

Tuesday, December 4, 2018, 7:00 p.m.

City Council Chambers, 333 Civic Center Plaza

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

Americans With Disabilities Act - The City of Tracy complies with the Americans with Disabilities Act and makes all reasonable accommodations for the disabled to participate in Council meetings. Persons requiring assistance or auxiliary aids should call City Hall (209/831-6000) 24 hours prior to the meeting.

Addressing the Council on Items on the Agenda - The Brown Act provides that every regular Council meeting shall provide an opportunity for the public to address the Council on any item within its jurisdiction before or during the Council's consideration of the item, provided no action shall be taken on any item not on the agenda. Each citizen will be allowed a maximum of five minutes for input or testimony. At the Mayor's discretion, additional time may be granted. The City Clerk shall be the timekeeper.

Consent Calendar - All items listed on the Consent Calendar are considered routine and/or consistent with previous Council direction. A motion and roll call vote may enact the entire Consent Calendar. No separate discussion of Consent Calendar items will occur unless members of the City Council, City staff or the public request discussion on a specific item at the beginning of the meeting.

Addressing the Council on Items not on the Agenda – The Brown Act prohibits discussion or action on items not on the posted agenda. Members of the public addressing the Council should state their names and addresses for the record, and for contact information. The City Council's Procedures for the Conduct of Public Meetings provide that "Items from the Audience" following the Consent Calendar will be limited to 15 minutes. "Items from the Audience" listed near the end of the agenda will not have a maximum time limit. Each member of the public will be allowed a maximum of five minutes for public input or testimony. However, a maximum time limit of less than five minutes for public input or testimony may be set for "Items from the Audience" depending upon the number of members of the public wishing to provide public input or testimony. The five minute maximum time limit for each member of the public applies to all "Items from the Audience." Any item not on the agenda, brought up by a member of the public shall automatically be referred to staff. In accordance with Council policy, if staff is not able to resolve the matter satisfactorily, the member of the public may request a Council Member to sponsor the item for discussion at a future meeting. When members of the public address the Council, they should be as specific as possible about their concerns. If several members of the public comment on the same issue an effort should be made to avoid repetition of views already expressed.

Presentations to Council - Persons who wish to make presentations which may exceed the time limits are encouraged to submit comments in writing at the earliest possible time to ensure distribution to Council and other interested parties. Requests for letters to be read into the record will be granted only upon approval of the majority of the Council. Power Point (or similar) presentations need to be provided to the City Clerk's office at least 24 hours prior to the meeting. All presentations must comply with the applicable time limits. Prior to the presentation, a hard copy of the Power Point (or similar) presentation will be provided to the City Clerk's office for inclusion in the record of the meeting and copies shall be provided to the Council. Failure to comply will result in the presentation being rejected. Any materials distributed, including those distributed within 72 hours of a regular City Council meeting, to a majority of the Council regarding an item on the agenda shall be made available for public inspection at the City Clerk's office (address above) during regular business hours.

Notice - A 90 day limit is set by law for filing challenges in the Superior Court to certain City administrative decisions and orders when those decisions or orders require: (1) a hearing by law, (2) the receipt of evidence, and (3) the exercise of discretion. The 90 day limit begins on the date the decision is final (Code of Civil Procedure Section 1094.6). Further, if you challenge a City Council action in court, you may be limited, by California law, including but not limited to Government Code Section 65009, to raising only those issues you or someone else raised during the public hearing, or raised in written correspondence delivered to the City Council prior to or at the public hearing.

CALL TO ORDER
PLEDGE OF ALLEGIANCE
INVOCATION
ROLL CALL
PRESENTATIONS

1. Employee of the Month

1. CONSENT CALENDAR

- A. Approval of November 20, 2018, Closed Session and Regular Meeting Minutes
- B. Waive Second Reading and Adopt Ordinance 1264, an Ordinance of the City of Tracy, California, Repealing and Replacing Chapter 2.28 of Title 2, Entitled "Tracy Municipal Airport and New Jerusalem Airport" to the Tracy Municipal Code
- C. Adopt a Resolution of Intention to Hold a Public Hearing on January 15, 2019, Regarding Discontinuance of Park Use of Minor Portion of the Ritter Family Ballpark (Formerly Tracy Ball Park) in Exchange for the Non-Exclusive Use of 51 Parking Spaces at the American Legion, James McDermott Post No. 172, 1960 North Tracy Boulevard, Tracy, California, By Users of the Ritter Family Ball Park
- D. Approve Leave of Absence for Tracy Planning Commissioner Ed Gable

2. ITEMS FROM THE AUDIENCE

3. STAFF ITEMS

4. COUNCIL ITEMS

5. ITEMS FROM THE AUDIENCE

6. ADJOURNMENT

Tuesday, November 20, 2018, 6:30 p.m.

Council Chambers, 333 Civic Center Plaza, Tracy

Web Site: www.cityoftracy.org

1. CALL TO ORDER - Mayor Rickman called the meeting to order at 6:30 p.m.
2. ROLL CALL – Roll call found Council Members Dement, Young, Mayor Pro Tem Vargas and Mayor Rickman present. Council Member Ransom arrived at 6:32 p.m.
3. ITEMS FROM THE AUDIENCE - There were no items from the audience.
4. CLOSED SESSION
 1. Labor Negotiations Pursuant to Government Code Section 54957.6
 - City Negotiators:
Randall Bradley, City Manager
Midori Lichtwardt, Assistant City Manager
Kimberly Murdaugh, Director of Human Resources
Karin Schnaider, Finance Director
Thomas Watson, City Attorney
 - Employee Organizations:
General Teamsters Local No. 439, IBT
Tracy Fire Fighters Association (TFFA)
Tracy Mid Managers Bargaining Unit (TMMBU)
Tracy Police Management Association (TPMA)
Tracy Police Officers' Association (TPOA)
South County Fire Chief Officers Association (SCFCOA)
City of Tracy Technical and Support Services Employee Association (TTSSEA)
 2. Personnel Matter Pursuant to Government Code 54957

Public Employee Appointment, Employment, Evaluation of Performance, Discipline, or Dismissal

Position Title: City Attorney
5. MOTION TO RECESS TO CLOSED SESSION – Motion was made by Mayor Pro Tem Vargas and seconded by Council Member Dement to recess the meeting to Closed Session at 6:31 p.m. Roll call vote found Council Members Dement, Young, Mayor Pro Tem Vargas and Mayor Rickman in favor; passed and so ordered. Council Member Ransom absent.
6. RECONVENE TO OPEN SESSION – Mayor Rickman reconvened the meeting at 6:50 p.m.

7. REPORT OF FINAL ACTION – There was no report of final action.
8. ADJOURNMENT: Motion was made by Mayor Pro Tem Vargas and seconded by Council Member Dement to adjourn. Roll call vote found all in favor; passed and so ordered. Time: 6:51 p.m.

The above Agenda was posted at the Tracy City Hall on November 15, 2018. The above are action minutes.

