

December 3, 2019, 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 7:02 p.m.

Mayor Rickman led the Pledge of Allegiance.

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

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

1. CONSENT CALENDAR – Following the removal of agenda items 1.A from Council Member Arriola and 1.E by Zach Drivon, motion was made by Council Member Vargas and seconded by Council Member Ransom to adopt the Consent Calendar. Roll call vote found all in favor; passed and so ordered.
 - 1.B ADOPT RESOLUTION AUTHORIZING THE SUBMITTAL OF AN APPLICATION, ACCEPTANCE OF AN ALLOCATION OF FUNDS AND EXECUTION OF A GRANT AGREEMENT WITH THE CALIFORNIA DEPARTMENT OF TRANSPORTATION, BY THE MAYOR FOR AN AIRPORT IMPROVEMENT PROGRAM (AIP) MATCHING GRANT FOR CIP 77583 - Resolution 2019-233 authorized the submittal of an application and execution of Grant Agreement.
 - 1.C AWARD A CONSTRUCTION CONTRACT TO ST. FRANCIS ELECTRIC, LLC OF SAN LEANDRO, CALIFORNIA, IN THE AMOUNT OF \$265,400 FOR THE TRAFFIC SIGNAL MODIFICATION AT SCHULTE ROAD/LAURIANA LANE AND TRACY BOULEVARD/TENNIS LANE INTERSECTIONS PROJECT, CIP 72111 AND CIP 72115, WITH A NOT TO EXCEED BUDGET OF \$420,000, AND AUTHORIZE THE CITY MANAGER TO APPROVE CHANGE ORDERS UP TO THE CONTINGENCY AMOUNT OF \$27,000, IF NEEDED – Resolution 2019-234 awarded the Construction Contract with St. Francis Electric, LLC.
 - 1.D ESTABLISH A NEW CIP (78183) FOR CITY WIDE BIKEWAYS MAINTENANCE AND AUTHORIZE AN APPROPRIATION OF \$75,000 FROM TRANSPORTATION DEVELOPMENT ACT (TDA) FUND (F241) - Resolution 2019-235 established a new CIP (78183) for City wide bikeways maintenance.
 - 1.F WAIVE SECOND READING AND ADOPT ORDINANCE 1278, AN ORDINANCE OF THE CITY OF TRACY AMENDING SECTION 10.08.3196 OF CHAPTER 10.08 “ZONING REGULATIONS” OF TITLE 10 “PLANNING AND ZONING” OF THE TRACY MUNICIPAL CODE TO ESTABLISH LAND USE RESTRICTIONS ON COMMERCIAL CANNABIS ACTIVITY IN THE CITY OF TRACY - Ordinance 1278 was adopted

1.A APPROVE AMENDED OCTOBER 1, 2019 REGULAR MEETING MINUTES AND NOVEMBER 5, 2019 SPECIAL MEETING MINUTES

Council Member Arriola pulled the item to make a motion to add the following sentence to the amended language in the October 1, 2019, minutes:
Given staff's responses, none of the required findings in order to disapprove the project were found and a motion was introduced by Mayor Pro Tem Young and seconded by Council Member Ransom to adopt a resolution approving the project.

Council Member Ransom concurred with the added language.

City Council comments continued.

ACTION: Motion was made Mayor Pro Tem Young and seconded by Council Member Arriola to adopt the amended October 1, 2019 minutes with the inclusion of the language suggested by Council Member Arriola, and adopt November 5, 2019, Special meeting minutes. Roll call found Council Members Arriola, Ransom, Vargas, and Mayor Pro Tem Young in favor. Mayor Rickman abstained.

1.E WAIVE SECOND READING AND ADOPT ORDINANCE 1277, AN ORDINANCE OF THE CITY OF TRACY AMENDING CHAPTER 6.36 OF TITLE 6, "BUSINESSES, PROFESSIONS, AND TRADE" OF THE TRACY MUNICIPAL CODE TO ESTABLISH LOCAL REGULATIONS FOR COMMERCIAL CANNABIS ACTIVITY IN THE CITY OF TRACY

Zach Drivon pulled the item and provided information regarding Medallion Wellness, and supported the ordinance.

