

December 1, 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 7:15 p.m.

Mayor Rickman led the Pledge of Allegiance.

Pastor Doug Diestler, Mission City 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 Mayor Pro Tem Young and seconded by Council Member Vargas to adopt the Consent Calendar. Roll call vote found all in favor; passed and so ordered.
 - 1.A APPROVAL OF NOVEMBER 10, 2020 SPECIAL MEETING MINUTES, NOVEMBER 17, 2020, CLOSED SESSION AND REGULAR MEETING MINUTES – **Minutes were adopted.**
 - 1.B ADOPT THE SAN JOAQUIN CONTINUUM OF CARE AS THE PRIMARY ORGANIZATION THROUGH WHICH THE CITY OF TRACY WILL WORK TO DEVELOP SOLUTIONS TO HOMELESSNESS AND ACKNOWLEDGE AND SUPPORT THE PROGRAM ADMINISTRATOR FOR HOMELESS INITIATIVES POSITION AS THE HOMELESS COORDINATOR FOR SAN JOAQUIN COUNTY – **Resolution 2020-198** adopted the San Joaquin Continuum of Care as the primary organization through which the City will work with to develop homeless solutions.
 - 1.C APPROVAL OF REAL PROPERTY PURCHASE AGREEMENT BETWEEN THE CITY OF TRACY AND STANLEY BOERSMA AND GEURTJE J. BOERSMA, AND WAHID TADROS AND JULIE TADROS FOR THE EXPANSION OF DETENTION BASIN 2B LOCATED AT THE TERMINUS OF MISSION COURT NEAR VALPICO ROAD (APN 246-130-05), AND AUTHORIZE AN APPROPRIATION OF \$160,000 FROM PLAN C DRAINAGE FUND (F322) TO CIP 76066 – **Resolution 2020-199** approved the Real Property Purchase Agreement with Stanley and Geurtje Boersma, and Wahid and Julie Tadros for the expansion of Detention Basin 2B.
 - 1.D APPROVE AN INITIAL TWO-YEAR PROFESSIONAL SERVICES AGREEMENT WITH TERRACARE ASSOCIATES, NOT TO EXCEED \$900,000 ANNUALLY, FOR LANDSCAPE, PARK AND CHANNELWAY MAINTENANCE SERVICES FOR THE TRACY CONSOLIDATED LANDSCAPE MAINTENANCE DISTRICT AND COMMUNITY FACILITY DISTRICTS AND AUTHORIZE THE CITY

MANAGER TO EXECUTE ANY EXTENSIONS AND MAKE MINOR AMENDMENTS TO THE AGREEMENT – **Resolution 2020-200** approved the Professional Services Agreement with Terracare Associates.

2. ITEMS FROM THE AUDIENCE – Elisa Navarrete shared her concerns regarding closing down small businesses, and asked how the City is going to help small businesses if there is a shutdown.

Council Member Ransom clarified that the City is not shutting down businesses, it is State regulations and the City has no control over what the Governor and the State says.

Robert Tanner shared his concerns about fireworks in north Tracy on Saturday around 1:00 a.m. and stated he would like to see the City make all fireworks illegal, and the only fireworks allowed are those that are purchased by the City for the city display.

Sylvia Kruse encouraged Council to consider the possibility of following in the footsteps of the City of Atwater.

Courtney Barnes shared his concern regarding small businesses closing due to a shutdown.

Elias Avila spoke in support of making Tracy a sanctuary city for business.

Heather Smiddy shared her concerns about Council's previous actions regarding Tracy becoming a sanctuary city. Ms. Smiddy stated she had the Mayor of Atwater outside City Hall supporting their cause.

Leslie Wilkins stated she would like the possibility of Tracy being a sanctuary city to be voted on again.

Robert Staton stated all businesses are essential and spoke in support of Tracy becoming a sanctuary city.

Kathy Duran expressed her concerns about the Governor calling for a statewide lock down, and stated she wanted the City to become a sanctuary city of no shutdowns.