ATTEST:

Mayor

City Clerk

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 Ransom 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 Neil, 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. Neil conveyed that the Interim Police Chief characterized Ozzie as aggressive and that the community needed to be kept safe from dogs like him. Ms. Neil 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

AGENDA ITEM 1.B

REQUEST

WAIVE SECOND READING AND ADOPT ORDINANCE 1264, AN ORDINANCE OF THE CITY OF TRACY, CALIFORNIA, REPEALING AND REPLACING CHAPTER 2.28 OF TITLE 2, ENTITLED “TRACY MUNICIPAL AIRPORT AND NEW JERUSALEM AIRPORT” TO THE TRACY MUNICIPAL CODE

EXECUTIVE SUMMARY

Ordinance 1264 was introduced at the regular Council meeting held on November 20, 2018. Ordinance 1264 is before Council for adoption.

DISCUSSION

The regulation of the Tracy Municipal Airport was created by Ordinance 143, which was adopted in February 1964. It was amended by Ordinance 327 in May 1972 to add the New Jerusalem Airport to the ordinance. Since then, there have been changes in state and federal regulations pertaining to the operation of airports. The proposed ordinance includes regulations regarding the operation of aircraft and motor vehicles at the airports airport user obligations, hazardous materials and waste handling, and other regulations designed to facilitate the safe and efficient operation of the airports. Additionally, changes are required to allow for greater flexibility in the day to day operations of the airport, including administration of City-owned hangar and tie-down spaces. Due to the extensive changes proposed, the proposed ordinance deletes existing Section 2.28 in its entirety and replaces it with the new regulations and requirements. Proposed Ordinance 1264 was introduced at the November 20, 2018 regular Council meeting, to repeal and replace Chapter 2.28 of Title 2, entitled “Tracy Municipal Airport and New Jerusalem Airport” to the Tracy Municipal Code.

Ordinance 1264 is before City Council for adoption.

STRATEGIC PLAN

This agenda item does not relate to the Council’s four strategic plans.

FISCAL IMPACT

There is no fiscal impact.

RECOMMENDATION

That City Council waive the second reading and adopt Ordinance 1264.

Prepared by: Adrienne Richardson, City Clerk
Reviewed by: Andrew Malik, Assistant City Manager
Approved by: Randall Bradley, City Manager

ORDINANCE 1264

AN ORDINANCE OF THE CITY OF TRACY, CALIFORNIA, REPEALING AND REPLACING CHAPTER 2.28 OF TITLE 2, ENTITLED "TRACY MUNICIPAL AIRPORT AND NEW JERUSALEM AIRPORT" TO THE TRACY MUNICIPAL CODE

WHEREAS, The City Council desires to update its ordinance to include regulations pertaining to airport operations and property management and to allow for greater flexibility in the day to day administration of the airports;

NOW, THEREFORE, The City Council of the City of Tracy hereby ordains as follows:

SECTION 1: Amendment of the Tracy Municipal Code. Chapter 2.28 of Title 2 is stricken in its entirety and replaced with the following:

Chapter 2.28 – TRACY MUNICIPAL AIRPORT AND NEW JERUSALEM AIRPORT**Article 1. - Definitions**

2.28.010 For the purposes of this chapter the following definitions shall apply:

- (a) "Abandoned Aircraft, Vehicles and/or Property" means property found at the Airport in a location where the owner likely intended to leave it, but is in such a condition that it is apparent that the owner has no intention of returning to claim it.
- (b) "Accident" means a collision or other contact between any part of a vehicle, person, stationary object and/or other thing which results in property damage, personal injury or death.
- (c) "Aircraft Accident" means an occurrence associated with the operation of an aircraft which takes place between the time any person boards the aircraft with the intention of flight and until such time as all such persons have disembarked, and in which any person suffers death or serious injury, or in which the aircraft receives substantial damage.
- (d) "Aeronautical Activity" means any activity that involves, makes possible, facilitates, is related to, assists in or is required for the operation of an Aircraft or Airport or which contributes to, or is required for, the safety of Aircraft and/or Airport operations.
- (e) "Agreement," or "Permit" means a written contract, executed by both parties, and enforceable by law between the City and an individual or entity granting a concession, transferring rights or interest in land and/or improvements, and/or otherwise authorizing and/or prohibiting the conduct

- of certain activities. Such Agreement will recite the terms and conditions under which the Activity will be conducted at the Airport including; but not limited to, the term of the Agreement, rents, fees, and charges to be paid by the individual or entity; and the rights and obligations of the respective parties. Examples include, but are not limited to, Commercial Aviation Permits and Hangar and Tie-Down Lease Agreements.
- (f) "Aircraft" means any contrivance now known or hereafter invented which is used or designed for navigation of or flight in air, except a parachute or other contrivance designed for such navigation but used primarily as safety equipment. This includes, but is not limited to, airplanes, airships, balloons, dirigibles, rockets, helicopters, gliders, gyrocopters, ground-effect machines, sailplanes, amphibians, ultra-lights, light sport and seaplanes.
 - (g) "Airplane" means, more specifically, an engine-driven, fixed-wing Aircraft heavier than air that is supported in flight by the dynamic reaction of the air against its wings.
 - (h) "Aircraft Maintenance" means the repair, maintenance, alteration, preservation, or inspection of Aircraft including the replacement of parts and shall be considered either "major repairs" or "minor repairs." "Major repairs" include major alterations to the airframe, powerplant, and propeller as defined in 14 Code of Federal Regulations ("C.F.R.") Part 43. "Minor repairs" include normal, routine annual inspection with attendant maintenance, repair, calibration, or adjustment of Aircraft and their accessories.
 - (i) "Aircraft Operator" means a person who uses, causes to be used, or authorizes to be used an aircraft, with or without the right of legal control (as owner, lessee, or otherwise), for the purpose of air navigation including the piloting of aircraft, or on any part of the surface of the Airport.
 - (j) "Airframe and Powerplant Mechanic (or "A & P Mechanic")" means a person who holds an Aircraft mechanic certificate with both the airframe and powerplant ratings. This certification is issued by the Federal Aviation Administration ("FAA") under the provisions of 14 C.F.R. Part 65.
 - (k) "Airport Operations Area ("AOA")" means any area of the Airport used or intended to be used for landing, taking-off, or surface maneuvering of aircraft.
 - (l) "Airport" or "Airports" mean each and all of the following airports: Tracy Municipal Airport, located in the City of Tracy, State of California and New Jerusalem Airport, located in the unincorporated San Joaquin County, State of California.
 - (m) "Airport Manager" means the person appointed to this position by the City Manager, or the Airport Manger's authorized representative.
 - (n) "Aviation-Related Activity" means any activity conducted on Airport property that provides service and support to Airport users. The following

