

Agenda Item 3.A
April 6, 2021

From: Max Allen [REDACTED]
Sent: Tuesday, April 6, 2021 9:08 AM
To: Public Comment <publiccomment@cityoftracy.org>
Subject: Tax Dollars owed

No additional taxpayer dollars should be spent on the Westside Specific Plan until the landowners payback the City the \$500,000 of taxpayer dollars owed.

C. M. Allen
Willow Creek Neighborhood Resident

Sent from my iPhone

Agenda Item 3.A
April 6, 2021

From: adrian martinez [REDACTED]
Sent: Tuesday, April 6, 2021 7:29 AM
To: Public Comment <publiccomment@cityoftracy.org>
Subject: Tracy Gateway Plan

Dear City Council,

No additional taxpayer dollars should be spent on the Westside Specific Plan until the landowner's payback the City the \$500,000 of taxpayer dollars owed, please keep us informed.

Tracy Resident
Adrian Martinez

From: ALLAN DA [REDACTED]
Sent: Monday, April 5, 2021 11:48 PM
To: Public Comment <publiccomment@cityoftracy.org>
Subject: Tracy gateway

NO additional taxpayer dollars should be spent on the Westside Specific Plan until the landowners payback the City the \$500,000 of taxpayer dollars owed. A legal reimbursement agreement must be put into place before anything moves forward. Tracy Gateway property should not be zoned industrial to cater to developer Mike Sandhu. The City must pursue the original intent of Tracy Gateway and create office, hospital, retail, and hotel jobs that residents support and need.

Allan Dabandan
[REDACTED]

Sent from my iPhone

Agenda Item 3.A
April 6, 2021

From: Barbara [REDACTED]
Sent: Tuesday, April 6, 2021 6:11 AM
To: Public Comment <publiccomment@cityoftracy.org>
Subject: City Council Meeting April 6th Regular Agenda Item 3A

Please, NO additional taxpayer dollars should be spent on the Westside Specific Plan until the landowners payback the City the \$500,000 of taxpayer dollars owed. A legal reimbursement agreement must be put into place before anything moves forward. Tell them that the property should not be zoned industrial to cater to developer Mike Sandhu. The City must pursue the original intent of Tracy Gateway and create office, hospital, retail, and hotel jobs that residents support and need.

Barbara Beck
[REDACTED]

Agenda Item 3.A
April 6, 2021

From: Ben Rivera [REDACTED]
Sent: Tuesday, April 6, 2021 11:46 AM
To: Public Comment <publiccomment@cityoftracy.org>
Cc: connie mrdutt [REDACTED]
Subject: City Council Meeting April 6th Regular Agenda Item 3A

I am Benjamin A. Rivera, resident, home owner and voter in Tracy, CA. I am concerned that the City of Tracy has utilized public funds to help with Developer costs. Has the Developer talked to local labor? Will he be utilizing local Community Highly skilled workers to build the project and make assurances for career pathways into apprenticeship programs?

Thank you
Ben
[REDACTED]

Agenda Item 3.A
April 6, 2021

-----Original Message-----

From: Connie [REDACTED]
Sent: Tuesday, April 6, 2021 2:01 PM
To: Public Comment <publiccomment@cityoftracy.org>
Subject: Tracy Gateway Plan

My name is Connie Rivera I am a resident of Tracy, a home owner and a voter and I am concerned that City of Tracy has utilized public funds to help with Developer costs. Has this Developer made any efforts to talk with local labor? Will he be utilizing local Community Highly skilled workforces with apprenticeship programs so our residents can participate in these career opportunities?



**MILLER STARR
REGALIA**



April 5, 2021

VIA EMAIL

Mayor Young, Mayor Pro Tem Vargas, and Members of the City Council
City of Tracy
333 Civic Center Plaza
Tracy, CA 95376
E-Mail: tracycitycouncil@cityoftracy.org

**Re: Update on Westside Specific Plan Process:
April 6, 2021 Regular Meeting, Agenda Item No. 3A**

Dear Mayor Young, Mayor Pro Tem Vargas, and Honorable Members of the City Council:

We represent TG Lender, LLC (TGLL), one of the property owners within the Westside Specific Plan area ("Plan Area"). In anticipation of the upcoming staff presentation providing an update on the Westside Specific Plan process at the April 6th City Council meeting, we would like to echo the sentiments expressed by Mike Souza in his email to City staff dated March 25, 2021.