Steve Nahn spoke in support of the businesses downtown and asked who will fill the restaurants if they go out of business, and wanted Council to consider that the damage may be too much for our city to recover.

Gerald Jeffs stated the most disturbing comment from the last meeting is science is subjective. Mr. Jeffs added his expectations of all elected officials and community leaders is to come to meetings prepared, demonstrate knowledge of topic, and present intelligent arguments.

Dan Evans spoke about a directive from the community at the last meeting, third demonstration outside City Hall, and stated City Council members should vote for a sanctuary city.

Heather Stonehouse shared her concerns and questioned about how the City has spent the CARES Act funding.

Claudia commented about a lockdown and the color chart being unconstitutional stating the City should be standing up for its people, freedom and for America.

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 comments and questions followed.

City Council accepted the report.

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, 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, representative for the O'Connor family spoke about the negotiation experience with the City and stated it is still their opinion that the law does not support the taking of property as it is favoring the developer over the property owner. Mr. O'Connor spoke about the detention basin being on the developer's property.

Mayor Rickman opened public hearing.

There was no public comment.

Mayor Rickman closed public hearing.

City Council questions and comments followed.

Harvey Oslick, Wood Rodgers provided information regarding an order of magnitude cost increase that is associated with mechanical systems.

City Council questions and comments continued.

ACTION: Motion was made by Mayor Pro Tem Young and seconded by Council Member Ransom to adopt **Resolution 2020-201**, a Resolution of Necessity authorizing the initiation of eminent domain proceedings to acquire real property for the construction of Detention Basin 3A pursuant to the City of Tracy's Citywide Storm Drainage Master Plan, authorizing the deposit of \$765,000 for Ronnoco Properties of Tracy II, L.P., APN 240-090-02, with the State of California Condemnation Deposit Fund, and authorizing the appropriation of funds from the Ellis Storm Drain Fund (F332), and Public Buildings Fund (F334). Roll call vote found Council Members Arriola, Ransom, Mayor Pro Tem Young and Mayor Rickman in favor; passed and so ordered. Council Member Vargas opposed.

Mayor Rickman called a recess at 10:04 p.m.

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

3.C CONSIDER APPROVING A COMMUNITY WORKFORCE TRAINING AGREEMENT (PROJECT LABOR AGREEMENT) WITH SAN JOAQUIN BUILDING TRADES COUNCIL THAT WOULD APPLY TO CERTAIN CONSTRUCTION CONTRACTS AWARDED BY THE CITY AND A LOCAL HIRING POLICY TO BE INCLUDED IN ALL BID REQUESTS FOR CITY CONSTRUCTION CONTRACTS

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

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 responded to questions.

Miles Ostraco, apprentice carpenter from ABC shared his work experience and concerns regarding the Project Labor Agreement, stating he will not be able to work in Tracy.

Eric Christen, Coalition for Fair Employment in Construction stated Carpenters will not sign the Project Labor Agreement (PLA), so the City will not have a PLA that covers a great deal of the work. Mr. Christen asked why Council is still considering the agreement and shared his concerns regarding the PLA.

Nicole Goehring, Associated Builders and Contractors shared her concerns regarding the agreement and not giving people the opportunity to work in Tracy. Ms. Goehring suggested dropping the agreement or allow core workers to be used, and asked if entering into the Project Labor Agreement needs to be done at this time.

Pete Butler, National Electrical Contractors Association of Northern California spoke in support of the Project Labor Agreement as presented by the building trades.

Dominique Mitchell, Associated Builders and Contractors Northern California shared concerns regarding the Project Labor Agreement and asked Council to reject the agreement.

Brian Gini, Collins Electric expressed support of the proposal in front of Council tonight.

Robert Kuks, Sheet Metal Workers Union Local 104 shared support of the Community Workforce Training Agreement and encouraged Council to approve the agreement.

Travis Dean Beckelman, ABC NorCal Trade Electrical Program requested Council remove the proposed language from the Project Labor Agreement.

William Rodriguez, ABC NorCal Trade Electrical Program requested Council remove the proposed language from the Project Labor Agreement.

