

November 17, 2020, 7:00 p.m.

City Hall, 333 Civic Center Plaza, Tracy

Web Site: 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 7:00 p.m.

Mayor Rickman led the Pledge of Allegiance.

Pastor Tim Heinrich, Crossroads Baptist Church 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 consent items 1.H, 1.I, and 1.J by Council Member Vargas, 1.K by Jamie Roja, I.N by Mateo Bedolla, and 1.O by Jenny Haruyama, City Manager, motion was made by Mayor Pro Tem Young and seconded by Council Member Arriola to adopt the Consent Calendar. Roll call vote found all in favor; passed and so ordered.
 - 1.A APPROVAL OF OCTOBER 20, 2020 CLOSED SESSION AND REGULAR MEETING MINUTES – **Minutes were adopted**
 - 1.B APPROVE THE PLACEMENT OF TWO (2) BENCHES WITH PLAQUES DONATED BY TRACY ROTARY AND SUNRISE ROTARY CLUBS IN THE PUBLIC RIGHT OF WAY IN DOWNTOWN TRACY PER CITY STANDARD POLICY AND PROCEDURES – **Resolution 2020-190** approved the placement of the two benches with plaques donated by Tracy Rotary and Sunrise Rotary.
 - 1.C ADOPT A RESOLUTION AMENDING THE CITY OF TRACY MASTER EMPLOYEE PAY SCHEDULE TO CONFIRM THE PAY RATES FOR CITY OF TRACY ESTABLISHED POSITIONS – **Resolution 2020-191** amended the City of Tracy Master Employee Pay Schedule.
 - 1.D APPROVE THE WATER SUPPLY DEVELOPMENT AND OPERATING AGREEMENT WITH THE SOUTH SAN JOAQUIN IRRIGATION DISTRICT AND RESCIND RESOLUTION NO. 2000-168 – **Resolution 2020-192** approved the Water Supply Development and Operating Agreement.
 - 1.E APPROVE AMENDMENT NO. 3 TO THE PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF TRACY AND VANDERMYDEN MADDUX LAW CORPORATION FOR CONFIDENTIAL WORKPLACE INVESTIGATION SERVICES INCREASING THE NOT TO EXCEED AMOUNT BY \$100,000 FOR A TOTAL NOT TO EXCEED AMOUNT OF \$200,000 – **Resolution 2020-193** approved Amendment No. 3 to the Professional Services Agreement with Vandermyden Maddux Law Corporation.

- 1.F. WAIVE SECOND READING AND ADOPT ORDINANCE 1298, AN ORDINANCE OF THE CITY OF TRACY APPROVING AN AMENDMENT TO THE TRACY HILLS SPECIFIC PLAN FOR THE TRACY HILLS VILLAGE 7C PROJECT APPLICATION NUMBER SPA20-0003 – **Ordinance 1298 was adopted.**
- 1.G. WAIVE SECOND READING AND ADOPT ORDINANCE 1299, AN ORDINANCE OF THE CITY OF TRACY AMENDING THE MAXIMUM BUILDING HEIGHT AND THE MINIMUM BUILDING SETBACK IN THE NORTHEAST INDUSTRIAL SPECIFIC PLAN – **Ordinance 1299 was adopted.**
- 1.L. APPROVE AMENDMENT NO. 4 TO THE PROFESSIONAL SERVICES AGREEMENT WITH PENNINO MANAGEMENT GROUP FOR ADDITIONAL GRANT, RESEARCH, AND FUNDING SERVICES, FOR A TOTAL NOT-TO-EXCEED AMOUNT OF \$164,665 – **Resolution 2020-194** approved Amendment No. 4 to the Professional Services Agreement with Pennino Management Group.
- 1.M. APPROVE A PROFESSIONAL SERVICES AGREEMENT WITH BURKE WILLIAMS SORENSEN LLP FOR SPECIAL COUNSEL SERVICES TO CONDUCT LABOR NEGOTIATIONS WITH MULTIPLE EMPLOYEE GROUPS FOR A NOT-TO-EXCEED AMOUNT OF \$100,000 – **Resolution 2020-195** approved a Professional Service Agreement with Burke Williams Sorensen LLP.
- 1.H. WAIVE SECOND READING AND ADOPT ORDINANCE 1300, AN ORDINANCE OF THE CITY OF TRACY APPROVING THE FIRST AMENDMENT TO THAT CERTAIN DEVELOPMENT AGREEMENT AMENDMENT BY AND BETWEEN THE CITY OF TRACY AND THE TRACY HILLS PROJECT OWNER, LLC AND TRACY PHASE 1, LLC, APPLICATION NUMBER DA20-0001

