducted by Chavan and Associates to determine if there was any clear evidence of fraud based on the past transactions of two former employees. While it was determined that there were several unusual transactions, some of which violated the existing credit card policy, there was no conclusive evidence of fraud or other criminal activity. The audit covered the period June 1, 2008 through December 31, 2014.

Phase two of the Internal Control Work Plan involves the development of an Open Government Initiative. This initiative is reflective of the Council’s Governance Strategy which promotes communication and civic engagement, financial transparency, and fiscal stewardship. The Transparency Initiative includes efforts to improve public access and understanding of City finances through the use of technology, including but not limited to open government software and upgrades to the City’s financial system. The following phase two tasks have been completed or are currently in progress:

- A computer kiosk has been installed on the second floor in City Hall so that requested public records may be viewed electronically. A PRA log of requests has been developed and is available for public viewing at the Clerk’s Office.
- The City has purchased new Enterprise Resource Planning (ERP) software to

enhance the City financial reporting capabilities. Implementation of the new system is underway and should be completed by Summer 2015. This also includes a Citizen Transparency Module to improve community access to various financial data.

- As an interim solution, the City has implemented user-friendly, interactive Open government financial software which is available via the City's website. The purpose of this software is to enable the community to access general revenue and expense information as it relates to the City's budget. In the near future, the financial software will also include access to the City's monthly check register. Currently, the City's check registers are posted online in PDF format, along with relevant financial policies and procedures.
- In process is the development of an open government web page. It is anticipated that this will be available by the end of the calendar year.

Phase three of the Internal Control Work Plan involves a review of the City's financial policies. Several of the City's policies are outdated and require modification. Update of the policies will include best practice research and a cross-departmental team review of any proposed changes.

A draft Petty Cash Policy has been developed. Other policies, involving cell phone and travel/reimbursement activities will be developed over the next several months. The policy update process should be completed by Spring 2015.

The Internal Control Work Plan is designed to be fluid in nature and may change over time. Monthly status reports will be scheduled to advise Council about staff progress, significant findings, and/or changes to the work plan. The next update is scheduled for November/December 2015.

Sheldon Chavan, Chavan and Associates, presented a powerpoint presentation. The City contracted with Chavan and Associates to perform the following procedures for the period of July 1, 2012 through January 31, 2014:

- Review and assess the City's existing credit card policy.
- Conduct an extensive sampling of the City's credit card transactions to determine compliance with existing City policy and procedures.
- Evaluate credit card processing desk procedures.
- Identify policy and procedural improvements to ensure appropriate credit card reporting.

Contractual work performed by Chavan and Associates was conducted in accordance with standards established by the American Institute of Certified Public Accountants and Government Auditing Standards issued by the Comptroller General of the United States

Scope and Methodology:

- The scope of the project involved credit card transactions from July 2012 - January 2014.
- The project population was defined in two steps: (1) The total of all credit card transactions for the period under review. (2) The total of all credit card transactions multiplied by the number of key controls.
- The sampling unit was defined as one credit card transaction from the credit card statements.

- The resulting random sample consisted of a combination of individual credit card transactions multiplied by the number of key controls identified during the engagement.
- Concept of Key Controls and Exceptions

Summary of results included undefined or inconsistent approval hierarchies, insufficiently supported expenditures at time of card payment, unclear or lack of monitoring controls, unclear or lack of audit controls, unclear or lack of approval controls, lack of safeguards over internet purchases and access, lack of control over issuance of credit cards and credit card handling, lack of department level training in relation to credit card policies and controls, and insufficient record-keeping and record retention.

The assessment of credit card misuse/fraud period covered was June 1, 2008, through January 2014 for two employees. The assessment identified unusual transactions and investigated for appropriateness, and provided a summary of "flagged" transactions for the City to review and a vendor history summary by employee. The results included multiple policy violations but there was not enough evidence to support fraud.

Mayor Ives asked Mr. Chavan if the General Fund had lost money. Mr. Chavan responded the City has not directly lost money. Mayor Ives asked Mr. Chavan to explain the 27.56% deviation rate to a dollar amount relationship. Mayor Ives asked if that is the amount that is representative of the transactions that were assessed. Mayor Ives added it is important to understand that the City is not out \$467,000. Mr. Chavan responded the Summary of Results is showing of all the transactions that were tested, the total was \$467,000.

