

December 2, 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 7:02 p.m. and led the Pledge of Allegiance.

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

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

Troy Brown, City Manager, presented the Employee of the Month award for December 2014 to Laura Smith, City Manager's Office.

Steve Abercrombie, Chairperson, offered a presentation on Brighter Christmas.

1. MINUTES APPROVAL – Mayor Pro Tem Maciel motioned to approve the regular minutes of June 3, 2014. Council Member Rickman seconded the motion. Voice vote found all in favor; passed and so ordered.
2. ADOPT A RESOLUTION DECLARING THE RESULTS OF THE NOVEMBER 4, 2014 CITY OF TRACY MUNICIPAL ELECTION – Carole Fleischmann, Interim City Clerk presented the staff report. A General Municipal Election was held in the City on November 4, 2014. The Registrar of Voters has canvassed the returns of the election, and certified the results in accordance with the California Elections Code.

The names of the persons voted for at the election for Mayor, were Michael Maciel and Ray Morelos. The names of the persons voted for at the election for Member of the City Council, were Charles Manne, Robert Rickman, Robert Tanner and Veronica Vargas.

The certified results indicate Michael Maciel was elected Mayor for the full term of two years, and Robert Rickman and Veronica Vargas were elected Council Members for the full term of four years.

The cost of the election was included in the FY 2014/15 budget.

Staff recommended, pursuant to Elections Code section 10262, that the City Council adopts a resolution reciting the facts of the election held on November 4, 2014, and declaring the results and other matters as provided by law.

Mayor Pro Tem Maciel motioned to adopt Resolution 2014-194, Declaring the Results of the November 4, 2014 City of Tracy General Municipal Election and other matters as provided by law. Council Member Rickman seconded the motion. Voice vote found all in favor; passed and so ordered.

3. PRESENTATION TO OUTGOING MAYOR AND COUNCIL MEMBER – Mayor Elect Maciel presented a plaque to outgoing Mayor Ives in recognition of his 26 years of service to the City and to outgoing Council Member Manne in recognition of his five years of service to the City.

Mayor Maciel called for a recess at 7:20 p.m. The meeting was reconvened at 7:30 p.m.

4. Carole Fleischmann, Interim City Clerk, presented Certificates of Election and administered the Oath of Office to Mayor Maciel, Council Member Rickman and Council Member Vargas.
5. CONSENT CALENDAR – Following the removal of item 1.D by Troy Brown, City Manager, it was moved by Council Member Rickman and seconded by Council Member Young to adopt the consent calendar. Roll call vote found Council Members Rickman, Young, Vargas, and Mayor Maciel in favor; Motion carried. Mr. Brown stated Item 1.D would be rescheduled to the December 16, 2014 Council meeting.
6. ITEMS FROM THE AUDIENCE – Paul Miles, 1397 Mansfield Court, referred to mistakes he alleged had been made by City staff and stated people will hold the new Council accountable for their actions.

Steve Nicolaou, 1068 Atherton Drive, alleged that a former Finance Director had been derelict in his duties regarding the use of the City's credit cards. Mr. Nicolaou asked Council to consider an agenda item to discuss removing the Finance Director's name from the Finance wing of City Hall.

Dave Helm referred to the aquatics facilities in Tracy which need to be improved and donated a check in the amount of \$500 to be put towards the reconstruction of the Joe Wilson pool. Mr. Helm suggested that if the community wants a pool they should be willing to support it and pay for it.

7. DETERMINE WHETHER TO FILL CITY COUNCIL VACANCY BY SPECIAL ELECTION OR BY APPOINTMENT, AND, IF BY APPOINTMENT, DETERMINE THE DETAILS OF THE PROCESS TO BE USED – Dan Sodergren, City Attorney presented the staff report and used a power point in his presentation. A vacancy has been created on the City Council due to the election of Council Member Maciel to the Mayor's seat. Government Code section 36512 (b) states "...the council shall, within 60 days from the commencement of the vacancy, either fill the vacancy by appointment or call a special election to fill the vacancy. The special election shall be held on the next regularly established election date not less than 114 days from the call of the special election. A person appointed or elected to fill a vacancy holds office for the unexpired term of the former incumbent." The successful candidate would serve the remainder of Council Member Maciel's term which expires in November of 2016.

