

December 15, 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 item 1.A by Council Member Ransom, motion was made by Council Member Ransom and seconded by Mayor Pro Tem Young to adopt the Consent Calendar. Roll call vote found all in favor; passed and so ordered
 - 1.B. ADOPT RESOLUTION APPROVING THE CITY OF TRACY PUBLIC TRANSPORTATION AGENCY SAFETY PLAN AND AUTHORIZING THE PARKS & RECREATION DIRECTOR TO EXECUTE THE PUBLIC TRANSPORTATION AGENCY SAFETY PLAN – Resolution 2020-206 approved the Public Transportation Agency Safety Plan.
 - 1.C. APPROVE THE FEE DEFERRAL AGREEMENT FOR DEFERRAL OF CERTAIN IMPACT FEES FOR THE TRACY DESALINATION PLANT, AND AUTHORIZE THE CITY CLERK TO FILE THE FEE DEFERRAL AGREEMENT WITH OFFICE OF THE SAN JOAQUIN COUNTY RECORDER – Resolution 2020-207 approved the Fee Deferral Agreement for the Tracy Desalination Plant.
 - 1.D. REJECT ALL BIDS FOR THE GRAND THEATRE CENTER FOR THE ARTS EXTERIOR IMPROVEMENTS (CIP 71111), AND AUTHORIZE CITY STAFF TO MODIFY AND RE-BID THE PROJECT – Resolution 2020-208 rejected all bids for the Grand Theatre Centre for the Arts improvements and authorized rebidding the project.
 - 1.E. APPROVE SIDE LETTER OF AGREEMENT BETWEEN THE CITY OF TRACY AND THE TRACY MID-MANAGERS BARGAINING UNIT (TMMBU) CLARIFYING CONTRACT LANGUAGE IN PRIOR MEMORANDUM OF UNDERSTANDING - Resolution 2020-209 approved the Side Letter of Agreement with the Mid-Managers Bargaining Unit.
 - 1.F. REJECT REQUEST TO FILE LATE CLAIM AND REJECT CLAIM FILED BY BENJAMIN DRAKE, ON BEHALF OF HIS CLIENT SOPHIA AMAYA -

Resolution 2020-210 rejected request to file late claim and reject claim filed by Benjamin Drake, on behalf of Sophia Amaya.

- 1.G. APPROVE THE ANNUAL REPORT ON DEVELOPMENT IMPACT FEE REVENUES, EXPENDITURES AND FINDINGS REGARDING UNEXPENDED FUNDS FOR FISCAL YEAR 2019-2020 IN ACCORDANCE WITH THE MITIGATION FEE ACT (AB 1600) - Resolution 2020-211 approved the Annual Report on Development Impact Fee Revenues, Expenditures and Findings regarding unexpected funds for Fiscal Year 2019-2020.
- 1.H. RECEIVE LIST OF PENDING REQUESTS FROM CITY COUNCIL – List of pending requests received.
- 1.I. AUTHORIZE EXTENDING THE TERM OF THE \$2 MILLION LOAN TO THE WATER ENTERPRISE FUND FROM THE WASTEWATER ENTERPRISE FUND FOR AN ADDITIONAL FOUR YEARS, WITH PAYMENTS STARTING IN FY2021-22 IN THE AMOUNT OF \$500,000 PER FISCAL YEAR, WITH INTEREST AT THE LOCAL AGENCY INVESTMENT FUND (LAIF) RATE - Resolution 2020-212 authorized extending the term of the \$2 million loan for additional four years.
- 1.A. APPROVAL OF NOVEMBER 24, 2020 SPECIAL MEETING MINUTES AND DECEMBER 1, 2020, CLOSED SESSION AND REGULAR MEETING MINUTES

Council Member Ransom pulled the item for clarification from the City Attorney about the language in the motion made by Council Member Arriola during the discussion on November 24, 2020 regarding declaring a sanctuary city.

Leticia Ramirez, City Attorney clarified it was a policy statement by the Council to minimize criminal enforcement of the COVID-19 restrictions and stay at home order in the City of Tracy.

Mayor Rickman clarified his vote at the December 1, 2020 meeting regarding the amendment to the contracts for the City Manager and City Attorney for cost of living adjustment, and stated he had voted yes on the City Attorney's contract amendment but had meant to vote no.

There was no public comment.

ACTION: Motion was made by Council Member Ransom and seconded by Mayor Pro Tem Young to adopt the special meeting minutes of November 24, 2020, closed session and regular meeting minutes of December 1, 2020. Roll call found all in favor; passed and so ordered.