No one from City Council wished to speak.

ACTION: Motion was made by Council Member Ransom and seconded by Council Member Vargas to adopt **Ordinance 1277**, an ordinance of the City of Tracy amending Chapter 6.36 of Title "Businesses, Professions, and Trades" of the Tracy Municipal Code to establish local regulations for commercial cannabis. Roll call found all in favor; passed and so ordered.

Council Member Ransom requested that item 3.K be heard before item 3.A.

2. ITEMS FROM THE AUDIENCE – None

3. REGULAR AGENDA

DEVIATION

3.K CONSIDER URGENCY ORDINANCE TO PROVIDE TENANTS WITH JUST CAUSE EVICTION PROTECTION AND INTERIM RENT STABILIZATION UNTIL ASSEMBLY BILL 1482 TAKES EFFECT ON JANUARY 1, 2020

Leticia Ramirez, City Attorney provided the staff report.

Michael Hayes shared his concerns regarding receiving a 60 day eviction notice.

Mr. Diaz thanked Council for putting the urgency ordinance on the agenda and urged Council to support the ordinance.

Hannah Kemp shared her experience regarding an eviction notice she received, and urged Council to pass the temporary protection.

Robert Tanner asked if the ordinance passes today, can it be retroactive.

Melinda Ramirez, Tracy Community Connection Center spoke about families that need help with rent, and added the ordinance will make a difference to people.

Mary Mitracos stated AB1482 is a bad law and requested Council take into account what they would be doing to landlords who are caught in something they have no control over.

Dave Konesky agreed with Ms. Mitracos's comments and shared his concerns regarding the effects of AB1482 on landlords.

City Council questions and discussion followed.

ACTION: Motion was made by Council Member Arriola to adopt the urgency ordinance with the removal of Council Member Ransom's proposal (subsection (d)(1) of Section 3 of the ordinance) plus language for retroactivity to parallel the relevant language of Assembly Bill 1482. Council Member Vargas seconded the motion.

Mayor Rickman requested the City Clerk read the title of the proposed ordinance.

Adrienne Richardson, City Clerk read the title of the proposed ordinance as stated by Council Member Arriola.

ACTION: Motion was made by Council Member Vargas and seconded by Council Member Arriola to waive the reading of the full text and adopt the proposed ordinance. Roll call found Council Members Arriola, Vargas and Mayor Rickman in favor. Council Member Ransom and Mayor Pro Tem Young opposed. Motion failed due to 4/5th vote requirement for an urgency ordinance.

City Council discussion continued.

ACTION: Motion was made by Council Member Ransom to adopt the proposed urgency ordinance as drafted by the City Attorney with the removal of Council Member Ransom's amendment (exception for landlords). Council Member Arriola seconded the motion.

Mayor Rickman requested the Clerk to read the title of the proposed ordinance.

Adrienne Richardson, City Clerk read the title of the proposed ordinance as stated by Council Member Ransom.

ACTION: Motion was made by Mayor Pro Tem Young and seconded by Council Member Arriola to waive the reading of the text and adopt the proposed ordinance as stated by Council Member Ransom. Roll call found Council Members Arriola, Ransom and Mayor Pro Tem Young in favor. Council Member Vargas and

Mayor Rickman opposed. Motion failed due to 4/5th vote requirement for an urgency ordinance.

City Council discussion continued.

ACTION: Motion was made by Mayor Pro Tem Young to adopt the proposed urgency ordinance based on what the legislature has proposed for AB1482 as of today with all the provisions as it is with an additional amendment to include retroactivity from October 8, 2019 to December 3, 2019 for the just cause clause. Motion was seconded by Council Member Arriola.

Mayor Rickman requested the Clerk to read the title of the proposed ordinance.

Adrienne Richardson, City Clerk read the title of the urgency ordinance as stated by Mayor Pro Tem Young.

ACTION: Motion was made by Mayor Pro Tem Young and seconded by Council Member Ransom to waive the full text and adopt the proposed ordinance. Roll call found Council Members Arriola, Ransom and Mayor Pro Tem Young in favor. Council Member Vargas and Mayor Rickman opposed. Motion failed due to 4/5th vote requirement for an urgency ordinance.