Adrienne Richardson, City Clerk announced emails were received from Alexander Faasisila and Ryan Henderson, which exceeded the 250-word limit. Their comments shared support for the Community Workforce and Training Agreement.

Correspondence was also received from Tori Simpson from Modesto Executive Electric Inc. and Steve Growcock, Helix Electric, which exceeded the 250-word limit. Their correspondence shared their opposition to the Project Labor Agreement.

City Council questions and comments followed.

Ms. Ramirez summarized City Council's consensus: Keep the agreement as previously directed on November 17, 2020, (Council Member Vargas, Mayor Pro Tem Young and Mayor Rickman) to stay with the City's proposal/language and reject the items the Trade Council was asking for reconsideration. Staff to keep open lines of communication with the Trade Council.

Jenny Haruyama, City Manager also confirmed the following Council consensus: majority would like to adopt what is attached to the staff report and flexibility on the term.

ACTION: Motion was made by Council Member Vargas and seconded by Mayor Pro Tem Young to adopt **Resolution 2020-202** approving a Community Workforce Training Agreement absent of the three provisions with the negotiations on the terms of time with the San Joaquin Building Trades Council that would apply to certain construction contracts awarded by the City. Roll call vote found Council Members Ransom, Vargas, Mayor Pro Tem Young and Mayor Rickman in favor; passed and so ordered. Council Member Arriola opposed.

ACTION: Motion was made by Council Member Vargas and seconded by Mayor Pro Tem Young to adopt **Resolution 2020-203** approving a Local Hiring Policy for application to all construction projects awarded by the City. Roll call found all in favor; passed and so ordered.

Due to the late hour, Council tabled item 3.F. and item 5.

3.D APPROVING AN AMENDMENT TO THE EMPLOYMENT AGREEMENT BETWEEN JENNY HARUYAMA AND THE CITY OF TRACY RELATING TO

COMPENSATION AND BENEFITS TO AUTHORIZE COST OF LIVING
ADJUSTMENTS PROVIDED TO EMPLOYEES COVERED BY THE
DEPARTMENT HEAD COMPENSATION AND BENEFIT PLAN

Kimberly Murdaugh, Human Resources Director, provided the staff report.

There was no public comment.

City Council questions and comments followed.

ACTION: Motion was made by Council Member Ransom and seconded by Council Member Vargas to adopt **Resolution 2020-204** approving a retroactive amendment to the Employment Agreement between Jenny Haruyama and the City of Tracy relating to compensation and benefits to provide cost of living adjustments provided to employees covered by the Department Head Compensation and Benefit Plan earned on or after July 1, 2020. Roll call vote found Council Members Arriola, Ransom, Vargas and Mayor Pro Tem Young in favor; passed and so ordered. Mayor Rickman opposed.

3.E APPROVING AN AMENDMENT TO THE EMPLOYMENT AGREEMENT
BETWEEN LETICIA RAMIREZ AND THE CITY OF TRACY RELATING TO
COMPENSATION AND BENEFITS TO AUTHORIZE COST OF LIVING
ADJUSTMENTS PROVIDED TO EMPLOYEES COVERED BY THE
DEPARTMENT HEAD COMPENSATION AND BENEFIT PLAN

Kimberly Murdaugh, Human Resources Director, provided the staff report.

There was no public comment.

City Council questions and comments followed.

ACTION: Motion was made by Council Member Arriola and seconded by Council Member Ransom to adopt **Resolution 2020-205** approving a retroactive amendment to the Employment Agreement between Leticia Ramirez and the City of Tracy relating to compensation and benefits to provide cost of living adjustments provided to employees covered by the Department Head Compensation and Benefit Plan earned on or after July 1, 2020. Roll call vote found all in favor; passed and so ordered.

Mayor Pro Tem Young asked Council to reconsider the tabling of agenda item 3.F and hear the item. Council Member Vargas supported the request.