- are examples of aviation-related activities; they include but are not limited to ground transportation, restaurants, concessions, etc.
- (o) “Based aircraft” means any Aircraft assigned a reserved tie-down, shelter or hangar space for the majority of the calendar year, whether or not such assignment is made under a written lease with the City.
 - (p) “City” means the City of Tracy, California
 - (q) “Commercial Aviation Activity” means any Aeronautical Activity performed with the intent to generate and/or secure earnings, income, compensation (including exchange or barter of goods and services), and/or profit, whether or not such objectives are accomplished.
 - (r) “Commercial Aviation Permit” or “CAP” means a legal agreement between the City and an individual or entity providing a Commercial Aviation Activity which grants permission to perform such activity on or from the Airport property.
 - (s) “Council” means the City Council of the City of Tracy
 - (t) “Derelict Aircraft” or “Damaged Vehicles or Property” means any Non-Flying Aircraft, vehicle, or other property in obvious need of major repairs.
 - (u) “FAA” means the Federal Aviation Administration.
 - (v) “Fuel” means any substance (solid, liquid, or gaseous) used to operate any engine in aircraft, e.g., avgas, jet fuel, auto fuel, diesel, and bio-fuel. These fuels may also be used in vehicles or equipment, but only when such usage is appropriate and permitted.
 - (w) “Fuel Handling” means the transportation, delivering, fueling, or drainage of fuel or fuel waste products.
 - (x) “Hangar” means a fully enclosed, lockable storage space for one or more aircraft.
 - (y) “Hazardous Materials” means any oil, petroleum products, flammable substances, explosives, radioactive materials, wastes, or substances or any other wastes, material or pollutants which pose a hazard to the health and safety of any person on or entering the Airport or which are classified as hazardous materials under applicable Regulatory Measures.
 - (z) “Incident” means an occurrence other than an accident associated with the operation of an aircraft, which affects or could affect the safety of operations.
 - (aa) “Lessee” or “Tenant” means an individual or entity that has entered into an Agreement with the City to occupy, use, and/or develop land and/or improvements and engage in Aeronautical Activities.
 - (bb) “Movement Areas” are the taxiway and runway portions of the AOA.
 - (cc) “Non-Flying Aircraft” means an Aircraft that has not been utilized, flown or worked on for a period of 12 consecutive months and/or has not been

- maintained in flyable condition. Aircraft identified as Non-Flying Aircraft need not be in obvious need of major repairs.
- (dd) "Operator" means an individual or entity that has entered into an Agreement with the City to engage in Commercial Aviation Activities.
 - (ee) "Person" means an individual, firm, partnership, corporation, company, association, joint-stock association, or governmental entity.
 - (ff) "Preventive Maintenance" means simple or minor preservation operations and the replacement of small standard parts not involving complex assembly operations.
 - (gg) "Regulatory Measures" means federal, state, and local laws, policies, rules and regulations, all as may be in existence, hereafter enacted, and amended from time to time.
 - (hh) "Special Event" means a specific occasion so arranged or planned for a particular purpose that is in addition to or more than the permitted activities engaged in by an individual (including an Operator, Lessee or third parties) or entity at the Airport pursuant to an Agreement.
 - (ii) "Substantial Damage" means damage or failure which adversely affects the structural strength, performance, or flight characteristics of the aircraft, and which would normally require major repair or replacement of the affected component. Engine failure or damage limited to an engine if only one engine fails or is damaged, bent fairings or cowling, dented skin, small punctured holes in the skin or fabric, ground damage to rotor or propeller blades, and damage to landing gear, wheels, tires, flaps, engine accessories, brakes, or wing tips are not considered substantial damage.
 - (jj) "Tie-down" means the paved area suitable for parking and mooring of Aircraft wherein suitable tie-down points have been located.
 - (kk) "Transient Aircraft" means any Aircraft which utilizes the Airport for occasional temporary purposes, generally no longer than fourteen days, and which is based at another Airport and is not assigned a reserved tie-down or hangar at the Airport.
 - (ll) "Transportation Advisory Commission" means the citizens appointed by the City Council to advise it on transportation matters.

Article 2. - General Regulations

- 2.28.020 The Airports shall be conducted as airport facilities for the promotion and accommodation of air commerce and as public air terminals.
- 2.28.030 The airports shall be under the supervision of an Airport Manager appointed by the City Manager in accordance with the laws of the City. It shall be the duty of the Airport Manager to enforce the provisions of this chapter.

- 2.28.040 All aeronautical activities and facilities designated for aeronautical use at the Airport shall conform to the current applicable provisions of the FAA regulations and orders and applicable state and local laws and regulations. All Operators of Aircraft are responsible for complete knowledge of all laws, rules and regulations relating to the operation of aircraft.
- 2.28.050 The Tracy Airport shall be open for public use at all hours of the day and night. The New Jerusalem Airport shall be open for public use at all hours of the day only, with night use being restricted. Both airports shall be subject to the rules and regulations set forth in this chapter, the payment of fees, and such restrictions due to inclement weather, the conditions of the landing area, the presentation of special events, and like causes as may be determined by the Airport Manager.
- 2.28.060 The City may prohibit Aircraft operations when it is determined that conditions are such that continued operations would be unsafe. The City may issue a Notice to Airmen ("NOTAM") to close any portion of the Airport, or to terminate or restrict any activity thereon. Under no circumstances shall an authorized Airport closure or restriction constitute grounds for reimbursement by the City of any expense, loss of revenue, or damage incurred by any Operator, Lessee, or any other individual or entity.
- 2.28.070 The use of any contrivance or device that could potentially interfere with safe Aircraft, e.g., radio-controlled aircraft, go-carts, dirt bikes, bicycles, golf carts, roller blades, roller skates, skate boards, etc., shall not operate on the Airport Operations Area, without prior written permission from the Airport Manager.
- 2.28.080 Derelict Aircraft, or Damaged Vehicles and Personal Property shall not be permitted within the tie-down, hangar or ramp areas and may be removed immediately (e.g. towed or hauled) by the Airport Manager. The owner (if known by the Airport Manager) shall be notified of the expenses of such removal, such as towing or hauling charges and any storage fees, and shall become a lien chargeable to the owner of said motor Vehicle, Aircraft, or Property. Said owner (if known by the Airport Manager) shall be notified of the removal, towing and storage of said motor Vehicle, Aircraft, or other Personal Property by certified or registered mail, return receipt requested, sent to the owner's address (if known by the Airport Manager), within three days of said removal, towing and storage.
- 2.28.090 Abandoned Aircraft, Vehicles and Property shall not be permitted within the tie-down, hangar, ramp areas, or vehicle parking lots and may be removed immediately (e.g. towed) by the Airport Manager. The Airport Manager may take action as deemed appropriate and in conformance with the California Civil Code, to remove any such items. Said owner (if known by the Airport Manager) shall be notified of the removal of such items by certified or registered mail, return

receipt requested, sent to the owner's address (if known by the Airport Manager), within three days of said removal. Such action shall be at the risk and expense of the owner of such items and without any liability to the City for damage that may result from such action.

2.28.100 No person shall post, distribute or display signs, advertisements, circulars, printed or written matter at the Airport except with the approval and in such a manner as may be prescribed by the Airport Manager. The Airport Manager or designee may post or cause to have posted signs, or employ other markings, for the purpose of giving notice of regulations, orders, or directives deemed necessary.