City Council discussion continued.

ACTION: Motion was made by Mayor Rickman to make AB1482 effective December 4, 2019 as written by the California State Legislature. Motion was seconded by Council Member Arriola.

Mayor Rickman requested the Clerk to read the title of the proposed ordinance.

Adrienne Richardson, City Clerk read the title of the proposed urgency ordinance as stated by Mayor Rickman.

City Council discussion continued.

ACTION: Motion was made by Council Member Vargas and seconded by Council Member Arriola to waive the reading of the text and adopt proposed **Urgency Ordinance 1279** as stated by Mayor Rickman. Roll call found Council Members Arriola, Ransom, Vargas and Mayor Rickman in favor. Mayor Pro Tem Young opposed. Motion carried: 4.1.

Mayor Rickman called for a recess at 8:57 p.m.

Mayor Rickman reconvened the meeting at 9:05 p.m.

3.A PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE PERMITTED USES IN THE GENERAL HIGHWAY COMMERCIAL ZONE OF THE RESIDENTIAL AREAS SPECIFIC PLAN (SPA19-0003) AND A DEVELOPMENT REVIEW PERMIT FOR AN ASSISTED LIVING AND MEMORY CARE FACILITY (D19-0019) ON APPROXIMATELY 2.73 ACRES LOCATED AT THE NORTHWEST CORNER OF CORRAL HOLLOW

ROAD AND ALEGRE DRIVE (2050 W. GRANT LINE ROAD) – THE APPLICANT IS SUMMIT SENIOR LIFE, LLC..

Alan Bell, Senior Planner provided the staff report.

Mayor Rickman opened the public hearing.

Robert Ashin, Vice President, Summit Senior Life, Inc., thanked Council for the proposal opportunity and provided information regarding the project.

Mayor Rickman closed the public hearing.

City Council comments followed.

ACTION: Motion was made by Council Member Vargas and seconded by Mayor Pro Tem Young to adopt **Resolution 2019-236** approving an amendment to the Residential Areas Specific Plan – Permitted Uses within the General Highway Commercial Zone – Section 4.1.2.2. The Applicant is Summit Senior Living. Application number SPA19-0003. Roll call found all in favor; passed and so ordered.

ACTION: Motion was made by Council Member Vargas and seconded by Mayor Pro Tem Young to adopt **Resolution 2019-237** approving Development Review Application Number D19-0019 for Tracy Assisted Living and Memory Care located on approximately 2.73 acres at the northwest corner of Corral Hollow Road and Alegre Drive, (2050 W. Grant Line Road, Assessor's Parcel Numbers 238-190-25 and 26). Roll call found all in favor; passed and so ordered.

3.B INTRODUCE AN ORDINANCE AMENDING CHAPTER 11.12 "UNIFORM BILLING, COLLECTION AND DELINQUENCY PROCEDURES FOR CITY SERVICES" AND ADOPT RESOLUTION ESTABLISHING POLICY ON DISCONTINUATION OF RESIDENTIAL WATER SERVICE FOR NONPAYMENT TO IMPLEMENT SENATE BILL 998

Guadalupe Peña, Accountant provided the staff report.

No one from the audience wished to speak.

City Council questions and comments followed.

Mayor Rickman requested the City Clerk read the title of the proposed ordinance.

Adrienne Richardson, City Clerk read the title of the proposed ordinance.

ACTION: Motion was made by Council Member Vargas and seconded by Mayor Pro Tem Young to waive the reading of the full text and introduce **Ordinance 1280** an ordinance of the City of Tracy amending Chapter 11.12 of the Tracy Municipal Code relating to uniform billing Collection and delinquency procedures of City services. Roll call found Council all in favor; passed and so ordered.