The City of Tracy has taken the lead by sponsoring the planning process for updates to the Westside Specific Plan (formerly known as Tracy Gateway) in an effort to re-imagine the Plan Area to be more responsive to current market conditions. Throughout this process, TGLL has been continually impressed by, and appreciative of, the City's efforts to collaborate with property owners within the Plan Area. TGLL understands that one focus of the upcoming meeting is to consider whether and how the City can solicit input from the greater Tracy community regarding the future of the Plan Area. If the Council determines a greater public process is needed, TGLL is supportive of such an effort. TGLL is also prepared to contribute toward the costs of this outreach, in addition to the other costs borne by the City in spearheading this planning process.

At the same time, TGLL wants to emphasize the need for the Westside Specific Plan process to proceed as expeditiously and efficiently as possible so that TGLL, the other property owners and the City may continue to move forward with developing and implementing the updated vision of the Plan Area into a vibrant corner of the community with new state of the art healthcare facilities, jobs, commercial, housing and related uses supportive to the medical anchor and other complementary endeavors. We look forward to continuing to partner with the City

333 Civic Center Plaza
April 5, 2021
Page 2

and the other property owners as well as community stakeholders on this critical Westside Specific Plan process.

Sincerely,

MILLER STARR REGALIA



Nadia L. Costa

cc: Jenny Haruyama, City Manager (via email cm@cityoftracy.org)
Andrew Malik, Development Services Director
(via email Andrew.Malik@cityoftracy.org)
Bill Dean, Assistant Development Services Director (via email
William.Dean@cityoftracy.org)
Alan Bell, Senior Planner (via email alan.bell@cityoftracy.org)
[REDACTED]
Leticia Ramirez, City Attorney (via email leticia.ramirez@ci.tracy.ca.us)
[REDACTED]

April 6, 2021

-----Original Message-----

From: Sean Topping [REDACTED]
Sent: Tuesday, April 6, 2021 7:29 AM
To: Public Comment <publiccomment@cityoftracy.org>
Subject: Westside Specific Plan

Hello council members,

I have lived in Tracy since 2002. Then, the general plan showed some bold future plans: Tracy Hills to the south and Tracy Gateway to the west.

While seeing the development of Tracy Hills is exciting, the lack of progress on Tracy Gateway is disappointing. When we moved here, part of the reason we chose Tracy was the plan to develop an office park to draw white-collar Bay Area jobs east at to Tracy.

Instead, we see warehouses encroaching on the city from almost every corner. Now, when people approach the city the first impression is "distribution center".

The Tracy Gateway should NOT be rezoned to industrial, Tracy has enough of that. The city must pursue the original intent of Tracy Gateway and create office and hospital jobs that residents support. This will also draw new, higher quality retail and hotel investment catering to business customers.

No additional taxpayer dollars should be spent on changing the plans to industrial development. If the city still chooses to continue down this path, they need a formal reimbursement agreement in place before spending any more money on research associated with changing the zoning.

Office buildings and hospitals, not more warehouses.

Thank you,

Sean Topping
[REDACTED]

Agenda Item 3.A
April 6, 2021

From: Tatiana Brif [REDACTED]
Sent: Tuesday, April 6, 2021 1:22 PM
To: Tracy City Council <tracycitycouncil@cityoftracy.org>; Public Comment <publiccomment@cityoftracy.org>
Subject: NO Westside Plan rezoning!

Hello,

I highly oppose rezoning a third of the Westside Specific Plan development area as “Industrial.” It goes against general planning and will deteriorate quality of life of adjoining communities. Tracy needs high paid jobs, not high truck traffic.

April 6, 2021

MARK V. CONNOLLY

Attorney at Law

April 5, 2021

VIA EMAIL ONLY

Honorable Mayor, Members of the City Council
City Hall
333 Civic Center Plaza
Tracy, CA 95376

**Re: My Client: Mary Mitracos
Agenda Item 3B**

Honorable Mayor, Members of the City Council:

This letter is to urge you to (1) vote to NOT continue negotiations with Surland to Amend the 2018 DA that has been determined to be a violation of the Government Code and void, (2) not to risk committing a contempt of court by taking any action that can be interpreted as implementing the 2018 DA, (3) wait for the outcome of the court case lost by the City and Surland before taking any action on the 2018 DA.

