

July 21, 2020, 7:00 p.m.

City Hall, 333 Civic Center Plaza, Tracy

Web Site: [www.ci.tracy.ca.us](http://www.ci.tracy.ca.us)

Due to the COVID-19 emergency, the regular meeting was conducted pursuant to the provisions of the Governor's Executive Order N-29-20, which suspends certain requirements of the Ralph M. Brown Act. Residents participated remotely via email, phone and WebEx during the meeting.

Mayor Rickman called the meeting to order at 7:35 p.m.

Mayor Rickman led the Pledge of Allegiance.

Pastor Al Santymire, Valley Christian Church offered the invocation.

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

1. CONSENT CALENDAR – Motion was made by Council Member Arriola and seconded by Council Member Vargas to adopt the Consent Calendar. Roll call vote found all in favor; passed and so ordered.
  - 1.A ADOPT A RESOLUTION EXEMPTING THE CITY OF TRACY FROM THE STATE-MANDATED CONGESTION MANAGEMENT PROGRAM IN CONJUNCTION WITH SAN JOAQUIN COUNCIL OF GOVERNMENTS' (SJCOG) EFFORT TO ACHIEVE COUNTYWIDE EXEMPTION– Resolution 2020-127 exempted the City from State Mandated Congestion Management Program in conjunction with SJCOG's effort to achieve countywide exemption.
  - 1.B ACCEPT THE CONSTRUCTION OF THE TRACY RECYCLED WATER TRANSMISSION MAINS AND WASTEWATER TREATMENT PLANT PUMP STATION, PHASE 1 OF CIP 74091, COMPLETED BY MOUNTAIN CASCADE INC. (MCI), AUTHORIZE THE CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE SAN JOAQUIN COUNTY RECORDER AND AUTHORIZE THE UTILITIES DIRECTOR TO RELEASE THE BONDS AND RETENTION PAYMENT – Resolution 2020-128 accepted the project.
  - 1.C APPROVE THE 2020 WASTEWATER TREATMENT DISCHARGE AGREEMENT WITH LEPRINO FOODS - Resolution 2020-129 approved the agreement with Leprino Foods.
  - 1.D WAIVE SECOND READING AND ADOPT ORDINANCE 1291, AN ORDINANCE OF THE CITY OF TRACY REZONING ASSESSOR'S PARCEL NUMBER 244-020-31 FROM PLANNED UNIT DEVELOPMENT ZONE (PUD) TO NEIGHBORHOOD SHOPPING ZONE (NS) - Ordinance 1291 was adopted.
  - 1.E WAIVE SECOND READING AND ADOPT ORDINANCE 1292, AN ORDINANCE OF THE CITY OF TRACY AMENDING THE PUD ZONE DISTRICT OF THE PROPERTY ON THE NORTH SIDE OF CLOVER ROAD, APPROXIMATELY 500 FEET EAST OF TRACY BOULEVARD, TO PERMIT HOTELS AND

INCREASE THE HEIGHT MAXIMUM TO 65 FEET – Ordinance 1292 was adopted.

1.F WAIVE SECOND READING AND ADOPT ORDINANCE 1293, AN ORDINANCE OF THE CITY OF TRACY AMENDING VARIOUS SECTIONS OF CHAPTER 6.36 OF TITLE 6 “BUSINESS, PROFESSIONS, AND TRADES” OF THE TRACY MUNICIPAL CODE REGARDING LOCAL REGULATIONS OF COMMERCIAL CANNABIS ACTIVITY IN THE CITY OF TRACY - Ordinance 1293 was adopted.

1.G AUTHORIZE STAFF TO ENTER INTO A 3 YEAR AGREEMENT WITH MICROSOFT FOR SOFTWARE LICENSES AND UPDATES FOR DESKTOP COMPUTERS AND SERVERS FOR AN ANNUAL AMOUNT NOT TO EXCEED \$166,521 - Resolution 2020-130 authorized staff to enter into the agreement with Microsoft.

2. ITEMS FROM THE AUDIENCE – Karen McCrary shared her concerns regarding littering and graffiti around the city. Ms. McCrary stated there is a lot of garbage around Grant Line Road, and graffiti under the overpass as well as downtown.