Council Member Vargas pulled the item stating the Developer is doing their job to make sure they are doing the best deal possible for themselves, and Council should have an opportunity to do better for our city's interest, and directed questions to staff. Council Member Vargas requested Council to table the Development Agreement for a final approval and let the next seated Council negotiate the agreement.

Andrew Malik, Assistant City Manager and Robert Armijo, City Engineer responded to Council Member Vargas's questions.

Robert Tanner believed Council should not vote on 1.H, stating it does not make sense to increase the number of houses before doing anything with the roads.

Mateo Bedolla stated he was opposed to some provisions of the proposed ordinance due to lack of infrastructure, traffic flow, congestion, no sidewalks and bike lanes, and relying only on intersection improvements. Mr. Bedolla was also opposed to the swap of widening the southern portion of Corral Hollow for the widening of the northern portion first because it is not in the original plan.

Mike Souza spoke about the timing of the improvements, provided clarifying comments regarding infrastructure and responded to questions.

City Council comments and questions followed.

ACTION: Motion was made by Council Member Vargas to not approve the item and to delay to further discussion. Motion failed due to lack of second.

ACTION: Motion was made by Mayor Pro Tem Young and seconded by Council Member Arriola to waive the reading of the full text and adopt **Ordinance 1300**, an Ordinance of the City of Tracy approving the First Amendment to that certain Development Agreement Amendment by and between the City of Tracy and the Tracy Hills Project Owner, LLC and Tracy Phase I, LLC – Application Number DA20-0001. Roll call found Council Members Arriola, Ransom, Mayor Pro Tem Young and Mayor Rickman in favor; passed and so ordered. Council Member Vargas opposed.

1.I. WAIVE SECOND READING AND ADOPT ORDINANCE 1301 AN ORDINANCE OF THE CITY OF TRACY APPROVING AN AMENDMENT TO THE TRACY HILLS SPECIFIC PLAN FOR THE TRACY HILLS PHASE 1B/1C PROJECT APPLICATION NUMBER SPA19-0002

Council Member Vargas pulled the item to ask about the conditions of approval for road improvements, infrastructure for the project.

Robert Armijo, City Engineer responded to Council questions.

There was no public comment.

ACTION: Motion was made by Mayor Pro Tem Young and seconded by Council Member Arriola to waive the reading of the full text and adopt **Ordinance 1301**, an ordinance of the City of Tracy approving an amendment to the Tracy Hills Specific Plan for the Tracy Hills Phase 1B/1C Project – Application Number SPA19-0002. Roll call found all in favor; passed and so ordered.

1.J. WAIVE SECOND READING AND ADOPT ORDINANCE 1302 AN ORDINANCE OF THE CITY OF TRACY APPROVING AN AMENDMENT TO THE TRACY HILLS SPECIFIC PLAN FOR THE TRACY HILLS KT PROJECT APPLICATION NUMBER SPA20-0008

Council Member Vargas pulled the item to ask about the conditions of approval for the road improvements, infrastructure and what are those triggers.

Robert Armijo, City Engineer responded to Council questions.

There was no public comment.

City Council comments followed.

ACTION: Motion was made by Mayor Pro Tem Young and seconded by Council Member Arriola to waive the reading of the full text and adopt **Ordinance 1302**, an Ordinance of the City of Tracy approving an amendment to the Tracy Hills Specific Plan for the Tracy Hills KT Project – Application Number SPA20-0008. Roll call found all in favor; passed and so ordered.