Mayor Ives stated Council is still looking at appropriateness and exercise of our controls. Mr. Chavan responded the idea of the audit was to identify where the risks were and that is what the assessment does.

Council Member Rickman asked how the City's deviation rate compared to other cities. Mr. Chavan responded a 27.56% deviation rate is astronomical. The types of errors were typical, but the number of errors is high.

Council Member Young asked if ambiguity could have led to various interpretations of the policy. Mr. Chavan responded there is definitely vagueness in the policy which could lead to misinterpretations. Mr. Chavan added the policy became obsolete.

Ms. Haruyama added while the existing policy was a one page policy and very generic, there was no specific procedures, which was driving the deviation rate. Expense reports were being submitted without any guidance. In the revised policy there are steps, requirements and consequences.

Council Member Young asked if the deviation was consistent. Mr. Chavan responded the deviations were broad.

Council Member Young stated she was glad to have a procedure to put the policy in place and thanked staff for the progress.

Council Member Rickman asked if all the recommendations had been included in the policy. Ms. Haruyama responded all recommendations have been incorporated into the policy.

Mayor Pro Tem Maciel stated it was a positive step that the policy has gone from a one page policy to a very comprehensive document. Mayor Pro Tem Maciel thanked staff for their efforts.

Roger Birdsall addressed Council stating if he had an employee with a deviation rate of 28 percent rate of error they would no longer be an employee.

Robert Tanner stated he was glad to see a draft policy, and asked when the 14- page policy would be implemented. Ms. Haruyama responded it is an administrative policy approved by the City Manager. The City Manager will need to approve the policy by the end of the year and then begin city-wide training. Many of the recommendations have been implemented and staff is using them. December 2014, is the time frame.

Mr. Tanner asked if there will continue to be an outside auditor, or will the audit be internal. Ms. Haruyama responded the City has the discretion to do either. The City Manager and the department will determine the best course of action.

Dave Helm suggested Council revisit the oversight of the Human Resources, Finance and Information Technologies areas, as it is a lot for one person to oversee. Mr. Helm Helms stated a 28 percent error rate is a problem. Mr. Helm asked why the errors were not found in the Comprehensive Annual Financial Report (CAFR). Mr. Helms thanked Ms. Haruyama for her efforts. Ms. Haruyama responded the CAFR is a snapshot of the prior year's financial activity. If an item is not paid for and an outstanding amount, that item would show up on CAFR. If paid in full it would not show. The transactions themselves are not in that type document. However, with the new module being introduced next year, that level of detail will be able to be seen through that software.

Mr. Helms stated he was happy to see the number of credit cards has been reduced and suggested Council look at ensuring accountability.

Mayor Ives stated Council looks to the City Manager and the City Attorney to manage and implement the policies.

Council Member Rickman stated transparency is important and keeps people honest.

Council Member Manne stated a big part of moving forward needs to be cultural change.

Council accepted the report.

8. ITEMS FROM THE AUDIENCE – None
9. CITY MANAGER'S REPORT – Troy Brown, City Manager, provide Council with an informational report on various items, including upcoming special events, status on key projects, and other items of interest in an effort to keep Council, staff, and residents abreast of newsworthy events. Mr. Brown also congratulated Jenny Haruyama, Administrative Services Director, on her new position as Assistant City Manager with the

City of Livermore. Mr. Brown thanked Ms. Haruyama for her valuable contributions to the City. Council accepted the report.

10. COUNCIL ITEMS – Council Member Rickman wished everyone happy Thanksgiving.

Council Member Manne stated he would like to see Council continue supporting youth and the tradition of supporting the Crosstown Classic Football Game.

Council Member Young stated it was an honor to have served on City Council with Mayor Ives.

11. ADJOURNMENT – It was moved by Council Member Manne, seconded by Council Member Rickman to adjourn. Voice vote found all in favor; passed and so ordered. Time: 10:27 p.m.

The above agenda was posted at the Tracy City Hall on November 13, 2014. The above are summary minutes. A recording is available at the office of the City Clerk.

Mayor

ATTEST:

City Clerk