

November 20, 2018, 7:00 p.m.

City Council Chambers, 333 Civic Center Plaza

Web Site: www.ci.tracy.ca.us

Mayor Rickman called the meeting to order at 7:00 p.m.

Mayor Rickman led the Pledge of Allegiance.

Pastor Kevin James, New Creation Bible Fellowship offered the invocation.

Roll call found Council Members Dement, Ransom, Young, Mayor Pro Tem Vargas and Mayor Rickman present.

Interim Police Chief Alex Neicu swore-in Police Sergeant Brett Hicks and Officer Gabriel Gonzalez

Mayor Rickman presented Certificates of Congratulations to the US Club Soccer National Cup XVII Championship Winners

Mayor Rickman presented a proclamation for Sikh American Awareness Month to Jass Sangha

Mayor Rickman presented Certificate of Appointment to new Transportation Advisory Commissioner Rajnish Khanna

1. CONSENT CALENDAR – Following the recusal of Mayor Pro Tem Vargas from item 1.H and the removal of items 1.B and 1.H by Council Member Ransom, and item 1.E by Dave Anderson, motion was made by Council Member Young and seconded by Mayor Rickman to adopt the Consent Calendar. Roll call vote found all in favor; passed and so ordered. Mayor Pro Tem Vargas abstained from item 1.H
 - A. Approval of November 7, 2018, Special Meeting Minutes – Minutes were approved.
 - C. Approve Amendment 1 to the Memorandum of Understanding Between the City of Tracy and Tracy Friends for Parks, Recreation and Community Services Foundation – Resolution 2018-234 approved Amendment 1 to the Memorandum of Understanding
 - D. Approve the First Amendment to the Emergency Vehicle Access Easement Agreement for Tracy Hills Phase 1A, Tract 3878 and Authorize the City Clerk to File the Agreement with the San Joaquin County Recorder – Resolution 2018-235 approved the First Amendment to the Emergency Vehicle Access Easement Agreement
 - F. Authorize the Purchase of Vehicles and Equipment in the Amount of \$190,625 – Resolution 2018-236 authorized the purchase of vehicles and equipment.

- G. Approve the Final Subdivision Map and Subdivision Improvement Agreement for Tract 3965, Brookview West, and Authorize the City Clerk to File the Subdivision Improvement Agreement with the Office of the San Joaquin County Recorder – Resolution 2018-237 approved the Final Subdivision Map and Subdivision Improvement Agreement
- I. Approve the Final Subdivision Map and Subdivision Improvement Agreement for Tracy Hills Village 5C, Tract 3949, and Authorize the City Clerk to File the Agreement with the San Joaquin County Recorder – Resolution 2018-238 approved the Final Subdivision Map and Subdivision Improvement Agreement
- J. Approve the First Amendment to the Agreement Between City of Tracy and the South San Joaquin County Fire Authority Regarding the Employment of Personnel – Resolution 2018-239 approved the First Amendment to the agreement between the City of Tracy and the South San Joaquin County Fire Authority
- B. Approve Amendment 2 to the Property Development and Lease Agreement Between the City of Tracy and Tracy Little League for Constructing and Maintaining Baseball Fields at Legacy Fields

Item pulled for discussion by Council Member Ransom.

Brian MacDonald, Parks & Recreation Director provided the staff report.

City Council questions and comments followed.

ACTION: Motion was made by Council Member Ransom and seconded by Council Member Young to adopt **Resolution 2018-240** approving Amendment 2 to the Property Development and Lease Agreement between the City of Tracy and Tracy Little League for constructing and maintaining baseball fields at Legacy Fields. Roll call vote found all in favor; passed and so ordered.

- E. Award a Construction Contract to Vellutini Corporation, dba Royal Electric Company of Sacramento, California for the Construction of a New Airport Beacon Light on the Existing Tower at the Tracy Municipal Airport, CIP 77037, AIP No. 3-06-0259-19-2018, and Approve the Transfer of Funds in the Amount of \$68,248 for this Project 77037 to CIP 77581

Dave Anderson, President of the Tracy Airport Association pulled the item for discussion to express concerns from pilots that the beacon is replaced with something safe and reliable.

No comments or discussion from Council.