2.28.110 Flying clubs. A current roster of officers and directors of each flying club must be filed with the Airport Manager. All aircraft owned, leased or used by the flying club must be registered with the Airport Manager. Club members engaging in, and/or club aircraft used for, commercial ventures, purposes or operation shall be in conformance with Article 5.

2.28.120 The City, and its City Council, agents, officers and employees, assume no liability or responsibility, and shall not be liable or responsible other than as required by law, for any loss, damage, destruction, injury or death to any person or persons or to any property by reason of any accident, aircraft accident, incident, occurrence or mishap of any nature whatsoever or from any cause whatsoever. Any person entering an airport, or using or seeking or preparing to use an airport or any airport facility, does so at his/her own risk.

2.28.130 Any and all Airport property destroyed, injured, or damaged shall be paid for by the individual or entity responsible for such destruction, injury, or damage thereto.

2.28.140 No person shall, in the use of the Airport or any of the improvements located thereon, or permit discrimination against any other person or group of persons on the basis of race, color, religion, sex, age, disability, or national origin in any manner prohibited by 49 CFR Part 21 of the Regulations of the Office of the Secretary of Transportation and Title VI of the Civil Rights Act of 1964.

2.28.150 The Airport Manager has the authority to enforce the rules and regulations set forth in this chapter.

2.28.160 In any situation creating hazardous or dangerous conditions not specifically covered or expressed by this chapter, the Airport Manager is authorized to implement actions and/or determinations in a manner not inconsistent with this chapter.

2.28.170 In addition to the provisions of this chapter, all activities on the Airport shall conform to federal, state, and local laws, regulations, policies or other publications applicable to aircraft operations, land use,

construction, safety, or any other activities conducted on at an Airport.

Article 3. - Rates and Charges

2.28.180 The rates and charges for the use of the facilities of the Airport shall be those established in the various leases, or in the absence of such leases, as established from time to time by resolution of the City Council.

Article 4. - Aircraft Regulations

2.28.190 Operating an Aircraft in a careless or negligent manner, or in disregard of the rights and safety of others, or without due caution, or at a speed or in a manner which does or is likely to endanger persons or property, is prohibited.

2.28.200 Aircraft shall be parked only in those areas designated for such purpose by the City and shall be positioned in such a manner so as not to block taxi lanes or obstruct access to hangars, parked Aircraft or vehicles. Unless provided for in an Agreement with the City, no person shall use any area of the Airport for the parking and storage of Aircraft, other than for designated Transient Aircraft parking, without prior written permission from the Airport Manager.

2.28.210 Aircraft Operators shall ensure that Aircraft are properly tied down and chocked when left unattended. Upon request from the Airport Manager, the Operator of any Aircraft parked or stored at the Airport shall move the Aircraft to the location and/or position on the Airport identified by the Airport Manager. In the event the Aircraft Operator refuses or is unable to move the aircraft, or is unavailable, the Airport Manager may cause the Aircraft to be moved by a licensed and insured Operator to the designated area. This relocation shall be performed at the risk and expense of the Aircraft Operator without liability for damage that may arise from or out of such movement.

2.28.220 Only qualified persons, as determined by FAA regulations, shall start and/or operate an Aircraft engine at the Airport and/or taxi an Aircraft on the Airport.

2.28.230 Aircraft engines shall not be started within any structure on the Airport. Any person operating an Aircraft engine in an area that is accessible to the public shall take precautions to alert and protect the public from hazards incident to such operations.

2.28.240 Aircraft shall not be taxied until the Aircraft Operator has ascertained that there is no danger of collision with any person or object in the area. Any and all property destroyed, injured, or damaged shall be

paid for by the entity or person responsible for such destruction, injury, or damage thereto.

- 2.28.250 Run-up of jet, turboprop and piston engines shall be performed only in the areas designated for such purpose by the City. Aircraft may not be tied to any structure during Aircraft engine run-up.
- 2.28.260 Aircraft shall not be taxied into, out of, or within any structure on the Airport.
- 2.28.270 Aircraft Operators shall familiarize themselves with any local noise abatement procedures.
- 2.28.280 Leaving an Aircraft unattended with an engine running is prohibited.
- 2.28.290 Cleaning of Aircraft through the process of using water shall be performed only at designated Aircraft wash racks, if any, and in accordance with current water regulations.
- 2.28.300 The owner or Operator of an Aircraft involved in an aircraft accident involving substantial damage or serious injury on the Airport resulting in injury to person or damage to property shall notify the City as soon as practicable, but in no event less than 24 hours.
- 2.28.310 An Aircraft involved in an aircraft accident on the Airport may not be removed from the scene of the aircraft accident until authorized by the City which shall receive removal authorization from the Oakland Flight Standards District Office or the National Transportation Safety Board. After authorization to move the disabled Aircraft has been issued, the owner or Aircraft Operator shall make immediate arrangements to have the Aircraft moved. If removal is not initiated within a reasonable amount of time, the City may have the Aircraft removed at the owner's risk and expense. The expenses of such removal and any storage fees shall become a lien secured by the title to said Aircraft. The registered owner of the Aircraft shall be notified of the removal and storage of said property by certified or registered mail, sent to the owner's address (if known by the Airport Manager) within three days of said removal and storage.

Article 5. - Conduct of Business or Commercial Activity

- 2.28.320 No person shall engage in any commercial aviation activity of any nature on the Airport except in conformance with this Article.
- 2.28.330 Commercial Aircraft maintenance in hangars shall be limited to that specifically permitted by the type rating established in the Uniform Building Code and is subject to compliance with the Uniform Fire Code and National Fire Protection Association codes and standards.
- 2.28.340 No person shall use the Airport in any manner whatsoever for any commercial profit, gainful or revenue producing purpose, regardless of the form of compensation, at or in assigned or unassigned

spaces(s), unless such activities are pursuant to a Commercial Aviation Permit (CAP) including flight instruction and aircraft repair, until such person has entered into a written contract and been issued a permit by the City.

- 2.28.350 A person shall repair an aircraft, aircraft engine, propeller or apparatus only in an area of the airport designated for such purpose by the Airport Manager. Minor adjustments may be done while the aircraft is on a loading ramp preparatory to taxi and takeoff when such adjustment is necessary to prevent a delayed departure.
- 2.28.360 An owner(s)/operator of an aircraft may perform repairs upon owned aircraft providing such individuals are permitted to do such work under current Federal Aviation Regulations; provided further that such work is conducted so as not to create any hazards or nuisance to other aircraft, persons or operator upon the airport. The work must be performed in an area approved by the Airport Manager.
- 2.28.370 A person holding a current appropriate FAA certificate may assist an owner/operator, instruct an owner or supervise permitted work as defined in section 2.28.360. This person will not be deemed an aviation operator in business on the airport which requires a contract with or permit from the City because he/she assists, instructs or supervises an owner who performs such permitted work.
- 2.28.380 A person holding a current FAA flight instruction license, who gives occasional flight instruction to an owner/operator of an aircraft in the owner/operator's aircraft, shall not be deemed an aviation operator in business on the airport requiring a contract with or permit from the City.
- 2.28.390 The Airport Manager may issue permits to persons to perform maintenance: on aircraft under unusual circumstances, i.e., repair to flyaway status, by owner of aircraft not based upon airports; on aircraft of unusual design, size or age; aircraft and components for which there is not any qualified certificated operator upon the airport.
- 2.28.400 The registered owner of an aircraft is not prohibited from offering his/her aircraft for sale or from selling his/her aircraft.
- 2.28.410 A purchaser of goods or services from an aviation operator or permit holder in business on the airport may freely do so without a permit, contract or permission from the Airport Manager.
- 2.28.420 An Aircraft owner/operator will not be prevented from performing a service for himself or from obtaining any service or labor from persons, other than aviation operators in business on the Airport, when the owner/operator is unable or unwilling to either obtain the needed service or goods on the airport involved or unable or unwilling to reach agreement with the available aviation operators on the airport.