If the Council chooses to proceed by way of special election, the Council must call for a special election to be held on the "next regularly established election date" not less than 114 days from the call of the special election. (Government Code, § 36512(b).) Elections Code section 1000 provides that the "established election dates" for 2015 include March 3 (the first Tuesday after the first Monday in March), June 2 (the first Tuesday after the first Monday in June), and November 3. However, because March 3 would be less than 114 days from the date the special election was called (December 2, 2014), the special election could not be held until June 2, 2015. This means that during the interim period, the City Council would be operating with only four members. An additional factor to be considered is the cost of a special election. The Registrar of Voters Office for San Joaquin County has estimated the cost of a special election at approximately \$7.50 per registered voter. Because the City has approximately 34,213 registered voters the estimated cost of a special election would be close to \$257,000. In lieu of calling a special election, the Council may choose to fill the vacancy by appointment. At the October 21, 2014 regular City Council meeting, the City Council adopted a formal policy for filling Council vacancies.

A benefit of appointing a successor to fill the vacancy is that the new Council Member would take office immediately, and the Council would have a full complement of five members to carry out its work. If the Council chooses to proceed by way of appointment, the recently adopted City Council Policy on Filling City Council Vacancies would apply. The Policy provides that at the earliest possible time after a vacancy occurs, the City Council shall adopt a time schedule:

1. Setting a time and date by which any qualified person interested in being appointed shall submit an application;
2. Setting a time and date by which questions for the applicants may be submitted by the public; and
3. Setting a date or dates on which applicants will be interviewed by the City Council at a public meeting.

Staff suggested the following time schedule:

December 3, 2014 – Application period opens. Prospective applicants may pick up application packets from the City Clerk's Office, 333 Civic Center Plaza. The recruitment will be advertised in the Tracy Press, on the City's website and through social media. Potential candidate questions from members of the public can also be submitted for consideration by the City Council.

December 9, 2014 – Deadline by which questions for the applicants by the public must be submitted to the City Clerk's Office.

December 22, 2014 – Application period closes. Completed application packets must be received by the City Clerk's office no later than noon.

January, 6, 2015 – Interviews will be conducted at a special meeting to be held prior to the regular council meeting. Following the individual interviews which will be conducted in open session, balloting will take place. The candidate receiving the majority vote shall be appointed to the Council and will be sworn in.

The Policy provides that applicants interested in being appointed to the City Council shall fill out an application form. In addition, applicants shall be required to file with the City Clerk the following documents:

1. A Nomination Form containing valid signatures of at least 20 registered voters of the City of Tracy. The fact that a voter has signed nomination papers for more than one applicant shall not invalidate the signature; and
2. A completed Statement of Economic Interests (Form 700) provided by the Fair Political Practices Commission.

The Policy provides that the City Council, by motion, may choose to present questions in advance of the interviews to the applicants and may choose to require applicants to either answer all such questions at the interviews or provide written responses to all such questions prior to the interviews. Proposed advance questions may be suggested by individual City Council Members or may be drafted by an ad hoc committee of the City Council appointed by the Mayor for that purpose.

For past vacancies, the City Council chose to form a subcommittee to draft questions to be verbally answered at the interview and present the draft questions for final approval of the City Council as a whole. The subcommittee could present draft questions to the City Council for approval at its meeting on December 16, 2014. A sample list of the questions used during the 2012 appointment process was attached to the staff report.

The cost to fill the vacancy by appointment will be minimal and would include staff time and some resources. If the City Council decides that a special election is appropriate, the estimated cost is \$257,000, plus staff time to coordinate the election with the Registrar of Voters office.