2. ITEMS FROM THE AUDIENCE – Robert Tanner stated he was conflicted about Tracy becoming a sanctuary city, asked about Atwater's death rate when they became a sanctuary city, spoke about the death rate in the County due to COVID, shared concerns regarding fireworks and asked when Council will outlaw fireworks except for the one the city does.

Claudia F. shared concerns about the lockdown due to COVID, fraud being perpetrated on the public, local health emergency order has no grounds in California law, tier impacts

to schools and small businesses, comments about Governor Newsom, focus should be on data and evidence, and would like for it to end and small businesses open up fully.

Lisa Roth requested the City of Tracy issue a proclamation acknowledging all the sacrificing and hardship the essential workers have endured due to the pandemic.

Alice English congratulated Mayor Rickman for being elected to the Board of Supervisors, and acknowledged Mayor Rickman's achievements while serving on City Council.

Savannah Wadsworth spoke about the negative effects on small businesses, and mental health due to the pandemic, and spoke about becoming a sanctuary city.

Monica Riley requested Council have a special meeting to deem Tracy a sanctuary city.

Pamela Spence shared her concerns regarding the business owners losing everything due to the pandemic, and asked if Council is willing to take a stand to help our community.

Heather Holbrook stated it is time to open businesses back up and let Tracy be a sanctuary city, and asked to have a special meeting and let people get back to work.

Anne Marie Fuller thanked Mayor Rickman for his service and leadership in the community as Council Member and Mayor.

Susan Golding asked Council to consider having Tracy become a sanctuary city, and small businesses need to be open even if the Governor's mandates are not enforced.

Lori Fountain spoke about the impacts of the lockdown as a business owner adding businesses are fighting to do everything they can lawfully, and did not support how the City is handling the issue and need a Council that supports us.

Ed Blake spoke in support of keeping the small businesses open and suggested Council could keep small businesses in a place that they can keep operating with safety rules.

Eric Wink stated he works for a big box company and did not understand why small businesses can't be open if they follow the same rules as big box companies. Mr. Wink welcomed the new Council, and expects them to work with small business owners to get something done.

Jennifer Rowell thanked and recognized Council Member Ransom for her service to the City of Tracy, and her work on the Tracy Community Homeless Task Force Council.

Neil Prescott asked if Council approved a local emergency in the seven days as required by Safety Code 8630, reapproved a local emergency every 30 days in the nine months as required by Safety Code 8630, and if not local emergency is not valid, and under what statutory law has the current health emergency orders been issued.

Brayden Malcolmsen spoke in support of all small businesses and if Walmart and Target can be open then would love to have small businesses open in downtown Tracy.

Dan Evans thanked Mayor Rickman for his service on Council. Mr. Evans stated there has been a vast majority of people that have been supporting our City, and hoped the new Council will put being a sanctuary city on the agenda and move for vote immediately.

Jenn expressed concern for the small business and support of the reopening of city businesses.

Claudia Fab shared concerns regarding Governor Newsom's lockdown, keeping kids out of school, and cases against the Governor.

Ashley Sotelo supported a sanctuary city for businesses.

Adrienne Richardson, City Clerk stated Tracy Thoming submitted an email comment supporting a sanctuary city, which exceeded the 250-word count. The comment was forwarded to Council and placed on the dais.

3. REGULAR AGENDA

3.A. ADOPT A RESOLUTION RECITING THE FACTS AND DECLARING THE RESULTS OF THE NOVEMBER 3, 2020 CITY OF TRACY GENERAL MUNICIPAL ELECTION

Adrienne Richardson, City Clerk, provided the staff report.

There were no public comments.

City Council comments and questions followed.

ACTION: Motion was made by Council Member Ransom and seconded by Council Member Vargas, to adopt **Resolution 2020-213** reciting the facts and declaring the results of the November 3, 2020 City of Tracy General Municipal Election. Roll call vote found all in favor; passed and so ordered.

3.B. OUTGOING COUNCIL MEMBER PRESENTATION AND UPDATE ON STRATEGIC PRIORITIES PRESENTATION

Jenny Haruyama provided a Strategic Priorities Update presentation showing City Council's accomplishments over the last year.

Mayor Elect Young invited outgoing Council Member Ransom to the podium for presentation.

Council Member Ransom provided comments about her time on City Council.

Mayor Elect Young invited outgoing Mayor Rickman to the podium for presentation.

Mayor Rickman provided comments about his time on City Council as Council Member and Mayor, and read a Proclamation for Free Exercise of Religion.