- 2.28.430 A permit, issued by the Airport Manager, is required to be obtained by any person rendering services or labor to the aircraft owner as described in this Article. The permit shall be obtained prior to performing any service or labor for the owner/operator as described in this Article.
- 2.28.440 The Airport Manager shall determine with the City's Risk Manager what amount of insurance shall be required to be carried by the permit holder. The permit may be issued on an annual basis or for a single entry by the permit holder onto the Airport.
- 2.28.450 The Airport Manager may not refuse to issue a permit as described in this Article to any person described in this Article except under the following circumstances: if the person applying for the permit is in violation of any provision of this Title or has been excluded from the Airport for cause under any applicable section of this Title at the time the person makes application for a permit; if space is not available for the intended work; and if the proposed activity will cause a hazard by the nature of its operation and its location to other users of the Airport.

Article 6. – Hangars

- 2.28.460 City-owned hangars at its airports may be leased pursuant to a lease agreement. Leases of hangar space shall be issued using a City form provided. The City Manager may execute leases of hangar space and at his/her discretion may include in the lease a charge, in addition to any applicable rates and charges set by this Chapter. Tenants who have entered into a lease with the City shall abide by its terms and this Chapter, as it may be amended from time to time. Leases shall be issued on a month-to-month basis and shall be subject to termination as specified in the lease. Tenants shall provide adequate insurance as specified by the City's Risk Management, and shall be subject to all applicable federal, state, and local laws, policies, and regulations.

Article 7. - Tie-Downs

- 2.28.470 City-owned tie-down space at its airports may be leased pursuant to a lease agreement. Leases of tie-down space shall be issued using a City form provided. The City Manager may execute leases of tie-down space and at his/her discretion may include in the lease a charge, in addition to any applicable rates and charges set by this Chapter. Tenants who have entered into a lease with the City shall abide by its terms and this Chapter, as it may be amended from time to time

- 2.28.480 Aircraft shall be parked in a manner so as to be completely contained within the space and not obstruct adjacent Aircraft parking and/or storage areas, taxiways, or taxi lanes except for temporary staging and/or fueling of such Aircraft while the Aircraft is continuously attended by a person.
- 2.28.490 Storage of materials or equipment shall not be permitted outdoors. Storage lockers not exceeding ten cubic feet in volume are permitted if properly maintained, reflectorized, and secured to the tie-down cable at the tail end of the tenant's aircraft.
- 2.28.500 Tie-down tenants may not park their vehicles on tenant's City tie-down space when the Aircraft has been removed for operational reasons as determined by the Airport Manager. Vehicles that are parked more than 30 consecutive days must be moved to long term parking areas or tenants will forfeit their leasehold interest and the vehicles will be towed. All vehicles must be operated in conformance with the Tracy Municipal Code.
- 2.28.510 Transient Aircraft are permitted to use un-assigned tie-down spaces for a period of no longer than fourteen days or as otherwise permitted by the Airport Manager. A daily fee for such parking shall be assessed and revised from time to time as approved by City Council resolution.

Article 8. - Aviation Fueling Operations

- 2.28.520 Fueling, defueling, and fuel storage activities on the Airport shall conform to applicable provisions of Code of Federal Regulations ("CFR"), Title 14, and guidelines, as amended; the Uniform Fire Code, as amended, the National Fire Protection Act codes and standards, as amended; applicable provisions of the Airport's Spill Prevention Control and Countermeasure plan ("SPCC plan"); applicable provisions of the Environmental Protection Agency and the California Environmental Protection Agency relating to these activities, as amended; and all other applicable laws.

Article 9. - Motor Vehicle Regulations

- 2.28.530 Any person operating a vehicle on the Airport must have a valid state Vehicle Operator's license and evidence of insurance as required by the State. All vehicles shall meet proper state licensing, registration, and inspection requirements.
- 2.28.540 "Vehicle tailgating," which is entering a gate directly behind another vehicle without entering or using an assigned gate access code or card, or remote control transmitter, is prohibited at all access gates.

Each tenant shall have his/her assigned gate access code or card, or remote control transmitter to access the Airport premises.

- 2.28.550 No person shall operate a Vehicle in a reckless or negligent manner, or in excess of the posted or designated speed limits, other than emergency vehicles. The speed limit in Aircraft parking and hangar areas is 10 miles per hour.
- 2.28.560 Aircraft and pedestrians have the right of way over vehicular traffic at all times and in all locations. Vehicle Operators shall observe the directions of traffic signs and any instructions posted by the City.
- 2.28.570 All vehicles shall pass to the rear of taxiing aircraft.
- 2.28.580 Vehicles are not permitted to enter the movement areas unless an appropriate ramp-pass has been issued by the Airport Manager, or City personnel are escorting the vehicle.
- 2.28.590 Vehicles shall not be parked or stopped in such a manner so as to obstruct a parking lot lane, driveway, roadway, walkway, crosswalk, fire lane, runway, taxiway, taxilane, and/or obstruct access to hangars, parked Aircraft and/or parked vehicles. In order to keep the taxilanes clear, tenants are strongly encouraged to always park their vehicles inside the hangar while flying.
- 2.28.600 Parking is permitted in designated or assigned areas only. Extended vehicle parking is allowed only as approved in advance by the Airport Manager.
- 2.28.610 Private vehicles shall not be cleaned and/or maintained anywhere on the Airport, except for minor repairs that are necessary to remove such vehicle(s) from the Airport. Vehicles operated by commercial Operators or tenants shall be cleaned and/or maintained in areas designated by the Airport Manager.
- 2.28.620 Motor vehicles other than official airport vehicles are not allowed on taxiways, runways or crossing runways unless accompanied by an airport official in an approved vehicle with approved caution lights. Tenants must adhere to all posted traffic signs. At the Tracy Airport, users and tenants are expected to use the appropriate gates along Tracy Boulevard to access different areas of the airport. At the New Jerusalem Airport, users are expected to use the access road off of Durham Ferry Road and enter from the southwest gate adjacent to the active runway.