Robert Tanner requested Council rescind the safe and sane fireworks ordinance.

Alice English spoke about the importance of the initiative discussed in the special meeting and suggested the meeting should have started at 7:00 p.m.

Jim Osbourne, Executive Director of Tracy Community Connection Center spoke about helping homeless and stated they look forward to working hand in hand with the City and Council related to the homeless issue. The goal is to reduce homelessness. Mr. Osbourne welcomed any questions and provided an email address: [Jimo@tracyccc.org](mailto:Jimo@tracyccc.org)

3. REGULAR AGENDA

3.A DISCUSS CITY’S RESPONSE TO COVID-19 (VERBAL REPORT)

Jenny Haruyama, City Manager provided an update and presentation on the City’s response to COVID-19.

There was no public comment.

City Council questions and comments followed.

City Council accepted the update.

3.B ADOPT A RESOLUTION OF NECESSITY AUTHORIZING THE INITIATION OF EMINENT DOMAIN PROCEEDINGS TO ACQUIRE REAL PROPERTY FOR THE CONSTRUCTION OF DETENTION BASIN 3A, AND AUTHORIZE THE DEPOSIT OF \$765,000 WITH THE STATE OF CALIFORNIA CONDEMNATION DEPOSIT FUND (RONNOCO PROPERTIES OF TRACY II, L.P., APN 240-090-02), AND APPROPRIATE THE FUNDS FROM ELLIS STORM DRAIN FUND (F332) AND PUBLIC BUILDINGS FUND (F334)

Robert Armijo, City Engineer provided the staff report and responded to City Council questions.

Todd Amspoker, Price, Postel & Parma LLP as outside Counsel for the City of Tracy, continued with the staff report and responded to City Council questions.

Greg O'Connor, principal of Ronnoco Properties stated it is their opinion and their attorney's opinion that Tracy does not have the legal authority to use eminent domain on this specific property. Mr. O'Connor spoke about the negotiations with the City, and not being the best place for the detention pond.

Mayor Rickman opened the public hearing.

Robert Tanner shared his concerns regarding eminent domain as opposed to negotiations with the property owners, the property not being in the sphere of influence, and disagreed with eminent domain as a whole.

Mayor Rickman closed the public hearing.

City Council questions and discussion followed.

It was Council's consensus for staff to negotiate with the property owner and if there needs to be an eminent domain after 60 days, bring it back to Council.

- 3.C CONSIDER ADOPTION OF AN AMENDMENT TO RESOLUTION NO. 2019-231 AUTHORIZING THE INITIATION OF EMINENT DOMAIN PROCEEDINGS TO ACQUIRE RIGHT-OF-WAYS AND TEMPORARY CONSTRUCTION EASEMENTS FROM CERTAIN REAL PROPERTIES FOR THE WIDENING OF CORRAL HOLLOW ROAD FROM WEST SCHULTE ROAD TO LINNE ROAD, AND AUTHORIZE THE DEPOSIT OF \$15,200 FOR STEVENSON PARCEL, \$48,000 FOR TLC, INC. PARCEL, \$29,400 FOR PRABHAKARAN PARCEL, \$10,400 FOR CARTER PARCEL, \$90,300 FOR DURKEE PARCEL, \$57,100 FOR GALVAO PARCEL, \$23,800 FOR SCHIRMER PARCEL, \$39,600 FOR KING PARCEL, AND \$32,300 FOR SOLOMON AND REITZ PARCEL, WITH THE STATE OF CALIFORNIA CONDEMNATION DEPOSIT FUND

Kul Sharma, Utilities Director provided the staff report.

Todd Amspoker, Price, Postel & Parma LLP as outside Counsel for the City of Tracy continued with the staff report and responded to City Council questions.

Mayor Rickman opened the public hearing.

No one from the public wished to speak.

Mayor Rickman closed the public hearing.

City Council comments followed.