If the renegotiation is truly just something the City has requested and Surland is just accommodating the City, then the City should terminate any attempt to renegotiate immediately. Since Surland did not request negotiations, it should not care if they cease. Negotiating an illegal DA and risking contempt provides no public benefit.

Surland's objective, as in any scam, is to keep the ball in air, always keep negotiating, make ever grander promises regardless of how much worse the situation becomes and always create new issues and distractions. Attempting to renegotiate the 2018 DA before the pending litigation about the validity of the 2018 DA is just how the scam continues. Like a Ponzi scheme, if it stops it collapses.

Counsel for Surland Steve Herum has lost both cases where he argued the Development Agreements were valid. At hearings like this when he does make legal arguments, they are incorrect or on irrelevant diversionary issues. More usually makes irrelevant personal attacks concerning the motives of anyone who correctly challenges Surland and the Ellis project.

1. Surland is Setting the City up for responsibility for being in contempt.

In its March 19, 2021 letter to the City, Surland makes the following statement:

“Even though we are willing to collaborate with you, this is a request to open DA discussions by the City and not Surland.”

Surland March 19, 2021 Letter, Staff Report pg. 437

This statement is designed to put the responsibility for any contempt or renegotiation solely on the City, with Surland arguing it was just doing what the City wanted.

The Staff Report makes it clear that both parties must agree to enter into negotiations. The Council should now decline to continue any negotiations. A motion should be passed terminating any negotiations and directing staff to cease negotiations.

2. Surland is asking the City to lay out its entire objectives and goals in the beginning of negotiations with Surland providing nothing.

In its March 19, 2021 letter Surland asks the City to continue negotiations by laying out in public everything the City wants. This is a ridiculous bad faith starting position.

“Therefore, it is most appropriate for the City to detail what is being asked and what the City is willing to offer in exchange. That will provide clarity of the deal points the City wants us to consider. Most importantly, we are interested in being expeditious with timing so as not to interfere with the progress of the Aquatic park as expected by our community.”

Surland March 19, 2021 Letter, Staff Report pg. 437

It is impossible to imagine that the Council would accept this invitation to not just accept any blame for violating an injunction but to lay all its cards on the table in public as a condition of negotiation. Again, the Council should be motion to terminate negotiations.

Additionally, Surland has repeatedly stated it will proceed with the aquatic park regardless of litigation. Now it threatens to again hold the park hostage. The best way to ensure the swim center gets built, or more likely reality is faced, is to make Surland live up to its obligations BEFORE the 2018 DA with no further stalling negotiating tactics.

3. When the Council acted previously it had incorrect legal advice concerning whether proceeding to implement the 2018 DA would be a contempt of Court.

At the prior City Council meeting the Council was provided in that Staff Report (for that prior meeting) on Agenda Item 3E dangerous and inaccurate legal advice that if followed would place the City, the City Council, and any Council member in the position of being in contempt of court.

That false legally incorrect statement concerning the injunction issued by the court was:

“Upon filing of the Notice, the Superior Court’s ruling was stayed, meaning it is no longer in effect. This means that the Second Amendment is currently in effect and the parties can continue to implement its provisions as they jointly appeal the ruling.”

Staff Report pg. 1

By letter we provided legal authority that a Notice of Appeal DOES NOT STAY a prohibitory injunction as entered on September 30, 2020. A copy of that Judgment is again attached. The Judgment’s prohibitory injunction language is:

“Injunctive relief is granted consistent with this ruling. Respondents, Real Parties in Interest, and their respective agents, employees, and persons acting in concert with them *are permanently enjoined from any and all actions to further implement the 2018 Development Agreement* as described in paragraph 1(a) above.”

Judgment 2:14-18

It is hoped the City Attorney has had the opportunity to now verify the above law so the Council is aware that ANY action to implement the 2018 DA will be a contempt of court.