1.K. WAIVE SECOND READING AND ADOPT ORDINANCE 1303 AN ORDINANCE OF THE CITY OF TRACY AMENDING CHAPTER 10.08 "ZONING REGULATIONS" OF THE TRACY MUNICIPAL CODE TO ADD A NEW SECTION 10.08.3194 "TOBACCO RETAIL USES" TO ESTABLISH LOCATION RESTRICTIONS ON TOBACCO RETAILERS

Leticia Ramirez, City Attorney provided the staff report and responded to questions.

Jaime Roja representing the National Association of Tobacco Outlet, pulled the item for confirmation that the City of Tracy will be mirroring SB793 - statewide flavor ban with exemptions of hookah, premium cigars and loose leaf tobacco, and no further bans will be included.

Zaher Nozindani, Tracy business owner spoke about the effects of the ban of flavored tobacco and hookah.

Robert Tanner referred to a comment made at the previous meeting regarding the lease for the tobacco shop that is within the 600 feet of Tracy High and asked about the length of the lease and when that store can be removed.

Ash Zindani urged Council to vote no on the ban on flavored tobacco.

Adrienne Richardson, City Clerk announced emails from Jamal Nagi, Rima Khoury and Thomas Briant were received regarding the item but exceeded the 250-word limit. The comments were forwarded to City Council and will be on the website.

City Council comments and questions followed.

ACTION: Motion was made by Council Member Ransom and seconded by Council Member Arriola to waive the reading of the full text and adopt **Ordinance 1303**, an Ordinance of the City of Tracy amending Chapter 10.08 "Zoning Regulations" of the Tracy Municipal Code to add a new Section 10.08.3194 "Tobacco Retail Uses" to establish location restrictions on tobacco retailers. Roll call found all in favor; passed and so ordered.

1.N. APPROVE THE FIRST AMENDMENT TO THE DEFERRED IMPROVEMENT AGREEMENT FOR TRACY HILLS – PHASE 1A, AND AUTHORIZE THE CITY CLERK TO FILE THE FIRST AMENDMENT WITH THE OFFICE OF THE SAN JOAQUIN COUNTY RECORDER

Robert Armijo, City Engineer provided the staff report.

Mateo Bedolla pulled the item for clarification on how much it had to do with the 2019 Settlement Agreement.

There was no further comment from the public.

ACTION: Motion was made by Council Member Ransom and seconded by Council Member Arriola to adopt **Resolution 2020-196** approving the First Amendment

to the Deferred Improvement Agreement for Tracy Hills – Phase 1A, and authorizing the City Clerk to file the First Amendment with the Office of the San Joaquin County Recorder. Roll call found all in favor; passed and so ordered.

- 1.O. AUTHORIZE THE EAST BAY COMMUNITY ENERGY AUTHORITY TO ACCEPT A NUCLEAR POWER ELECTRICITY ALLOCATION FROM PG&E TO CREATE A CARBON FREE OPTION FOR ELECTRICITY CONSUMERS IN THE CITY OF TRACY – **Jenny Haruyama, City Manager removed the item from the agenda.**

2. ITEMS FROM THE AUDIENCE – Robert Tanner spoke about the political signs that are still up after the election, and suggested charging the candidate campaigns.

Manpreet Shahi asked about the process to establish a \$500 fine for folks who have been throwing garbage on streets, parks and other places, and what Council is doing to make sure our parks are safe after dark and suggested installing solar lights and CCTV cameras in all parks.

Ruben Aguilar expressed concerns regarding increased amount of high-speed traffic especially at the intersection of Isabel Virginia and Hillcrest Drive, and requested speed bumps on Hillcrest Drive approaching Isabel Virginia Drive, and a flashing red light on the stop sign.

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.

Neil Prescott, Patriot Coalition of America Citizens stated COVID is not the only thing that can harm us at this time, and spoke about the effects on small businesses and mental health, and asked about the numbers of people recovering from this disease.

Dan Evans, Patriot Coalition of American Citizens spoke about small business owners pleading for their livelihoods, shut downs are hurting people and the economy, and we need to allow people to take precautions and open up.

Scott Jacobson stated the measures being taken with vaccines changes the game, now is time to stand up for the health of the community in addition to battling COVID. Mr. Jacobson added the balance has turned in favor of hysteria against common sense and safe practices to keep these small businesses open. Spoke about small businesses failing and impact on the community.