**ACTION:** Motion was made by Council Member Vargas and seconded by Council Member Arriola to adopt **Resolution 2020-131** amending Resolution of Necessity (Resolution No. 2019-231) of the City of Tracy to condemn real properties in

connection with the widening of Corral Hollow Road from West Schulte Road to Linne Road; make findings and determinations; authorize eminent domain proceedings and applications for possession prior to judgment; draw and deposit warrants (portion of Stevenson, APN 242-030-41; Tender Loving Care, APN 240-100-07; Prabhakaran, APN 242-030-40; Carter, APN 244-030-13; Durkee, APN 240-090-04; Galvao, APN 240-100-02; Schirmer, APN 240-100-15; King, APN 242-030-42; and Salomon/Reitz, APN 240-100-14). Roll call found all in favor; passed and so ordered.

*Item 3.C was reconsidered after agenda item 3.J.*

Mayor Rickman announced that Council Member Arriola had requested to bring 3.J and 3.K forward to be heard before item 3.D.

### DEVIATION

#### 3.J APPROVE AMENDMENT TO THE COUNCIL POLICY FOR THE DISPLAY OF FLAGS AT CITY FACILITIES TO LIMIT THE DISPLAY OF CEREMONIAL FLAGS TO SEVEN DAYS AND TO ADDRESS FLAG CEREMONIES

Leticia Ramirez, City Attorney provided the staff report.

Andrea Juarez-Smith stated at the last Council meeting the LGBT community was addressed as problematic and requested the individual refrain from demeaning, discriminating verbiage. Ms. Juarez-Smith spoke about the history of pride month and asked why Council wants to reduce the flag acknowledgement adding many cities are flying a flag for month of June.

City Council questions and discussion followed.

**ACTION:** Motion was made by Council Member Arriola and seconded by Council Member Vargas to adopt **Resolution 2020-132** to amend the display of flags at city facilities to limit the display of ceremonial flags to 31 days and to address flag ceremonies. Roll call found all in favor; passed and so ordered.

### **RECONSIDER ITEM 3.C**

Leticia Ramirez, City Attorney advised Council that they should reconsider item 3.C due to the representative for the property owners not having the opportunity to speak due to technical difficulties.

**ACTION:** Motion was made by Mayor Rickman and seconded by Mayor Pro Tem Young to reconsider agenda item 3.C. Roll call found all in favor; passed and so ordered.

Mayor Rickman called for a recess at 9:55 p.m.

Mayor Rickman reconvened the meeting at 10:01 p.m.

Robert Mehlhaff, Attorney representing Durkee, Galvao and Tender Loving Care stated the resolution before Council lists three additional statutes and stated his objections to the three additional statutes.

Todd Amspoker, Price, Postel & Parma LLP as outside Counsel for the City of Tracy responded to Mr. Mehlhaff's comments.

City Council comments and questions followed.

**ACTION:** Motion was made by Council Member Ransom and seconded by Council Member Vargas to adopt **Resolution 2020-131** amending Resolution of Necessity (Resolution No. 2019-231) of the City of Tracy to condemn real properties in connection with the widening of Corral Hollow Road from West Schulte Road to Linne Road; make findings and determinations; authorize eminent domain proceedings and applications for possession prior to judgment; draw and deposit warrants (portion of Stevenson, APN 242-030-41; Tender Loving Care, APN 240-100-07; Prabhakaran, APN 242-030-40; Carter, APN 244-030-13; Durkee, APN 240-090-04; Galvao, APN 240-100-02; Schirmer, APN 240-100-15; King, APN 242-030-42; and Salomon/Reitz, APN 240-100-14). Roll call found all in favor; passed and so ordered.

3.K AMEND THE COUNCIL CODE OF CONDUCT TO ADDRESS CITY COUNCIL COMMUNITY MESSAGING ACTIVITIES

Jenny Haruyama, City Manager provided the staff report.

Steve Nicolaou expressed opposition to allowing Council to be involved in City public relations.

City Council questions and discussion followed.