3.C. ADMINISTER OATH OF OFFICE AND SEAT NEWLY ELECTED COUNCIL MEMBERS

Adrienne Richardson, City Clerk, administered the Oath of Office and presented the Certificate of Election to Raymond McCray, Treasurer.

Treasurer Raymond McCray provided comments (pre-recorded).

Adrienne Richardson, City Clerk announced the following:

Maricela Morelos-Bedolla administered the Oath of Office and presented Certificate of Election to Council Member Bedolla (pre-recorded).

Council Member Bedolla provided comments regarding his election to City Council.

Mucie Lackey administered the Oath of Office and presented Certificate of Election to Council Member Davis (pre-recorded).

Council Member Davis provided comments regarding her election to City Council.

Former Mayor Brent Ives administered the Oath of Office and presented Certificate of Election to Mayor Young.

Mayor Young provided comments regarding her election as Mayor to City Council.

ROLL CALL – Adrienne Richardson, City Clerk roll called the new City Council. Roll call found Council Members Arriola, Bedolla, Davis, Vargas and Mayor Young present.

3.D. APPOINT MAYOR PRO TEMPORE

Adrienne Richardson, City Clerk, provided the staff report.

Ameni Alexander congratulated Mayor Young and suggested Council Member Arriola for Mayor Pro Tempore.

Dan Evans congratulated new Council Members and Mayor, and suggested Council Member Davis would be a good Mayor Pro Tempore.

Tyler Yoshio Higaki shared support for Council Member Bedolla for Mayor Pro Tempore.

Julie Gust shared support for Council Member Bedolla as Mayor Pro Tempore.

Mercedes Silveira-Gouveia congratulated the new City Council and shared support of Council Member Bedolla as Mayor Pro Tempore.

Andrea JuarezSmith submitted support for Council Member Bedolla as Mayor Pro Tempore.

Council Member Arriola nominated Council Member Vargas as Mayor Pro Tempore.

Council Member Bedolla expressed desire to be Mayor Pro Tempore.

City Council questions and comments followed.

ACTION: Motion was made by Mayor Young and seconded by Council Member Arriola to appoint Council Member Vargas as Mayor Pro Tempore to serve a two-year term ending in December 2022. Roll call vote found Council Members Arriola, Vargas, and Mayor Young in favor; passed and so ordered. Council Members Bedolla and Davis abstained.

3.E. DISCUSS CITY'S RESPONSE TO COVID-19 (VERBAL REPORT BY DR. MAGGIE PARK, SAN JOAQUIN PUBLIC HEALTH OFFICER)

Jenny Haruyama, City Manager introduced Dr. Maggie Park, San Joaquin County Public Health Officer who provided an update and presentation on the response by San Joaquin County's response to COVID-19.

City Council asked Dr. Park clarifying questions.

Claudia M. shared her concerns regarding forbidding opening businesses and the risks of wearing masks.

Heather Smiddy said she has spoken to Dr. Parks, and asked for the numbers for cause of death other than COVID in 2020.

Dotty Nygard, ER Nurse stated COVID is real, ICU is at capacity, hospitals are short staffed and asked Dr. Park to reiterate the importance of knowing the incubation period of COVID, all participation is needed to rid the virus, which means processing safety messages and guidelines that the Health Department is recommending we follow.

Dan Evans stated shutting small businesses will not stop the disease, was glad to get Tracy's death numbers, asked Dr. Parks about why the state is withholding city death count data, stop pretending the virus is the only thing that can hurt us, and bring back the sanctuary city discussion.

Mayor Young asked Dr. Park to respond to the questions from members of the public.

City Council comments continued before accepting the presentation and report.

Due to the late hour, Mayor Young asked Council if they wish to continue hearing the remaining agenda items.

ACTION: Motion made by Mayor Pro Tem Vargas and seconded by Council Member Davis to continue the meeting until all agenda items have been heard. Roll call found all in favor; passed and so ordered. Time 11:26 p.m.

3.F. AUTHORIZE THE CITY MANAGER TO EXECUTE AGREEMENTS TO FACILITATE THE OPERATION OF A WARMING CENTER UP TO A CUMULATIVE AMOUNT OF \$250,000 AND PROVIDE DIRECTION ON A POTENTIAL LOCATION

Midori Lichtwardt, Assistant City Manager provided the staff report, which given the urgent nature of the project, requested Council authorize the City Manager to execute agreements to facilitate the operation of a warming center and proposed two warming center locations – El Pescadero Park and Tracy Community Center.