Article 10. - Airport User Obligations

- 2.28.630 All tenants and permittees shall be fully responsible to the Airport for all damage to facilities, equipment, real property, related appurtenances, and all other improvements in the ownership, care, custody, or control of the Airport when such damage is caused by the negligence, abuse or carelessness on the part of the tenant, lessee,

- permittee or their employees, agents, customers, visitors, suppliers or persons with whom they do business.
- 2.28.640 Tampering or interfering with, disabling a lock, security camera, vehicle gate, or breaching any other security or access control device at the Airport is prohibited.
- 2.28.650 No person shall make, possess, use, offer for sale or deliver any forged or falsely altered pass, permit, identification, access card or device, card, sign, and/or other authorization purporting to be issued by or on behalf of the Airport.
- 2.28.660 Tenants and permittees shall indemnify, defend and hold harmless the City, its officials, representatives, officers, employees and agents from any and all claims, demands, losses or liabilities arising out of the acts or omissions of the tenant or permittee, their officers, employees, agents or contractors.
- 2.28.670 Tenants and permittees shall maintain their leased areas free from all fire hazards and maintain the same in a condition of repair, cleanliness, and general maintenance in a manner satisfactory to the Airport Manager, and in accordance with their individual lease or permit agreements. Failure to adhere to these provisions may be grounds for termination of the lease agreement in part or in whole by the City.
- 2.28.680 Any construction or alteration to create an improvement, including hangars, located on the Airport shall be performed in compliance with requirements as may be established by the City and must be approved in writing in advance by the Airport Manager.
- 2.28.690 No person shall be or become intoxicated, commit any disorderly, indecent, lewd or unlawful act, or commit any act of nuisance on the Airport
- 2.28.700 Persons entering the Airport Operations Area, movement area or any non-public area of the Airport are required to produce identification when asked to do so by the City.
- 2.28.710 No person shall willfully and knowingly permit any animal owned, possessed or harbored by him/her to enter the Airport unless the animal is leashed or restricted in such manner as to be under control of that person for the safety of animals and person. No animals should be in hangars or on airport property left unattended and animal waste should be removed or properly disposed of in a proper receptacle.
- 2.28.720 Change of ownership or removal of the Aircraft from the Airport shall not relieve the registered owner from payment of applicable fees.

Article 11. - Fire and Storage Regulations

- 2.28.730 All persons, companies and agencies engaged in any activity at the Airport, whether occupying Airport-owned buildings or otherwise, shall comply with the provisions of the Uniform Fire Code, as amended and all applicable state and federal fire protection laws and regulations.
- 2.28.740 No objects may be hung from, or attached to fire sprinkler supply pipes.
- 2.28.750 Welding, torch-cutting, doping processes, spray-painting, or paint stripping shall be performed only in those facilities approved for such activities and in compliance with the Uniform Fire Code, as amended and any applicable local codes.
- 2.28.760 All directives issued by the Tracy Fire Department, the Airport Manager or other authorized official regarding the removal of fire hazards, arrangement and modification of equipment, or altering operating procedures considered unsafe from a fire prevention standpoint, shall be complied with.
- 2.28.770 Non-Hazardous waste such as garbage, pallets, empty boxes, and litter of any kind shall not be placed, discharged, or deposited on the Airport unless such materials can be placed inside of receptacles clearly identified for the disposal of such materials.
- 2.28.780 Under no circumstances shall any waste material such as furniture, appliances, tires, batteries, paint green waste or other residential waste typically not generated on the Airport be transported onto the Airport from off-airport locations with the intent of disposing such waste material on the Airport.
- 2.28.790 Flammable and combustible liquids cannot exceed the allowed amounts. Allowable amounts of flammable liquids are 5 gallons (solvents, gas, etc.), 10 gallons in an approved parts washer with an approved Class II or Class III combustible liquids safety lid (equipped with a fusible link for fire protection), and 60 gallons of combustible liquid (motor oil, lubricants, etc.).
- 2.28.800 A person shall use only covered trash containers in any area. A vehicle used for hauling trash, dirt or any other materials, shall be operated on the airport only when the vehicle is constructed to prevent its contents from dropping, sifting, leaking or otherwise escaping therefrom. Areas to be used for trash or garbage containers shall be designated by the Airport Manager. Such areas shall be kept clean and sanitary at all times.

Article 12. - Hazardous Materials and Hazardous Waste Handling

- 2.28.810 No individual or entity shall store, keep, handle, use, dispense, discharge, or transport on the Airport any Hazardous Material in violation of the Tracy Municipal Code.
- 2.28.820 Under no circumstances shall any hazardous waste be transported onto the Airport from off-airport locations with the intent of disposing such waste material on the Airport.
- 2.28.830 Hazardous waste such as used-oil, and used oil filters shall be disposed of properly and only in clearly-identified receptacles that are provided for the disposal these specific wastes. Any waste and other debris found in oil waste containers other than used oil that constitutes a fine to the airport by Environmental Protection Agency, and shall be paid by the responsible party.
- 2.28.840 Hazardous waste material such paint, solvent, brake fluid, fuel, dope, and acid must be placed in suitable receptacles with self-closing covers that are properly secured. Such Hazardous Wastes shall be removed from the Airport by the originator of such waste and disposed of in a timely and proper manner in accordance with the Tracy Municipal Code at any public or private facility authorized to accept such material for disposal or recycling.
- 2.28.850 Under no circumstances shall any hazardous liquids shall be disposed of or dumped in drains; on ramp areas, catch basins or ditches or elsewhere on the Airport.
- 2.28.860 Oily rags or other materials soiled with petroleum-based products may only be stored in metal containers with self-closing, tight-fitting lids. The use and storage of all flammable materials (solid and liquids) shall be in compliance with regulatory measures including the Uniform Fire Code, as amended.
- 2.28.870 Material Safety Data Sheets (“MSDS”) for all hazardous materials shall be maintained on site so as to be readily available to emergency responders in the event of an emergency and for review by the Airport Manager and the Fire Marshal.
- 2.28.880 The State of California, the Fire Department and the Airport require immediate reporting of any hazardous spill in excess of 25 gallons (calling 911 is deemed sufficient notification). Hazardous spills that require reporting include, but are not limited to; jet fuel, gasoline, fuel oil, hydraulic oil, motor oil, turbine oil, alcohol, glycol and all similar chemicals that could be considered hazardous.
- 2.28.890 If a hazardous spill of any magnitude occurs, the responsible party of such spill shall take immediate action in the containment, clean up, and remediation of such hazardous spill. The following procedures shall be implemented in managing a hazardous spill:
- A. Determine the threat to the immediate public.

- B. Contain the spill with an absorbent.
- C. Block all storm water drains that could be impacted by such a spill.
- D. Apply the proper absorbent from strategically placed spill kits. All liquids and or absorbents shall be disposed of or reused per applicable Regulatory Measures.
- E. Make a record of the spill at the facility.
- F. Notify the Airport Manager who may have additional requirements based on the nature and quantity of the spill.

2.28.900 Should the Airport Manager determine that during the course of an environmental incident the responsible party is not capable of, has not, or refuses to take the appropriate action in a timely manner to mitigate the adverse environmental incident (in the sole discretion of the Airport Manager), the Airport Manager reserves the right to take action and/or employ those services that the Airport Manager determines appropriate to control and/or clean up the site. The cost of such services shall be borne by the responsible party.