**ACTION:** Motion was made by Council Member Arriola and seconded by Council Member Ransom to adopt **Resolution 2020-133** amending the City Council Code of Conduct to include the following language: Mass communication using City resources shall not be sent within the 60 days preceding an election by a currently elected or appointed official of the City of Tracy whose name will appear on the ballot at that election. Where no currently elected or appointed official is otherwise designated during the 60 days preceding an election, communication of official matters shall be made by the City Manager or designee. The intent is not to cover items such as press releases, responses to media requests, and ceremonial duties. Roll call found Council Members Arriola, Ransom, Vargas, Mayor Pro Tem Young in favor; passed and so ordered. Mayor Rickman opposed.

Council Member Vargas left the Council meeting at 11:27 p.m.

3.G ALLOCATE \$4,000,000 FROM THE LOW AND MODERATE INCOME HOUSING ASSET FUND TO THE HOUSING AUTHORITY OF THE COUNTY OF SAN JOAQUIN TO SUPPORT THE DEVELOPMENT OF AFFORDABLE RENTAL HOUSING AND AUTHORIZE THE CITY MANAGER TO NEGOTIATE THE LOAN AGREEMENT AND ANCILLARY DOCUMENTS

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

Peter Ragsdale, Housing Authority responded to Council's questions.

There was no public comment.

City Council questions and comments followed.

**ACTION:** Motion was made by Council Member Ransom and seconded by Council Member Arriola to adopt **Resolution 2020-134** allocating \$4,000,000 of Low and Moderate Income Housing Asset Fund Deposits for affordable housing development with the Housing Authority of the County of San Joaquin. Roll call found Council Members Arriola, Ransom, Mayor Pro Tem Young and Mayor Rickman in favor; passed and so ordered. Council Member Vargas absent.

3.D PUBLIC HEARING TO CONSIDER (1) APPROVING THE ENGINEER'S ANNUAL LEVY REPORT; AND (2) ORDERING THE LEVY AND COLLECTION OF ASSESSMENTS FOR TRACY CONSOLIDATED LANDSCAPE MAINTENANCE DISTRICT FOR FISCAL YEAR 2020/2021

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

Mayor Rickman opened the public hearing.

There was no public comment.

Mayor Rickman closed the public hearing.

City Council questions and comments followed.

Mayor Rickman announced that for all the resolutions before Council pertaining to Item 3D, Council Member Ransom will vote on all zones and abstain from voting on Zone 15 due to conflict of interest.

**ACTION:** Motion was made by Council Member Arriola and seconded by Mayor Pro Tem Young to adopt **Resolution 2020-135** approving the Engineer's Report regarding the proposed levy and collection of assessments for the Tracy Consolidated Landscape Maintenance District, pursuant to the provisions of the Landscaping and Lighting Act of 1972 for Fiscal Year 2020/2021. Roll call found Council Members Arriola, Ransom, Mayor Pro Tem Young and Mayor Rickman in favor; passed and so ordered. Council Member Vargas absent. Council Member Ransom abstained from voting on Zone 15.

**ACTION:** Motion was made by Council Member Arriola and seconded by Mayor Pro Tem Young to adopt **Resolution 2020-136** ordering the levy and collection of assessments within the Tracy Consolidated Landscape Maintenance District for Fiscal Year 2020/2021. Roll call found Council Members Arriola, Ransom, Mayor Pro Tem Young and Mayor Rickman in favor; passed and so ordered. Council Member Vargas absent. Council Member Ransom abstained from voting on Zone 15.

3.E PUBLIC HEARING TO CONSIDER INTRODUCING AN ORDINANCE AMENDING THE TRACY HILLS SPECIFIC PLAN REGARDING SINGLE-FAMILY DWELLINGS WITH THREE-CAR GARAGES

Scott Claar, Senior Planner provided the staff report.

Mayor Rickman opened the public hearing.

Mayor Rickman closed the public hearing.

City Council questions and discussion ensued.

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

**ACTION:** Motion was made by Council Member Ransom and seconded by Council Member Arriola to waive the reading of the full text and introduce **Ordinance 1294**, an ordinance of the City of Tracy approving an amendment to the Tracy Hills Specific Plan regarding single-family dwellings with three-car garages – Application Number SPA20-0002. Roll call found Council Members Arriola and Ransom, Mayor Pro Tem Young and Mayor Rickman in favor; passed and so ordered. Council Member Vargas absent.