ACTION: Motion was made by Council Member Ransom and seconded by Council Member Young to adopt **Resolution 2018-241** awarding a Construction Contract to Vellutini Corporation, dba Royal Electric Company of Sacramento, California for the construction of a new Airport Beacon Light on the existing tower at the Tracy Municipal Airport, CIP 77037, AIP No. 3-06-0259-19-2018, and approving

the transfer of funds in the amount of \$68,248 for the Project 77037 to CIP 77581. Roll call vote found all in favor; passed and so ordered.

H. Authorize Amendment to the City's Classification and Compensation Plan and Master Salary Schedule by Approving the Amendment of Various Existing Classification Specifications Including: Division Fire Chief, Assistant Director of Development & Engineering Services, Police Support Operations Manager, Arts Program Manager and Assistant City Manager; Amending the Salary Range for Assistant City Manager; and Approving the New Classification Specification of Planning Technician

Council Member Ransom pulled the item for clarification regarding the inconsistency of positions being designated as "at-will" and "for cause" employees within the Confidential Employees Unit.

Kimberly Murdaugh, Human Resources Director presented the staff report.

City Council questions and comments followed.

Steve Nicolaou addressed Council and staff to point out that the 2016 announcement for the Assistant City Attorney designated the position as "at-will" instead of "for cause". However, the Assistant City Attorney is also listed among others under personnel rule section 2.6 as a non-competitive position. Mr. Nicolaou noted that the Assistant City Attorney is a covered employee under the Compensation and Benefit Plan and is part of the Confidential Employees Unit; and expressed concern as to why all employees in the unit are not all re-designated as "for cause" employees.

Ms. Murdaugh clarified that the job description for the Assistant City Attorney does not designate the position as at-will; and is a Council adopted document.

Mr. Nicolaou also noted his observation that the City's personnel rule 2.16 states the Assistant City Attorney position is non-competitive. Mr. Nicolaou also expressed concerns that based on the impending shift of the City Council due to the recent election, the re-designation to "for cause" of the current Fire Division Chief who happens to be married to a sitting Council member could lead to the appearance of impropriety; whereas the Fire Division Chief and other positions are being insulated from possible employment actions due to political dynamics.

City Council questions and comments continued.

ACTION: Motion was made by Council Member Dement and seconded by Mayor Rickman to authorize Amendment to the City's Classification and Compensation Plan and Master Salary Schedule by approving the amendment of various existing Classification Specifications Including: Division Fire Chief, Assistant Director of Development & Engineering Services, Police Support Operations Manager, Arts Program Manager and Assistant City Manager; amending the Salary Range for Assistant City Manager; and approving the new Classification Specification of Planning Technician. Roll call found Council Member Dement and Mayor Rickman in favor. Council Member Ransom and Council Member Young opposed. Mayor Pro Tem Vargas recused herself from voting on the item. Motion failed.

ACTION: Motion was made by Council Member Ransom and seconded by Council Member Young to approve amending the salary range for Assistant City Manager and approving the new Classification Specification of Planning Technician. Roll call found Council Member Ransom and Council Member Young in favor. Council Member Dement and Mayor Rickman opposed. Mayor Pro Tem Vargas recused herself from voting on the item. Motion failed.

ACTION: Motion was made by Council Member Ransom and seconded by Council Member Young to adopt **Resolution 2018-242** with an amendment to eliminate the authorization of the Human Resources Director to act on existing classifications and specifications for positions including Division Fire Chief, Assistant Director of Development and Engineering Services, Police Support Operations Manager, Arts Program Manager and Assistant City Manager. Roll call found Council Member Ransom, Council Member Young and Mayor Rickman in favor; passed and so ordered. Council Member Dement opposed. Mayor Pro Tem Vargas recused herself from voting on the item.

2. ITEMS FROM THE AUDIENCE - Robert Tanner addressed City Council to request an agenda item for an update on the Great Plate.

Linda Miller, President and Founder of East of Eden Rescue (EOE), stated the organization focuses on rehoming local animals and described some of the animal rescue services provide by EOE. Ms. Miller added EOE has never orchestrated a campaign against Tracy government or its employees. Ms. Miller also spoke about a dog named Ozzie and three others that were not offered the opportunity to be rescued by EOE; and despite open pound space, were euthanized.