4. **The City should not enter into negotiations which the City has always lost.**

First, taking any action that can be interpreted as “implementing” the 2018 DA (2nd Amendment) would be a violation of the Prohibitory Injunction contained in the Judgment. If negotiations result in any agreement or amendment that can be deemed “implementing” the 2018 DA than it would be a violation of the injunction. Surland and its counsel have consistently misrepresented the law to the City.

The City has come away from every negotiation much worse than when negotiations commenced. Each time the Swim Center gets further away and more expensive and Surland gets money and benefits from the City. Now Surland asks the City to publicly list its objectives. This bad faith tactic if accepted will leave little doubt which side is the better negotiator.

Surland needs to live up to its contractual obligations of the 2013 DA in effect before the void 2nd Amendment/2018 DA. That DA obligated Surland to pay \$10,000,000. \$8,000,000 of which was due on April 4, 2018, which was 4 years after it was originally due and 3 years ago.

Three simple requests are made to the Council: (1) vote to cease negotiations with Surland to Amend the 2018 DA that has been determined to be a violation of the Government Code and void, and (2) do not risk committing a contempt of court by taking

any action that can be interpreted as implementing the 2018 DA, (3) wait for the outcome of the court case lost by the City and Surland before taking any action on the 2018 DA.

STOP NEGOTIATING! There must be a day when the City stops giving extensions to Surland and make Surland comply with the last valid Contract.

Very truly yours,

A handwritten signature in blue ink, appearing to read 'Mark V. Connolly', with a stylized flourish at the end.

MARK V. CONNOLLY

ATTACHMENT 1

1 Mark V. Connolly SBN 105091
2 CONNOLLY LAW BUILDING
3 121 E. 11th Street
4 Tracy, CA 95376
5 Telephone: (209) 836-0725
6 Facsimile: (209) 832-3796
7
8 Attorney for Mary Mitracos

FILED
SUPERIOR COURT
Brandon E. Riley, Clerk

Danielle Jeandebien
September 30, 2020

8 SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN JOAQUIN
9 UNLIMITED JURISDICTION

10 MARY MITRACOS

Case No. STK-CV-UWM-2018-5531

11 Petitioner,

 JUDGMENT

12 vs.

Hearing/Trial:

Date: October 28, 2019

Time: 9:00 a.m.

Dept.: Dept. 10A

13 CITY OF TRACY, BY AND THROUGH THE
14 CITY COUNCIL; and DOES 1-20 inclusive,

15 Respondents.

16 SURLAND COMMUNITIES, LLC, a California
17 limited liability company, and DOES 21-40
18 inclusive,

Honorable George Abdullah.

19 Real Parties in Interest.
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1 This matter came regularly for hearing on October 28, 2019 at 9:00 in Department 10(A) of
2 this court located at 180 E. Weber Avenue, Stockton, CA before the Honorable George Abdullah,
3 Judge of the Superior Court. Petitioner Mary Mitracos ("Mitracos") was represented by counsel
4 Mark V. Connolly. Respondent City of Tracy ("City") was represented by Counsel Kevin D.
5 Siegel. Real Party in Interest Surland Communities, LLC ("Surland") was represented by Steven
6 A. Herum.

7 The court having reviewed the record of Respondent City's proceedings in this matter, the
8 briefs submitted by counsel, and the arguments of counsel, the matter having been submitted for
9 decision, and the court having issued its Tentative Decision on February 20, 2020 and its Statement
10 of Decision, and good cause appearing therefore,

11 IT IS SO ORDERED, DECREED AND ADJUDGED that:

12 1. Judgment granting a Peremptory Writ of Mandate is entered in favor of Petitioner
13 Mitracos in this proceeding. Judgment is entered because the Court finds that Respondent
14 committed a prejudicial abuse of discretion in taking the following actions:

15 (a) Adopting, approving and entering into the Second Amendment to Amended
16 and Restated Development Agreement by and between The City of Tracy and
17 Surland Communities, LLC" ("2018 DA").

18 (b) Adopting Ordinance 1253

19 2. The court finds the 2018 DA does not comply with Government Code Sections
20 65865(b) and 65865.2 and is therefore void ab initio.