3.F APPROVE AMENDMENTS TO THE CITY'S CANNABIS BUSINESS PERMIT APPLICATION PROCEDURES AND GUIDELINES

Bill Dean, Assistant Development Services Director provided the staff report.

Michele Trew asked whether Section 6.36.320 Miscellaneous Operating Requirements of Ordinance 1277 included a company logo, and no cannabis graphics in a logo, on a sign, marketing or merchandise.

Matthew Nathaniel requested clarity on expectations of community benefit and stated he has spoken with the City to implement a community benefit program, where the Shryne Group would contribute to a monetary fund for community initiatives to be implemented by working with the city.

Alex Monceaux spoke about the local preference plan and 85% scoring rate to get the benefit of being a local and getting to have a deferral on having the landlord letter, and requested to look at the percentage and make it 8 or 10 out of 13 points to get the waiver. Mr. Monceaux suggested shortening the zip code area and define what it means to be a Tracyite and local, and dividing criteria for social equity into two points - social equity (B, D & E), and social inclusion. Mr. Monceaux asked if the word cannabis can be in signage.

Pamela Epstein recommended in social equity portion to use the current elements that are there as examples and allow the opportunity for applicants to provide additional information or programs that may provide a benefit long term to social equity programs within the city.

City Council questions and discussion followed.

**ACTION:** Motion was made by Council Member Arriola and seconded by Council Member Ransom to make the local preference threshold to 75%. Roll call found Council Members Arriola and Ransom, Mayor Pro Tem Young and Mayor Rickman in favor; passed and so ordered. Council Member Vargas absent.

**ACTION:** Motion was made by Council Member Arriola and seconded by Council Member Ransom to amend the language to Section 5 of the Permit Application Eligibility Screening to include “such as, but not limited to”. Roll call found Council Members Arriola and Ransom, Mayor Pro Tem Young and Mayor Rickman in favor; passed and so ordered. Council Member Vargas absent.

**ACTION:** Motion was made by Council Member Arriola and seconded by Council Member Ransom to adopt use of all Tracy zip codes except 95391 for the use of the local preference plan. Roll call found Council Members Arriola and Ransom, Mayor Pro Tem Young and Mayor Rickman in favor; passed and so ordered. Council Member Vargas absent.

**ACTION:** Motion was made by Council Member Ransom and seconded by Council Member Arriola to adopt **Resolution 2020-137** approving amendments to the Cannabis Business Permit Application Procedures and Guidelines and repealing Resolution No. 2020-077 as amended by Council Member Arriola. Roll call found Council Members Arriola and Ransom, Mayor Pro Tem Young and Mayor Rickman in favor; passed and so ordered. Council Member Vargas absent.

3.H INTRODUCE AN ORDINANCE AMENDING SECTION 2.08.080 OF, AND ADDING CHAPTER 2.10 TO, TITLE 2 OF THE TRACY MUNICIPAL CODE TO REQUIRE A SUPERMAJORITY VOTE OF FOUR (4) MEMBERS OF THE CITY COUNCIL TO REMOVE THE CITY MANAGER OR CITY ATTORNEY

Kimberly Murdaugh, Human Resources Director provided the staff report.

There was no public comment.

There were no comments from City Council.

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

**ACTION:** Motion was made by Mayor Pro Tem Young and seconded by Council Member Ransom to introduce **Ordinance 1295**, an ordinance of the City of Tracy amending Section 2.08.080 of Chapter 2.08 of, and adding Chapter 2.10 to, Title 2 “Administration” of the Tracy Municipal Code regarding tenure of the City Manager and the City Attorney. Roll call found Council Members Arriola and Ransom, Mayor Pro Tem Young and Mayor Rickman in favor; passed and so ordered. Council Member Vargas absent.

3.I APPOINT ONE APPLICANT TO SERVE ON THE SAN JOAQUIN COUNTY COMMISSION ON AGING AND ONE APPLICANT TO SERVE ON THE SAN JOAQUIN COUNTY MOSQUITO ABATEMENT DISTRICT BOARD

Council Member Arriola presented the staff report.