3.F DISCUSS AMENDING THE COUNCIL CODE OF CONDUCT TO ADDRESS
CAMPAIGN ACTIVITIES AND PROVIDE DIRECTION TO STAFF

Leticia Ramirez, City Attorney, provided the staff report.

There was no public comment.

Council Member Ransom proposed including campaign activities in the Code of Conduct so a Council Member or Commissioner, if their campaign activity violates the fair campaigning that is provided when running for office, especially

since it speaks to what Council does here and how it impacts, as a grand jury report spoke about, our City business – to be able to use the same Code of Conduct that would be used if Council wanted to have any other investigations. To be able to have a remedy and a mitigation to that. Council Member Vargas seconded the request as long as there are consequences to that, put something in to make Council accountable. Council Member Ransom responded she would go with accountability that is in our current Code of Conduct, which includes censure of Council Members.

Council Member Arriola requested Council consider a remedy for violation of political sign regulations, as having rule without remedy is useless.

City Council questions and comments continued.

ACTION: Motion was made by Council Member Arriola and seconded by Council Member Ransom to hold official campaign representatives and official campaign activities equally liable for sitting Council Members and also to produce a remedy for violations of political sign regulations that are outside temporal limits and that are on City property.

Mayor Pro Tem Young suggested the sign portion be a separate motion.

ACTION: Alternate motion was made by Council Member Arriola and seconded by Council Member Ransom to hold official campaign representatives and official campaign activities equally liable for sitting Council Members. Roll call found all in favor; passed and so ordered.

ACTION: Motion was made by Council Member Arriola and seconded by Council Member Ransom to develop a remedy for violations of political sign regulations that are outside temporal limits and that are on City property within the Code of Conduct. Roll call found Council Members Arriola, Ransom, and Vargas in favor; passed and so ordered. Mayor Pro Tem Young and Mayor Rickman opposed.

4. ITEMS FROM THE AUDIENCE – None

5. STAFF ITEMS – Jenny Haruyama, City Manager provided an update on the following actions taken by the City Manager during the COVID emergency:

- Accept the Construction for the MacArthur Drive Widening and Reconstruction Project
- Approved OIA for Holly Commerce Center
- Accept the Construction of the Legacy Fields Sports Complex, Phase 1D Project
- Accepted the Tracy Airport precision approach path indicators which serve as a visual aid when landing an aircraft
- Accept Subdivision Improvements for Ellis Gardens Phase 2, Tract 3906
- Accept Subdivision Improvements for Brookview West, and assume responsibility for future maintenance and repair

6. COUNCIL ITEMS

Council Member Vargas requested staff to bring back the following:

- Creating policy to adopt open spaces when it comes to storm drains and parks.
- Policy to adopt water tanks and water towers to have uniformity on how they are built and consistency throughout the entire City.

Council Member Arriola seconded both requests.

Council Member Arriola wished Mayor Pro Tem Young a happy birthday, and happy Holidays and happy Hanukkah to all.

Council Member Ransom wished Mayor Pro Tem Young a happy belated birthday and a happy Hanukkah to those who celebrate. Council Member Ransom requested a list of unfinished Council items that were raised and have not yet made it up the ladder on the priority list, to be agendized for memorializing and to not lose sight of those items. Can be on consent. Council Member Vargas seconded the request.

Mayor Pro Tem Young wished everyone a happy Hanukkah and thanked everyone for sharing these last 4 to 8 years with her.

Mayor Rickman wished Mayor Pro Tem Young a happy birthday and spoke about 2,281 veterans getting wreaths, Tracy public cemetery will get a wreath for Wreaths Across America. Mayor Rickman thanked gold star mom Julia Conover and husband, gold star parents and volunteers, and everyone in the community for purchasing wreaths, and announced on December 19 residents can help to put out wreaths. Mayor Rickman wished his wife Karen a happy birthday.

7. ADJOURNMENT – Time: 12:58 a.m. Date: December 2, 2020

ACTION: Motion was made by Council Member Arriola and seconded by Council Member Vargas 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 25, 2020. The above are action minutes. A recording is available at the office of the City Clerk.

Mayor

ATTEST:

City Clerk