Bethany Neal, a volunteer with EOE Rescue voiced her concerns regarding negative mischaracterization of animal rescue groups and misleading information posted on social media by the Tracy Police Department. Ms. Neal conveyed that the Interim Police Chief characterized Ozzie as aggressive and that the community needed to be kept safe from dogs like him. Ms. Neal expressed that she, the growing community of Tracy and the City Council should all expect better.

Sheri Savage, a volunteer with EOE Canine Rescue reported that while facilitating a senior dog adoption she visited Ozzie. In subsequent communication with the Tracy Police Department Ms. Savage confirmed a foster for Ozzie who was put down while a pull-date was being worked out. Ms. Savage also expressed concerns regarding other dogs that were put down without any outreach to animal rescue groups.

Ricky Bush expressed concerns regarding the negative and misleading social media posted by the Tracy Police Department. Mr. Bush wanted to make three points: (1) quoting euthanasia rates without accounting for animal rescue is misleading; (2) regarding Ozzie, animal rescue reached out to the shelter prior to the euthanization; and (3) AB2791 has been revised to state in essence that any stray dog impounded pursuant to this provision shall be released prior to euthanasia of that animal to a rescue organization upon request.

Trish Johnson, manager of the non-profit Saving Ferals on behalf of the rescue community, requested implementation of a “return to field” policy, bringing in humane educators to train the Tracy Animal Shelter staff and raise awareness in the community. Alice Burton of Alley Cat Allies has agreed to give a presentation on “trap-neuter-and return” at no charge. Ms. Johnson noted that despite an adequate number of shelter cages, the Tracy Animal Shelter still has in use the outdated squeeze cages that should be abolished. Other recommendations include staff checking cats for chips and friendliness; reinstatement of spay and neuter voucher program for low income; increase adoption fee to encourage good adoptions; and consistency in vaccination of all animals. Ms. Johnson also submitted a letter for Council to the Clerk.

Wendy Tocchini stated she helps Ms. Johnson with saving animals and recently began fostering. There should be more support for saving animals at the shelter. Ms. Tocchini read a letter from Jennifer Douglas who is with the San Joaquin County Human Trafficking Task Force and an avid supporter of the Bull Dog Project. Ms. Douglas’s letter expressed her support for the trapping and neutering of ferals.

Caroline Grayson expressed her concerns regarding the euthanization policy of the Tracy Animal Shelter and the deletion of comments responding to the Tracy Police Department facebook post.

Pam Galvan expressed concerns regarding what happened to Ozzie and related her positive experience of visiting the shelter and subsequently fostering a rescue, “Lilly” for several weeks before adopting her.

Starlene Prosser, Veterinary Technician spoke to the credibility of East of Eden. Ms. Prosser called for Council to investigate the alleged practice of euthanizing animals at the Tracy Animal Shelter even when there are open spaces.

Martin Evans commented on the change in residential and commercial boundaries near Sutter Hospital that began in the 1970’s.

Linda Townsend addressed City Council to state that she loves animals and expressed concerns regarding the animals at the Tracy Animal Shelter.

Thomas Watson, City Attorney responded to Mr. Tanner’s comment regarding the Great Plate. Mr. Watson stated that the matter has been litigated and the final judgment is due on December 12, 2018.

Council Member Ransom confirmed with the City Manager that the Tracy Animal Shelter is scheduled for an update on the December 18, 2018 Council meeting agenda.

3. **INTRODUCE AND WAIVE FIRST READING OF AN ORDINANCE REPEALING AND REPLACING CHAPTER 2.28 OF TITLE 2, ENTITLED “TRACY MUNICIPAL AIRPORT AND NEW JERUSALEM AIRPORT” TO THE TRACY MUNICIPAL CODE**

Ed Lovell, Management Analyst provided the staff report.

Dave Anderson expressed concerns regarding clause 2.28.410 – purchases of goods and services, and noted the difficult process of a single provider required to obtain a

permit for each area airport. Mr. Anderson also noted concerns regarding clauses as to airport manager who can make determination negligently operated aircraft.

City Council questions and comments followed.

Deputy City Clerk read the title of proposed Ordinance 1264.

ACTION: Motion was made by Council Member Young and seconded by Council Member Ransom to waive the reading of the full text and introduce Ordinance 1264. Roll call vote found all in favor; passed and so ordered.