Mayor Maciel reiterated that the cost of a special election would be \$257,000, and a lower voter turnout would not impact that cost. Troy Brown, City Manager, confirmed Mayor Maciel's statement.

Mayor Maciel invited public comment.

Dave Helm stated that in the interests of saving time and money, he expected the Council to choose an appointment process rather than a special election. Mr. Helm suggested applicants include a curriculum vitae with their application and be allowed five minutes to introduce themselves. The applicants should be asked the same questions uniformly, and at the end of the process Council should be willing to explain how they arrived at their decision.

Jim Howell, 340 Hunter Trail agreed with Mr. Helm and suggested the timetable might be too short. Mr. Howell suggested extending the timetable to February.

Council Member Rickman asked how the recruitment would be advertised. Mr. Sodergren responded the application process and the request for questions from the public would be advertised in the Tracy Press, on the City's website and through social media. In response to a question regarding the voting procedure Mr. Sodergren stated the voting procedure was included in the policy entitled City Council Policy for Filling City Council Vacancies, adopted on October 21, 2014, but added Council could discuss the procedure further if they wished.

Council Member Young inquired what would happen in the event the Council was deadlocked and unable to come to an agreement on who should fill the vacancy. Mr. Sodergren stated if the Council went through the appointment process and at the end of the 60 day period was unable to agree on who the candidate should be the Council could call a special election at that time.

Mayor Maciel asked if any Council Member advocated for holding a special election. Council Member Young stated she favored the appointment process which would save the taxpayers the financial burden of \$257,000. Mayor Maciel clarified that if, at the end of the process the Council was unable to agree on an applicant a special election would be the default position. Mr. Sodergren agreed with Mayor Maciel.

Council Member Rickman motioned to fill the Council vacancy by appointment and by the process and procedures set forth and agreed to tonight. Council Member Vargas seconded the motion. Voice vote found all in favor passed and so ordered.

Following a brief discussion revolving around the timeline it was Council consensus that the timeline was acceptable.

In response to a question from Council Member Vargas regarding how questions from the public would be handled, Mayor Maciel explained the process used in the past which included forming a Council subcommittee to review the questions submitted by the Council and the public. Council Member Vargas and Council Member Rickman agreed to serve on the subcommittee to review questions from the Council and from the public.

In response to a question as to who would verify the signatures, Mr. Sodergren responded it would be the Registrar of Voters.

Troy Brown, City Manager, confirmed the interviews would be held at a special meeting on January 6, 2015, prior to the regular meeting. The meeting could begin at 5 p.m. and the time could be extended depending on the number of applicants.

Mayor Maciel invited members of the community to reach out to him if they had questions related to serving as a Council Member and encouraged other Council Members to do the same.

8. ITEMS FROM THE AUDIENCE – Rhodesia Ransom, Sow-A-Seed Foundation, invited the community to the “Boys to Men Conference,” a free event which will be held at Kimball High School on December 13, 2014, from 9:00 a.m. to 3:00 p.m.
9. COUNCIL ITEMS - Council Member Rickman and Council Member Vargas commented on a number of events which would take place in the City on December 6 including the Christmas parade and tree lighting ceremony, the Bulldogs football game and the Rotary Crab Feed.

Mayor Maciel requested a staff report for Council discussion on whether or not an agenda item to consider waiving the policy Naming Public Buildings, Parks and Facilities and naming the Downtown Plaza Brent Ives Plaza should be placed on a future City Council agenda. Maria Hurtado, Assistant City Manager, stated the two-step process would be followed.

10. ADJOURNMENT – It was moved by Council Member Rickman and seconded by Council Member Young to adjourn. Voice vote found all in favor; passed and so ordered. Time 8:25 p.m.

The above agenda was posted at the Tracy City Hall on November 26, 2014. The above are summary minutes. A recording is available at the office of the City Clerk.

Mayor

ATTEST:

City Clerk