Article 13. - Special Events

2.28.910 Special events shall not be held unless written approval is first obtained from the Airport Manager and pursuant to the Tracy Municipal Code. Written authorization shall specify the areas of the Airport authorized for such special use, the dates and duration of such use, and any other terms and conditions deemed necessary.

Article 14. - Violations and Enforcement

2.28.920 Any person who violates any provision of these rules and regulations, or any provision of an ordinance of the City pertaining to the use of the Airport shall be subject to all legal, equitable, statutory, and contractual rights and remedies available to the City, including termination of the lease and/or fines imposed. Said person shall pay all costs in connection therewith, including attorneys' fees. Depending on the nature of the violation a verbal notice will be given, followed by a written notice with a time frame to correct before termination of lease and/or fines imposed.

2.28.930 The City reserves the right to prohibit any person or entity from using the Airport or engaging in activities at the Airport (and/or revoke or suspend any privileges granted to any person or entity) upon determination by the Airport Manager that such person or entity has not complied with any applicable regulatory measure, any directives issued by the City, or has otherwise jeopardized the safety of person

or entities utilizing the Airport or the land and/or improvements located at the Airport.

- 2.28.940 The City shall be responsible for enforcement of these rules and regulations. The Airport Manager is empowered to require compliance with and enforce these rules and regulations.

Article 15. - Applicability of Provisions

- 2.28.950 Operators currently providing Activities without an Agreement or a Commercial Aviation Permit with the City will have six months from the date of adoption of this Ordinance to comply with the standards and requirements set forth therein. Any failure to bring such Activities into compliance with the provisions set forth herein shall be deemed to violate this section.

Article 16. - Appeal Process

- 2.28.960 The process to appeal violations of this Chapter shall be as follows:
- (a) A person found in violation of the rules and regulations contained in this chapter or any order or directive of the Airport Manager related thereto, may appeal such finding, order or directive to the City Manager as set forth in section 1.12.010.
 - (b) The terms and conditions set forth in lease agreements are final and not subject to appeal.

SECTION 2: Title, chapter, and section headings contained herein shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning or intent of the provisions of any title, chapter, or section hereof.

SECTION 3: If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance.

SECTION 4: This Ordinance shall take effect thirty (30) days after its final passage and adoption.

SECTION 5: A summary of this ordinance shall be published and a certified copy of the full text posted in the office of the City Clerk at least five days before the City Council meeting at which the proposed ordinance is to be adopted. Within 15 days after adoption, the City Clerk shall publish a summary, and shall post in her office a certified copy, of the ordinance with the names of those Council Members voting for and against the ordinance. (Government Code section 36933(c)(1)).

* * * * *

The foregoing Ordinance 1264 was introduced at a regular meeting of the Tracy City Council on the 20th day of November, 2018, and finally adopted on the 4th day of December, 2018, by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:

Mayor

ATTEST:

City Clerk

AGENDA ITEM 1.C

REQUEST

ADOPT A RESOLUTION OF INTENTION TO HOLD A PUBLIC HEARING ON JANUARY 15, 2019, REGARDING DISCONTINUANCE OF PARK USE OF MINOR PORTION OF THE RITTER FAMILY BALLPARK (FORMERLY TRACY BALL PARK) IN EXCHANGE FOR THE NON-EXCLUSIVE USE OF 51 PARKING SPACES AT THE AMERICAN LEGION, JAMES McDERMOTT POST NO. 172, 1960 NORTH TRACY BOULEVARD, TRACY, CALIFORNIA, BY USERS OF THE RITTER FAMILY BALL PARK

EXECUTIVE SUMMARY

In 1991, the City of Tracy ("City") entered into a 25-year license agreement with American Legion, James McDermott Post No. 172 ("Legion"), for non-exclusive use of a portion of the Ritter Family Ballpark (formerly Tracy Ball Park) in exchange for City use of parking spaces on Legion property located at 1960 North Tracy Boulevard, Tracy, CA. To ensure the continued joint use of the parking facilities, both the City and Legion wish to enter into a new agreement to extend the term for use, clarify maintenance responsibilities, and update the contract language regarding insurance requirements.

There is a two-step process to initiate a new license agreement. First, Council must set a public hearing regarding discontinuance of park use for a "minor portion" of the Ritter Family Ballpark, which minor portion is presently paved parking lot at the American Legion, James McDermott Post No. 172, located at 1960 N. Tracy Boulevard. Second, following the public hearing, Council must approve a resolution of discontinuance of park use of the minor portion of the Ritter Family Ballpark in exchange for non-exclusive use of all 51 parking spaces by users of the park.

Staff is requesting that Council approve a resolution of intention to hold a public hearing at its regular meeting on January 15, 2019, regarding discontinuance of park use of the minor portion of the Ritter Family Ballpark.

DISCUSSION

Following a public hearing held on November 20, 1991, by Council resolution 91-097, the City and Legion entered into a 25-year license agreement for the Legion to use City property ("licensed property") in exchange for the City's right to the non-exclusive use of 51 parking spaces on the Legion and licensed properties. The California Government Code and the terms of the 1991 license agreement required discontinuance of this minor portion of the Ritter Family Ballpark in order for the Legion to construct and maintain an expanded parking lot on the licensed property, at its sole cost and expense. In exchange, the City gained non-exclusive use of the 51 parking spaces by users of the Ritter Family Ballpark.

At the time of the license agreement expiration in 2016, all terms of the 25-year exchange defined in the 1991 license agreement were considered fulfilled by both parties. Since 2015, the City and Legion have been engaged in ongoing negotiations

regarding updated terms of consideration for a new license agreement. It is the desire of both the City and the Legion that the parking lot remain in place.

The Government Code requires discontinuance of park use of the minor portion of the Ritter Family Ballpark to maintain the existing parking lot and for the City to enter into a license agreement with the Legion. Pursuant to Government Code section 38441:

Without a special election, the legislative body may convey a minor portion of such a park in exchange for an equal or greater area or value of privately owned land contiguous to the park after:

- (a) Notice and a public hearing pursuant to this article.*
- (b) Determination that the exchange is in the public interest.*
- (c) Adoption of a resolution of discontinuance.*

To comply with Government Code section 38841(a) and Government Code section 38444(d), staff is requesting that Council adopt a resolution of intention to hold a public hearing at its regular meeting on Tuesday, January, 15, 2019, at 7:00 pm or as soon after as possible, in the Tracy City Council Chambers, 333 Civic Center Plaza, Tracy, regarding the discontinuance of park use for a minor portion of the Ritter Family Ballpark in exchange for the City's non-exclusive use of 51 parking spaces at the American Legion, James McDermott Post No. 172, at 1960 North Tracy Boulevard, Tracy, California.

STRATEGIC PLAN

This item supports Quality of Life, Goal 1, "Address City amenities and facility usage with an emphasis on accessibility, streamlined services, and cost recovery," in the City Council Strategic Priorities 2017-2019.