ACTION: Motion was made by Council Member Vargas and seconded by Mayor Pro Tem Young to adopt **Resolution 2019-238** establishing a policy on Discontinuation of

Residential Water Service for nonpayment. Roll call found all in favor; passed and so ordered

3.C CONDUCT A HEARING TO APPROVE A SALES TAX AGREEMENT WITH HOME DEPOT U.S.A., INC. AS PART OF THE CITY'S OFFICE/INDUSTRIAL INCENTIVE PROGRAM

Barbara Harb, Economic Development Management Analyst provided the staff report.

Mayor Rickman opened the public hearing.

Robert Tanner asked if an agreement is not approved, will the City get sales tax. Mr. Tanner disagreed with having the two 20 year renewal option.

Mayor Rickman closed the public hearing.

Jacob Williams, Home Depot responded to questions from City Council.

City Council comments and questions followed.

ACTION: Motion was made by Council Member Vargas and seconded by Council Member Arriola to adopt **Resolution 2019-239** approving a Sales Tax Agreement by and between the City of Tracy and Home Depot U.S.A., Inc. Roll call found all in favor; passed and so ordered

3.D RECEIVE PRESENTATION BY VERIZON WIRELESS ABOUT SMALL WIRELESS FACILITIES AND 5G WIRELESS TECHNOLOGY

Andrew Malik, Assistant City Manager provided the staff report and introduced Cris Villegas from Verizon who provided a powerpoint presentation.

Abdul Wahid stated the 5G technology does not benefit the City, adding there are better options.

City Council questions and comments followed.

Mr. Villegas responded to City Council questions.

City Council accepted the presentation by Verizon Wireless about small wireless facilities and 5G wireless technology.

3.E ADOPT COUNCIL MEETING PROTOCOLS AND RULES OF PROCEDURE

Leticia Ramirez, City Attorney provided the staff report.

No one from the public wished to speak.

City Council discussion ensued.

ACTION: Motion was made by Council Member Arriola and seconded by Council Member Vargas to adopt **Resolution 2019-240** approving Council Meeting Protocols and Rules of Procedure and rescinding Resolution 2015-052. Roll call found all in favor; passed and so ordered.

The amendments below will be included in the Protocols and Rules of Procedure.

ACTION: Motion was made by Council Member Arriola and seconded by Mayor Rickman to amend Section 4.3.1 – Replace language *encourage* to *shall*. Roll call found all in favor; passed and so ordered.

ACTION: Motion was made by Council Member Arriola and seconded by Council Member Vargas to amend Section 6.1 – Replace language *purview* with *scope of influence*. Roll call found all in favor; passed and so ordered.

ACTION: Motion was made by Mayor Pro Tem Young and seconded by Council Member Ransom to amend Section 4.3.1 – Council Members wishing to have a matter discussed by the City Council may request that it be placed on a future City Council agenda during a Council meeting, under "Council Items and Comments". A time sensitive item may be requested by contacting the City Manager, or their designee, via telephone, email, or in person. Upon the request of a Council Member, the item will be placed on a future City Council agenda as long as one other Council Member concurs with the request. In the interest of transparency and Brown Act compliance, Council is encouraged to limit discussions outside of Council meetings about requests to support agenda items to a maximum of two Council Members. Roll call found Council Members Arriola, Ransom, Mayor Pro Tem Young and Mayor Rickman in favor. Council Member Vargas opposed.

ACTION: Motion was made by Mayor Rickman to adopt Robert's Rule of Order - 11th Addition - Rules Governing Debate - Maximum time for each speech: In a non legislative body or organization that has no special rule relating to length of speeches to a member having obtained the floor while a debatable motion is immediately pending can speak no longer than 10 minutes unless he or she obtains the consent of the Council, such permission can be given by unanimous consent or by means of a motion to extend the limits of debate which requires two-thirds vote without a debate. Council Member Vargas seconded the motion. Roll call found Council Member Vargas and Mayor Rickman in favor. Council Members Arriola, Ransom and Mayor Pro Tem Young opposed. Motion failed.

ACTION: Motion was made by Council Ransom and seconded by Mayor Pro Tem Young to amend Section 4.3.1.1 to read: In the event of a time sensitive matter request, the City Manager shall notify the rest of the Council when two Council Members request an item to be placed on the agenda. The City Manager will determine when to place the item on a future agenda based on time necessary to complete the research and staff workload considerations. Roll call found all in favor; passed and so ordered.