Scott Jacobson asked about the eligibility list.

City Council questions and comments followed.

**ACTION:** Motion was made by Council Member Arriola and seconded by Council Member Ransom to appoint Wayne Templeton to the San Joaquin County Commission on Aging to serve a 3-year term beginning on July 22, 2020, and ending on June 30, 2023 and place Scott Jacobson on the 12-month eligibility list. Roll call found Council Members Arriola and Ransom, Mayor Pro Tem Young and Mayor Rickman in favor; passed and so ordered. Council Member Vargas absent.

**ACTION:** Motion was made by Council Member Arriola and seconded by Council Member Ransom to appoint Parbhjot Singh to the San Joaquin County Mosquito Abatement District Board to serve a 4-year term beginning on July 22, 2020, and ending on June 30, 2024. Roll call found Council Members Arriola and Ransom, Mayor Pro Tem Young and Mayor Rickman in favor; passed and so ordered. Council Member Vargas absent.

4. ITEMS FROM THE AUDIENCE – Alice English thanked the Mayor for his leadership and spoke about having to wait because agenda items were moved and suggested the items were purposely moved to be heard before Council Member Vargas left. Ms. English shared her views regarding the Council members.

Council Member Arriola objected to Ms. English's comments.

Council Member Ransom also objected to Ms. English's comments.

5. STAFF ITEMS – Jenny Haruyama, City Manager provided an update on the following actions taken by the City Manager during the COVID emergency:
- Accepted Subdivision Improvements for Kagehiro Unit 1, Tract 3881, for various improvements ranging from roadway, water, sanitary sewer, storm drainage and street.
6. COUNCIL ITEMS – Council Member Arriola reported on the East Bay Community Energy meeting adding the City of Tracy will be receiving the renewable energy (solar, wind, hydroelectric geothermal) in of April 2021, which is 1% lower than PG&E.

Mayor Pro Tem Young referred to her previous request and asked for a 200 or 250 word limit on emails received 72 hours prior to a Council meeting that are to be read into the record by staff during COVID-19, until members of the public are allowed back into Council Chambers. Mayor Rickman supported the request. Mayor Pro Tem Young requested the following flags to be flown: Black Lives Matter in August or September (Council Member Arriola supported the request), Black History Month in February 2021, and Juneteenth in 2021 (Council Member Ransom supported the requests).

Council Member Ransom spoke about a potential allocation of \$1,184,473 per the state for Tracy to use as part of a spending plan, and would like to look at using COVID spending plan funds to help improve technology (wifi) for bus services. Council Member Arriola seconded the request. Council Member Ransom stated illegal fireworks are a problem and asked Chief Bradley to present a plan to mitigate the issue and email to the City Manager and Police Chief. The City can communicate to the public about how we are going to start addressing this issue before the next holiday. Council Member Ransom spoke about the nine families displaced due to the fire after July 4 and

suggested contacting Tracy Family Resource Center if anyone would like to help the victims.

Mayor Rickman stated there will be a virtual graduation only this year on Saturday, August 1 at 9:00 a.m. and congratulated the class of 2020. Mayor Rickman spoke about the following: Downtown outdoor dining and encouraged supporting our small businesses and shopping local, shout out to Tracy Fire Department being deployed to Coalinga area fighting fires and assisting other communities and agencies, shared his concerns regarding graffiti and trash in the City, and acknowledged Andrew Malik, Assistant City Manager for his efforts assisting the downtown restaurants with outside dining.

7. ADJOURNMENT – Time: 1:07 a.m., Wednesday, July 22, 2020.

**ACTION:** Motion was made by Council Member Arriola and seconded by Council Member Ransom to adjourn. Roll call found Council Members Arriola and Ransom, Mayor Pro Tem Young and Mayor Rickman in favor; passed and so ordered. Council Member Vargas absent.

The above agenda was posted at the Tracy City Hall on July 16, 2020. The above are action minutes. A recording is available at the office of the City Clerk.

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Mayor

ATTEST:

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City Clerk