Bubba Paris congratulated the new Council, added Tracy is the only city that provides no form of relief of shelter or warming station for the homeless, and strongly recommended that the City consider one of the two options to take people off the street.

City Council comments and questions followed.

Council consensus for warming center location:

- Council Member Arriola preferred the Community Center.
- Council Member Davis was not thrilled about the two locations (Tracy Community Center and El Pescadero Park), asked about Arbor Road location, but was open to the Community Center as long as COVID regulation language was addressed in the warming center operation agreements.
- Council Member Bedolla supported the Community Center.
- Mayor Young supported the Community Center.
- Mayor Pro Tem Vargas supported the majority.

Jenny Haruyama, City Manager clarified the service providers will be subject to State guidelines that are established for shelters legally and that language will be required in the agreement, and will be obligated to do that.

ACTION: Motion was made by Mayor Pro Tem Vargas and seconded by Council Member Bedolla to adopt **Resolution 2020-214** authorizing the City Manager to execute agreements to facilitate the operation of a warming center up to a cumulative amount of \$250,000 with the potential location to be assigned to the Community Center. Roll call found all in favor; passed and so ordered.

3.G. RECEIVE UPDATE ON THE NEW COVID STRATEGIES COMMITTEE AND CITY EFFORTS TO SUPPORT LOCAL BUSINESSES, AND CONSIDER APPROVAL OF A NEW CITY OF TRACY SMALL BUSINESS RELIEF GRANT PROGRAM, AND AUTHORIZE CITY MANAGER TO MAKE PROGRAM AMENDMENT AS NEEDED, AND IF APPROVED, APPROPRIATE \$500,000 FROM MEASURE V GENERAL FUND

Andrew Malik, Assistant City Manager and Michael Nimon, Economic Development Manager, provided the staff report and presentation.

Council asked staff clarifying questions.

Jass Sangha congratulated the new Council and stated she appreciated what the City is doing with the grants as it shows the City cares.

Gabriela Machuca requested clarification on what full operation effective December 2020 means, as no business is in full operation, who is making the decisions of who will get the money, what is difference between grant and loan, and asked about eligibility for the grants.

Heather Smiddy congratulated the new Council, spoke about small business needs not being met, Council voted down sanctuary city a month ago and promised a committee. Ms. Smiddy added some will not qualify for the grant money and the handout will not last long and requested Council let business owners run their businesses, and begged Council to reach beyond their fear.

Savannah Wadsworth stated closing businesses down has no basis in the scientific data available and the City of Tracy should allow businesses to remain open provided they take precautions to keep the community safe.

City Council questions and comments followed.

ACTION: Motion made by Council Member Bedolla and seconded by Council Member Davis to adopt **Resolution 2020-215** approving the new Tracy Small Businesses Relief Grant Program with a carve out for new businesses as started before the COVID rules took affect and authorize the City Manager to make program amendments as needed and appropriate \$500,000 from Measure V.

Mayor Young asked Council whether they supported a repayment plan for the \$500,000 to Measure V. Mayor Pro Tem Vargas and Council Member Davis supported a repayment plan.

Council Member Bedolla said he would accept a friendly amendment to his motion regarding repayment of the \$500,000 to Measure V. Mayor Young clarified the friendly amendment to include having a repayment plan of the \$500,000 connected to it; however, that needs to be discussed in the budget. Council Members Bedolla and Davis supported the friendly amendment.

Mayor Young asked staff to respond to the questions from the public.

Mr. Malik provided responses to questions from the public regarding eligibility for funds: Must have active business license as of December 1, 2020, and staff to review financial statements to qualify applicant. Ms. Machuca would be eligible under this program and also County program, and regarding forgivable loan for CDBG – HUD looking to relax some of the requirements, and looking to convert CDBG loans to be forgivable grants, but still confirming with HUD.

Roll call found all in favor of the motion made by Council Member Bedolla; passed and so ordered.

3.H. APPOINT A COUNCIL MEMBER AND ALTERNATE TO REPRESENT THE CITY OF TRACY ON THE SAN JOAQUIN COUNCIL OF GOVERNMENTS

Adrienne Richardson, City Clerk, provided the staff report.

There was no public comment.

City Council questions and comments followed.

ACTION: Motion was made by Mayor Pro Tem Vargas and seconded by Council Member Arriola to appoint Mayor Young to represent the City of Tracy on the San Joaquin Council of Governments and Council Member Arriola as alternate. Roll call vote found Council Members Arriola, Bedolla, Mayor Pro Tem Vargas, and Mayor Young in favor, passed and so ordered. Council Member Davis abstained.