21 3. A Preemptory Writ of Mandate direct to Respondents shall issue under seal of this
22 Court, ordering Respondents to vacate and set aside, within (30) days from service of the Writ of
23 Mandate, all approvals and adoptions of the 2008 DA and Ordinance 1253, as described in
24 paragraph 2 above in their entirety and all other actions taken by Respondents to approve or
25 implement the Development Agreement. Respondent City is ordered to:

26 (a) Set aside, rescind, and vacate the "Second Amendment to Amended and
27 Restated Development Agreement by and between The City of Tracy and
28 Surland Communities, LLC" ("2018 DA").

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- (b) Set aside, rescind, and vacate Ordinance 1253.
- (c) Set aside, rescind, and vacate any actions taken pursuant to the "Second Amendment to Amended and Restated Development Agreement by and Between the City of Tracy and Surland Communities, LLC" ("2018 DA") and Ordinance 1253.

4. Respondent City shall file a return to the Peremptory Writ of Mandate within 10 days of completion of the actions mandated by this judgment. This Court shall retain jurisdiction over Respondents' proceedings by way of the return to the Peremptory Writ of Mandate until the Court has determined that Respondent has complied with the directives of this Court.

5. Petitioner shall be awarded its costs of suit. Petitioner is the successful party pursuant to Code of Civil Procedure § 1021.5. The Court reserves jurisdiction to determine entitlement to attorneys' fees and litigation expenses, pursuant to any properly and timely filed motion which Petitioner Mitracos may make.

6. Injunctive relief is granted consistent with this ruling. Respondents, Real Parties in Interest, and their respective agents, employees, and persons acting in concert with them are permanently enjoined from any and all actions to further implement the 2018 Development Agreement as described in paragraph 1(a) above.

Dated: _____

September 30, 2020

HON. GEORGE J. ABDALLAH, JR.
Judge of the Superior Court



BY FAX

1 **PROOF OF SERVICE**

2 I, the undersigned, declare that: I am, and was at all times herein mentioned, a citizen of
3 the United States, over the age of 18 years; not a party to the within action or proceeding;
4 employed in the County of San Joaquin, State of California; and my business address is 121 E.
5 11th Street, Tracy, California 95376.

6 On March 19, 2020, I served the following document(s):

- 7 • **(PROPOSED) JUDGMENT**

8 by placing a true and correct copy thereof enclosed in a sealed envelope and served in the
9 manner and/or manners described below to each of the party(ies) addressed below:

<p>10 Kevin D. Siegel 11 Burke, Williams & Sorensen, LLP 12 1901 Harrison Street, Suite 900 13 Oakland, CA 94612 14 Email: ksiegel@bwslaw.com</p>	<p><i>Attorneys for Respondent City of Tracy, by and through the City Council</i></p> <p><i>KSiegel@bwslaw.com</i></p>
<p>15 Steven A. Herum 16 Herum Crabtree Suntag 17 5757 Pacific Avenue, Suite 222 18 Stockton, CA 95207 19 Email: sherum@herumcrabtree.com</p>	<p><i>Attorney for Real Parties in Interest Surland Communities, LLC</i></p> <p><i>sherum@herumcrabtree.com</i></p>
<p>20 Leticia Ramirez 21 City Attorney 22 City of Tracy 23 333 Civic Center Plaza 24 Tracy, CA 95376 25 Email: attorney@cityoftracy.org</p>	<p><i>Attorney for Respondent City of Tracy, by and through the City Council</i></p>

26 ~~XXX~~ **BY MAIL:** U.S. Postal Service by placing such envelope(s) with postage thereon
27 fully prepaid in the designated area for outgoing mail in accordance with this
28 office's practice, whereby the mail is deposited in a U.S. Mailbox in the City of
Tracy, California after the close of the day's business.

~~XXX~~ **BY ELECTRONIC MAIL:** I caused said document(s) to be transmitted
electronically to the addressee(s) designated above.

I declare under penalty of perjury under the laws of the State of California that the foregoing
is true and correct.

Executed on March 19, 2020 at Tracy, California


Amber Rocha

BY FAX

From: Steve Herum [REDACTED] >
Sent: Tuesday, April 6, 2021 3:24 PM
To: Public Comment <publiccomment@cityoftracy.org>
Subject: City Council Meeting of April 6, 2021 Regular Agenda 3.B.