Victor Chao stated we are heading toward quarter of a million dead people, and all we have to do is wear a mask and social distance. Mr. Chao suggested wearing medical bracelets that say do not take me to the hospital or doctor

because COVID is not serious. The way to open businesses is to get this thing under control.

City Council comments and questions followed.

Mayor Rickman spoke about becoming a sanctuary city. Mayor Rickman wanted to see what Councils thoughts are on what's going on in some cities.

Council Member Ransom responded to Mayor Rickman that if he is looking for support to have a discussion on sanctuary, with the caveat of the understanding that it is not her personal position, she would support that.

Council Member Vargas also asked Mayor Rickman if he was looking for discussion for sanctuary city for businesses. Council Member Vargas stated she would be open to conversation to see if there is anything more that the City could be doing.

City Council accepted the report.

3.B CONDUCT PUBLIC HEARING TO CONSIDER AMENDMENT TO THE SAN JOAQUIN COUNTY MULTI-SPECIES HABITAT CONSERVATION AND OPEN SPACE PLAN DEVELOPMENT FEE TO INCREASE THE FEE FOR 2021

Kimberly Matlock, Associate Planner, City of Tracy and Steve Mayo, Senior Regional Planner, SJCOG, Inc., provided the staff report.

Mayor Rickman opened the public hearing.

Neil Prescott wanted to know about what the fees are for and why they go to San Joaquin Council of Governments.

Steve Dial, San Joaquin Council of Governments responded to Mr. Prescott's questions.

Mayor Rickman closed the public hearing.

City Council questions and comments followed.

ACTION: Motion was made by Council Member Ransom and seconded by Council Member Vargas, to adopt **Resolution 2020-197** amending Development Fees for the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan for 2021. Roll call found all in favor; passed and so ordered.

Mayor Rickman called for a recess at 9:56 p.m.

Mayor Rickman reconvened the meeting at 10:15 p.m.

3.C RECEIVE UPDATE ON NEGOTIATIONS REGARDING A PROJECT LABOR AGREEMENT WITH THE SAN JOAQUIN BUILDING TRADES COUNCIL THAT WOULD APPLY TO CERTAIN PUBLIC CONSTRUCTION CONTRACTS AWARDED BY THE CITY AND PROVIDE DIRECTION TO STAFF

Leticia Ramirez, City Attorney and Julian Gross, Esq. RPLG provided the staff report.

Michael Mark, Financial Secretary/Treasurer of San Joaquin Building Trade responded to the staff report regarding negotiation of a Community Workforce and Training Agreement, and also responded to questions.

Jolene Kramer, Weinberg Roger & Rosenfeld representing the San Joaquin County Building and Construction Trades Council responded to the staff report regarding negotiation of a Community Workforce and Training Agreement and also responded to questions.

The following speakers shared their experiences, and expressed their support for a Project Labor Agreement as presented: Manuel Zapata, Pete Butler – National Electrical Contractors Association of Northern California, Glen Loveall – Ironworkers Union Local 378, Alicia Mijares – Sheet Metal Workers Local 104, Kiana Dizon – Sheet Metal apprentice, Raul Hernandez – San Joaquin Building Trades, Gorgina Haluafia – International Brotherhood of Electrical Workers, Ron Green – Sheet Metal Workers Local 104 and veteran, Victor Chao – retired union electrician and veteran, Juan Perez – International Brotherhood of Electrical Workers IBEW Local 595, Tim Robertson – North Valley Labor Federation, Christina Fugazi – Stockton Councilwoman.

Miles Ostraco, apprentice with ABC Norcal shared his concerns regarding putting the Project Labor Agreement into effect, stating it is unfair to be excluded and negatively affects people too.

Nicole Goehring, Associated Builders and Contractors shared her concerns regarding the agreement stating the trades are not willing to negotiate anything and supported the City. Ms. Goehring suggested thinking of a way to carve out all of the Tracy companies from the PLA and Tracy apprentices from the PLA so they all have the ability to work.

Adrienne Richardson, City Clerk announced that from October 29 through November 17, 2020, 97 individuals emailed the same letter urging Council to support a Tracy Community Workforce and Training Agreement. City Council received all emails.