3.I. ESTABLISH A 2021 CALENDAR OF REGULAR CITY COUNCIL MEETINGS AND WORKSHOPS

Adrienne Richardson, City Clerk provided the staff report.

There was no public comment.

City Council questions and comments followed.

ACTION: Motion was made by Mayor Pro Tem Vargas and seconded by Council Member Davis to adopt **Resolution 2020-216** establishing a 2021 calendar of regular City Council meetings and workshops and not establish the workshop/special meetings at this point, and address as needed. Roll call found Council Members Arriola, Davis, Mayor Pro Tem Vargas and Mayor Young all in favor; passed and so ordered. Council Member Bedolla abstained.

4. ITEMS FROM THE AUDIENCE – Gabriela Machuca stated small businesses need City Council to help, spoke about COVID cases not being attributed to restaurants, and requested standing up for Tracy and ask for modifications to the closure order.

Claudia spoke about Governor Newsom overstepping and being sued, State of Emergency gone past 60 days, Dr. Park not being forthcoming about wearing a mask, and negative effects of wearing mask, and goes against US Constitution.

Cindy Reece congratulated the new Council, and expressed appreciation for Rhodesia Ransom and her attention to the homeless, and stated she was proud of her accomplishments.

Michael Winsatt asked what steps will Council take to address why a vape shop opened directly next door to Tracy High School.

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

- Approve OIA for Tracy Hills Phase 1 School Site Street modifications
- Approve OIA for Tracy Hills Phase 1 West Linne Road Widening at South Tracy Blvd

- Approve OIA for storm drain upgrade due to Kaiser Permanente parking lot expansion project
 - Accept subdivision improvements for Ellis Garden Phase 3 and authorize landscape maintenance in accordance with the CFD
 - Accept subdivision improvements for Ellis Garden Phase 1 and assume responsibility for their future maintenance and repair
 - Accept the Tracy Municipal Airport and replace existing automatic weather observing system on the existing tower and foundations
6. COUNCIL ITEMS – Council Member Arriola acknowledged COVID numbers from Dr. Park, including the 37 deaths in the city, and asked the community to take this seriously, abide by hygiene guidelines and do not add to that number. Council Member Arriola congratulated the new Council Members and Mayor and wished everyone a merry Christmas and happy new year.

Mayor Pro Tem Vargas provided an update on Valley Link, and requested a Proclamation on the agenda to support the farmers in India for the safe protest. Mayor Pro Tem Vargas to submit language. Council Member Arriola supported the request. Mayor Pro Tem Vargas asked to request from the State to modify the COVID orders for City of Tracy to allow restaurants to operate indoors, and can we do it through our lobbying staff. Council Member Davis seconded the request.

Jenny Haruyama, City Manager responded the next meeting is January 19, 2021, so if you are looking for staff to write something within the context of our legislative policy in the context of local control, we can accommodate that request.

Mayor Pro Tem Vargas congratulated her daughter for graduating college on December 17, 2020, and acknowledged her dedication of 18 months during that period to do a mission through the LDS Church in Spain, and wished everyone a merry Christmas.

Council Member Bedolla stated the City was not awarded recent grants from Continuum of Care and requested an update on that or options to see if there is a way to appeal. Council Member Davis supported the request. Council Member Bedolla requested an update on road conditions, pavement condition index, and needed repairs and replacement to surface stresses. Council Member Davis seconded the request. Jenny Haruyama, City Manager confirmed a memo would suffice for the response to Council Member Bedolla's requests.

Council Member Davis requested staff to bring back conversation regarding local control of all businesses within the City of Tracy. Mayor Young supported the request. Merry Christmas and happy new year to everyone.

Mayor Young announced the following: Outgoing San Joaquin Regional Rail Commission members due to retirement or term expirations: Andy Chesney (San Joaquin County Council of Governments), Bob Elliott (Board of Supervisors), John Marchand (Livermore Mayor), Doug Kuehne (Lodi Council Member), Scott Haggerty, (Alameda County Board of Supervisors), and Debby Moorhead (Manteca Council Member), reported on the contract between Valley Link and ACE stating ACE will be the operating entity for Valley Link. Mayor Young wished everyone a merry Christmas, happy Hanukkah, and happy Kwanzaa.

7. ADJOURNMENT – Time: 1:57 a.m. Date: December 16, 2020

ACTION: Motion was made by Mayor Pro Tem 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 December 10, 2020. The above are action minutes. A recording is available at the office of the City Clerk.

Mayor

ATTEST:

City Clerk