FISCAL IMPACT

There is no fiscal impact associated with setting the public hearing.

Approval of the license agreement between the City and Legion, following the public hearing, will result in repair and maintenance costs that will be included in the Staff Report for that agenda item on January 15, 2019.

RECOMMENDATION

That Council adopt a resolution of intention to hold a public hearing on January 15, 2019, regarding discontinuance of park use of a minor portion of the Ritter Family Ballpark in exchange for the non-exclusive use of 51 parking spaces at the American Legion, James McDermott Post No. 172, at 1960 North Tracy Boulevard, Tracy, California, for users of the Ritter Family Ballpark.

Prepared by: Christine Mabry, Management Analyst I

Reviewed by: Thien Nguyen, Recreation Services Supervisor

Brian MacDonald, Parks & Recreation Director
Karin Schnaider, Finance Director
Andrew Malik, Assistant City Manager
Midori Lichtwardt, Assistant City Manager

Approved by: Randall Bradley, City Manager

RESOLUTION _____

**A RESOLUTION OF INTENTION TO HOLD A PUBLIC HEARING ON JANUARY 15, 2019,
REGARDING DISCONTINUANCE OF A MINOR PORTION OF THE RITTER FAMILY
BALLPARK (FORMERLY TRACY BALL PARK) IN EXCHANGE FOR THE NON-EXCLUSIVE
USE OF 51 PARKING SPACES AT THE AMERICAN LEGION, JAMES McDERMOTT POST
NO. 172, 1960 NORTH TRACY BOULEVARD, TRACY, CALIFORNIA, BY USERS OF THE
RITTER FAMILY BALLPARK**

WHEREAS, the Tracy City Council intends to consider the exchange of a license to use a minor portion of the Ritter Family Ballpark (formerly Tracy Ball Park) for parking rights on private land contiguous to the park owned by the American Legion , James McDermott Post No. 172, Inc., and

WHEREAS, the City Council declares that the public interest or convenience requires the discontinuance of the use of such minor portion of such land for a park and for its use as parking for users of the park, and

WHEREAS, the City Council intends to hold a hearing on such discontinuance pursuant to Article 2, Chapter 9, Part 2, Division 3 of Title 4 of the Government Code;

NOW, THEREFORE, BE IT RESOLVED that City Council finds:

1. That the foregoing recitals are true and correct and are incorporated herein by reference;
2. That the description of the lands to be discontinued for park use is as follows.

A portion of Lots 191 and 192 in PARKER VILLAS NO. 2 and a portion of Lot 72 of PARKER ACRES, City of Tracy, situated in the Northwest one-quarter of Section 21, Township 2 South, Range 5 East, Mount Diablo Base and Meridian, more particularly described as follows: BEGINNING at the Southwest corner of Parcel "A" as shown on the certain Parcel Map filed for record on December 30, 1981, in Book 10 of Parcel Maps, at Page 185, San Joaquin County Records; thence North 0°01' East, along the east line of said Parcel "A". 143.50 feet to the Northeast corner of said Parcel "A"; thence North 89°53' West, along the North line of said Parcel "A", 156.80 feet to a point on the East line of Tracy Boulevard (80 feet in width), and said point also being on the West line of said Section 21; thence North 0°01' East, along the East line of Tracy Boulevard, also being the West line of said Section 21, 25.33 feet to a point; thence South 89°53' East, parallel to the North line of said Parcel "A", 176.80 feet to a point; thence South 0°01' West, parallel to the East line of said Parcel "A", 168.83 feet to a point; thence North 89°53' West, parallel to the South line of said Parcel "A", 20.00 feet to the point of beginning. Containing 0.17 acre, more or less.

3. That the common name of the park from which the lands will be taken is the Ritter Family Ballpark (formerly Tracy Ball Park).

4. That City Council proposed to exchange a 5-year license to use said minor portion of said park for the non-exclusive parking rights to 51 parking spaces located on the contiguous parcel of the American Legion at 1960 N. Tracy Boulevard, Tracy, California.
5. That the public hearing on this proposed discontinuance is fixed at 7:00 p.m. on January 15, 2019, at Tracy City Hall, Council Chambers, 333 Civic Center Plaza, Tracy, California. The public and all persons interested in said matter may protest the proposed discontinuance or to the extent thereof, in writing by delivering the protest to the City Clerk before the hearing or by appearing in person at the time of the hearing.
6. That the City Clerk shall publish this resolution twice in the Tracy Press. Publication shall be completed at least twenty days before January 15, 2019.
7. That the Parks & Recreation Director shall cause at least three notices of adoption of this resolution to be posted conspicuously not more than three hundred feet apart along the exterior boundaries of the parcel to be discontinued. Posting shall be completed at least twenty days prior to January 15, 2019.

* * * * *

The foregoing Resolution _____ was adopted by Tracy City Council on the 4th day of December 2018, by the following vote:

AYES: COUNCIL MEMBERS

NOES: COUNCIL MEMBERS

ABSENT: COUNCIL MEMBERS

ABSTAIN: COUNCIL MEMBERS

MAYOR

CITY CLERK

AGENDA ITEM 1.D

REQUEST

**APPROVE LEAVE OF ABSENCE FOR TRACY PLANNING COMMISSIONER
ED GABLE**

EXECUTIVE SUMMARY

Staff has received a request from Planning Commissioner Ed Gable for a one-month leave of absence. The Planning Commission Bylaws state that a Planning Commission member may submit a written request to the City Council for a leave of absence of up to six months, which may be approved at the City Council's discretion.

DISCUSSION

Planning Commissioner Ed Gable has requested a leave of absence for the month of December 2018 as a result of work-related scheduling conflicts. There are two Planning Commission meetings scheduled during this month, on December 5th and 19th.

The Planning Commission Bylaws stipulate that any Commissioner can request up to a six-month leave of absence from the Commission. This request is to be directed to, and can only be approved by, the City Council.

FISCAL IMPACT

There is no fiscal impact to the General Fund as a result of this action.

RECOMMENDATION

That the City Council, by resolution, approve a leave of absence for Planning Commissioner Ed Gable for the month of December 2018.

Prepared by: Bill Dean, Assistant Director of Development Services

Reviewed by: Andrew Malik, Assistant City Manager

Approved by: Randall Bradley, City Manager

RESOLUTION 2018-_____

AUTHORIZING LEAVE OF ABSENCE FOR
TRACY PLANNING COMMISSIONER ED GABLE

WHEREAS, Planning Commissioner Ed Gable has requested a leave of absence due to work-related scheduling conflicts, and

WHEREAS, The Planning Commission Bylaws stipulate that any Commissioner can be granted a leave of absence with City Council approval;

NOW, THEREFORE, BE IT RESOLVED, That the City Council of the City of Tracy hereby authorizes a leave of absence for Planning Commissioner Ed Gable during the month of December 2018.

* * * * *

The foregoing Resolution 2018-_____ was adopted by the City Council on the 4th day of December 2018 by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:
ABSTAIN: COUNCIL MEMBERS:

MAYOR

ATTEST:

CITY CLERK