Eric Christen, Executive Director, Coalition for Fair Employment in Construction requested Council to reject the PLA agreement.

Council questions and discussion followed.

Ms. Kramer shared concerns about being able to have an agreement that the BTC can enter into, and reaching an agreement that is agreeable to both sides and the City accepting the agreement as proposed. Ms. Kramer suggested

Council take a close look at the proposed agreement to address the concerns of the City Council.

Ms. Ramirez summarized City Council's consensus on the policy questions:

1. Threshold for PLA – \$2 million project amount/threshold should trigger application of PLA.
2. Cost Control
 - i Reject the inclusion of 10% of subcontract dollar value can be performed without PLA coverage.
 - ii Include a City option to re-bid in the event the bids come back over 25% above engineers' estimate.
3. Terms of Non-Union Contractor Participation/Core Workers
 - a) Accept the Building Trades Council's proposal that non-union contractors are prohibited from using any current crew members unless either the contractor or the current crew member is from Tracy.
 - b) Accept the Building Trades Council's proposal that in order to be eligible to work, current crew members must have worked at least 4000 hours in the craft; meet safety standards; and be on contractor's payroll for 90 of previous 120 days.
4. Local Hiring
 - a) Include language to allow Tracy residents from state-approved apprenticeship programs that are not affiliated with unions to work on PLA projects.
 - b) Establish Tracy Resident hiring goals for each contractor of 25% of all work hours, and 25% of apprentice hours for new local apprentices.
5. Modular Construction:
 - a) Include opportunity to have a discussion about the modular construction issue.
6. Technical Provisions
 - (a) Include an exemption for cases where application of the PLA would void an equipment warranty.
 - (b) Require that the City have a right to become a party to all arbitrations that affect the City's financial or policy interests.
 - (c) Not to require indemnification of the City in cases of litigation brought against the City based on the PLA.

Ms. Ramirez stated staff has marching orders in talking to Trade Council and trying to finalize an agreement that Council can take action on.

ACTION: Motion was made by Council Member Arriola and seconded by Council Member Vargas to prepare a Project Labor Agreement in accordance with Council's consensus. Roll call found all in favor, passed and so ordered.

- 3.D DISCUSS AMENDING THE COUNCIL CODE OF CONDUCT TO ADDRESS CAMPAIGN ACTIVITIES AND PROVIDE DIRECTION TO STAFF – Item not heard due to late hour.

4. ITEMS FROM THE AUDIENCE – None
5. STAFF ITEMS – None
6. COUNCIL ITEMS – Council Member Vargas requested an agenda item to create policy on how Development Agreements are negotiated to give tools to staff to better serve our community and the city's interest. Council Member Arriola seconded the request. Council Member Vargas asked to bring back the agenda of October 15, 2019 when we have a budget to revisit all the fire stations (construction) and where we are at. Jenny Haruyama, City Manager responded the Fire Station Financing Plan will be coming back to Council. Council Member Vargas wished everyone a happy Thanksgiving, and asked when is the next Adhoc Committee meeting for finance. Ms. Haruyama responded a meeting can be scheduled within the next few months because the Council workshop is coming up and will be addressing the sustainability fiscal plan.

Council Member Ransom requested a discussion to get Council up to speed on the JPA. Council Member Vargas seconded the request. Council Member Ransom wished everyone a happy Thanksgiving.

Council Member Arriola wished everyone a happy Thanksgiving.

Mayor Pro Tem Young wished everyone a happy Thanksgiving, and asked about the update on the homeless and the warming center. Ms. Haruyama stated an update on the grant status was sent about a week ago. The City received one grant from United Way for \$20,000, and is waiting to hear back from two outstanding grants from the County and COC. Anticipating the County award would be approximately \$300,000. Total submission was approximately \$1.5 million. Ms. Haruyama stated staff hoped to get half of that and will continue to update Council.

Mayor Rickman wished everyone happy Thanksgiving, and urged everyone to support local businesses.

ADJOURNMENT – Time: 1:04 a.m. Date: November 18, 2020

ACTION: Motion was made by Council Member Vargas 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 12, 2020. The above are action minutes. A recording is available at the office of the City Clerk.

Mayor

ATTEST:

City Clerk