Mayor and Members of the Council:

I represent Surland Communities.

If the Council determines to proceed with revisiting the DA amendment then my client will participate as you have requested. Alternatively, leaving the 2018 DA amendment undisturbed at this point is also fine with my client.

However, I emphasize that in any event a decision to change the DA amendment cannot, according to state law, be used as a basis to slow down the immediate processing of my client's pending land use applications. This would be a violation of state law.

Moreover, the land use applications are separate, distinct and unrelated to any issue surrounding the DA amendment or any litigation. They are land use applications and have a right to be promptly heard at a public hearing and the current delay in setting them for a public hearing is unwarranted.

Thus, to be absolutely clear:

One, my client did not ask for a review of the 2018 DA amendment but will participate in such a review occurs.

Two, notwithstanding the Council decision on revisiting the 2018 DA amendment, the pending land use applications should be promptly heard by the City Council.

Three, the two land use applications are unrelated to and not joined, and separate and distinct, from any issues or questions about the DA.

Steve Herum

[REDACTED]

Agenda Item 3.C
April 6, 2021

From: Wayne K. Templeton [REDACTED]
Sent: Tuesday, April 6, 2021 5:08 PM
To: Public Comment <publiccomment@cityoftracy.org>
Cc: Mary McGill [REDACTED]; Cindy Gustafson [REDACTED] Fran Block
Subject: 04/06/2021 Agenda Item 3C

Regarding 04/06/2021 Tracy City Council Agenda Item 3C:
Discuss Funding Plan Approach & Allocation For American
Rescue Plan Act (ARPA) & Provide Direction to Staff

Good Evening Madame Mayor and Honorable Council Persons

My Name is Wayne Templeton. I am a Tracy resident and an advocate for Older Americans residing in our fine City. We have Two questions re Agenda Item 3C:

1. Will any of the \$17.8 Mil. the City is expected to receive be targeted for programs to aid our Older Adult population? And will there be an opportunity for our input?
2. How will the City of Tracy promote "Older Americans Month" in May of this year and each year going forward. Will/can any of the ARPA funds be designated for this purpose?

Thank you in advance for hearing and responding to our questions.

From: Alvin Vaughn [REDACTED]
Sent: Tuesday, April 6, 2021 6:44 PM
To: Public Comment <publiccomment@cityoftracy.org>
Subject: Item 3D City Council Agenda April 6, 2021

I would like to address the prospect of consolidating the Parks, Arts, Transportation and Youth Advisory Commissions. I understand the desire to create synergy between the commissions to achieve common goals, but these four commissions have very distinct areas of focus.

As a member of the Transportation Advisory Commission, I can attest to some of the specialized projects we are currently engaged in, such as:

1. drafting e-scooter regulations,
2. overseeing the rollout of low-emissions buses, and
3. the creation of a new Airport Layout Plan

This work requires an interest and commitment to transportation, rather than the wide area of issues that a consolidated commission might handle.

I would suggest that when important issues arise that are of interest to more than one commission, a joint commission meeting be held.

Thank you for your consideration,

Alvin Vaughn
[REDACTED]

Items from the Audience
April 6, 2021

From: Miguel Esquivel [REDACTED]
Sent: Tuesday, April 6, 2021 2:15 PM
To: Public Comment <publiccomment@cityoftracy.org>
Subject: Item's from the Audience Agenda Item #4 April 6th City Council Meeting

I won't be up late enough for tonight's meeting or I would call in. There is a major safety issue which effects Edgewood and Redbridge in that our neighborhoods do not meet the City standard for emergency Fire response times. We have heard for 10 years that we are getting a new fire station. Where is it? I understand the "Avenues" section of Ellis is putting in the infrastructure as well as providing the money to get this station built. Why are the safety needs of our communities being neglected when the solution is right in front of us? We elected you as a Council to make our communities safe, and to look out for us. Tracy Hills has a new Fire Station going in where is ours? Council do whatever you need to in order to get this vital infrastructure project moving now and figure out how to get this Fire Station completed. If we cannot count on you as elected officials, then who will make our neighborhoods safe for medical and fire emergencies?

Respectfully and with great concern,
Miguel Esquivel