4. APPROVING AN AMENDMENT TO THE EMPLOYMENT AGREEMENT BETWEEN THOMAS T. WATSON AND THE CITY OF TRACY RELATING TO COMPENSATION AND BENEFITS

Midori Lichtwardt, Assistant City Manager provided the staff report.

No one from the public wished to speak.

There were no comments and questions from City Council.

ACTION: Motion was made by Council Member Young and seconded by Mayor Pro Tem Vargas to adopt **Resolution 2018-243** approving an amendment to the Employment Agreement between Thomas T. Watson and the City of Tracy relating to compensation and benefits. Roll call vote found all in favor; passed and so ordered.

5. PROVIDE STAFF DIRECTION CONCERNING THE HIRING OF A CONSULTANT TO MAKE RECOMMENDATIONS CONCERNING THE IMPLEMENTATION OF A CITY OF TRACY CITIZENS POLICE OVERSIGHT COMMITTEE

Randall Bradley, City Manager provided the staff report.

City Council questions and comments followed.

Steve Nicolaou expressed concern about the item being politically motivated retribution. Mr. Nicolaou commented that an oversight committee is only necessary to address the occurrence of horrific events and suggested the fire department be included.

City Council questions and discussion ensued.

ACTION: Motion was made by Mayor Pro Tem Vargas and seconded by Council Member Dement to hire a consultant to make recommendations concerning the implementation of a City of Tracy Citizens Police Oversight Committee. Roll call found Council Member Dement, Council Member Young, Mayor Pro Tem Vargas and Mayor Rickman in favor; passed and so ordered. Council Member Ransom opposed.

DEVIATION

7. STAFF ITEMS – None.

Mayor Rickman requested clarification from the City Attorney regarding the 9th Circuit Court of Appeals decision regarding enforcement of trespassing and sleeping in the park as it relates to addressing the homeless. Mr. Watson advised that enforcement lies with officer discretion, and is not precluded by the case.

8. COUNCIL ITEMS - Mayor Pro Tem Vargas gave an update on Valley Link. The train is projected to break ground within 24 months. Mayor Pro Tem Vargas stated funds are still needed. SB1 funding will be sought. Mayor Pro Tem Vargas requested Council to look into land use, and allocations to build residential transit orientated development. Council Member Dement supported the request.

Council Member Ransom inquired regarding the swearing in of new Council and the certification of the election by the Registrar of Voters.

Randall Bradley, City Manager confirmed that the election results will not be certified until December 6, 2018. The December 4, 2018 Council meeting will be held with the currently seated Council.

Council Member Dement wished everyone a Happy Thanksgiving and offered thoughts and prayers to First Responders and the families affected by the fires.

Council Member Young wished everyone a Happy Thanksgiving and find a way to be thankful, acknowledging those affected by the fires. Council Member Young also wished everyone in her life a Happy Birthday this week. Council Member Young also mentioned her niece who passed the bar in May.

Mayor Rickman wished everyone a Happy Thanksgiving and noted several Tracy events: December 1st downtown parade and tree lighting; December 8th downtown stroll, and the winter farmers market. Mayor Rickman referred to potential litigation regarding a public records request and asked if there will be a closed session about the item, and if not, he confirmed that another Council member could request that it be brought back before Council in open session.

Thomas Watson, City Attorney responded the matter will be acted on in due course.

6. ITEMS FROM THE AUDIENCE - Jessica Manigus asked why members of the public have to waste time attending meetings to ask Council to do something about the animal shelter. Transparency is key and that is what she is looking for.

Elizabeth Desmond commended the Tracy Police Department and Animal Shelter staff. Ms. Desmond stated she has adopted animals from the shelter and is happy to live in a safe place.

Roger Birdsall expressed concern regarding unusually high water bill at his business park. Mr. Birdsall added it takes about two weeks for a request to be processed. Mr. Birdsall asked if staff could check the meter and added he has put locks on all of the outside boxes.

9. ADJOURNMENT – Time: 9:48 p.m.

ACTION: Motion was made by Council Member Ransom and seconded by Council Member Dement to adjourn. Roll call vote found all in favor; passed and so ordered.

The above agenda was posted at the Tracy City Hall on November 15, 2018. The above are action minutes. A recording is available at the office of the City Clerk.

ATTEST:

Mayor

City Clerk