Ms. Ramirez confirmed Council's desire for training on Rosenberg's Rules of Order, and will schedule the training with a parliamentarian.

3.F DISCUSS COUNCIL VACANCY POLICY AND PROVIDE DIRECTION TO STAFF

Leticia Ramirez, City Attorney provided the staff report.

Robert Tanner encouraged Council to amend the vacancy policy to include the appointment of the third highest vote getter to the vacant seat.

City Council questions and discussion followed.

ACTION: Motion was made by Council Member Arriola to adopt a Council Vacancy Policy in which the next highest vote-getter is appointed by the Council to fill a seat and if a vacancy opens after one year to continue with the current appointment process, however if a voter petition consisting of 10% of registered voters to then do a special election under any circumstance.

ACTION: Council Member Arriola amended his motion to adopt a vacancy protocol to appoint the next highest vote-getter to fill a council vacancy created during the first year of the position's term. A vacancy created after the first year of the position's term would be filled through the current appointment selection process, which includes an interview process before Council. Council Member Vargas seconded the motion. Roll call vote found all in favor; passed and so ordered.

3.G RECEIVE INFORMATIONAL REPORT ON THE TRACY CONSOLIDATED LANDSCAPE MAINTENANCE DISTRICT

Don Scholl, Public Works Director and Robin Kloepfer, Management Analyst provided the staff report.

City Council comments and questions followed.

It was City Council's consensus to accept the report.

3.H DISCUSS POTENTIAL ORDINANCE REGULATING THE SALE OF E-CIGARETTES/VAPING AND/OR THE SALE OF FLAVORED TOBACCO AND PROVIDE DIRECTION TO STAFF

Leticia Ramirez, City Attorney provided the staff report.

Robert Tanner suggested that Council should take the lead in the County and ban e-cigarettes altogether.

City Council questions and discussion followed.

It was Council's consensus to ban flavored tobacco, and restrict tobacco retailers from locating within 600 feet of sensitive youth uses. Staff to come back with penalties that include administrative citations, infractions, and criminal penalties for Council consideration, and suggested language to include a six month delay from adoption to effective date to give retailers an opportunity to comply with the prohibition.

At 12:20 a.m. Mayor Rickman asked City Council if they wished to proceed or table the remaining agenda items due to the late hour.

ACTION: Motion was made by Council Member Ransom and seconded by Mayor Pro Tem Young to table agenda items 3.I and 3.J to the next agenda. Roll call found all in favor; passed and so ordered.

3.I PROVIDE DIRECTION ON FY 2019/20 STRATEGIC PRIORITIES AND APPROVE COUNCIL WORKSHOP REPORT AS OCTOBER 2, 2019 SPECIAL MEETING MINUTES – **Item tabled to December 17, 2019 meeting.**

3.J CONSIDER AN ORDINANCE AMENDING THE COMPENSATION FOR THE COUNCIL AND MAYOR IN ACCORDANCE WITH STATE LAW – **Item tabled to the December 17, 2019 meeting.**

4. ITEMS FROM THE AUDIENCE – None

5. STAFF ITEMS – Jenny Haruyama, City Manager reported on her attendance at the League of California Cities Expo at Long Beach on October 16 through 18, 2019 and the International City/County Managers Association - ICMA in Nashville, Tennessee on October 20 through 23, 2019.

6. COUNCIL ITEMS

Council Member Arriola announced he is partnering with the office of the District Attorney, office of Senator Galgiani, Tracy Crime Stoppers, and the Southside Community Organization to host a town hall meeting on December 10, 2019, at 6:00 p.m. at Monte Vista, to discuss neighborhood safety.

Mayor Rickman announced the downtown Christmas parade on December 7, 2019 at 6:00 p.m.

7. ADJOURNMENT – Time: 12:24 a.m., December 4, 2019.

ACTION: Motion was made by Council Member Ransom and seconded by Council Member Arriola 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 27, 2019. The above are action minutes. A recording is available at the office of the City Clerk.

Mayor

ATTEST:

City Clerk