TRACY CITY COUNCIL	REGULAR MEETING MINUTES
September 2, 2014, 7:00 p.m.	
City Council Chambers, 333 Civic Center Plaza	*Web Site: www.ci.tracy.ca.us*

Mayor Ives called the meeting to order at 7:19 p.m., and led the Pledge of Allegiance.

The invocation was provided by Deacon Jack Ryan, St. Bernard's Catholic Church.

Roll call found Council Members Manne, Rickman, Young, Mayor Pro Tem Maciel, and Mayor Ives present.

Mayor Ives introduced new City Manager, Troy Brown.

City Manager Troy Brown presented the Employee of the Month Award to Eileen Solario, Administrative Services Department.

Mayor Ives presented Certificates of Appointment to Param Garewal, Nabeel Razi, and a Certificate of Recognition to Rebecca Fuller, Youth Advisory Commissioners.

1. CONSENT CALENDAR – Following the removal of Items 1.A and 1.I by Paul Miles, and 1.C and I.E by Jim Howell, it was moved by Council Member Rickman and seconded by Council Member Manne to adopt the consent calendar. Roll call vote found all in favor; passed and so ordered.

   B. Acceptance of the Slurry Seal Project (FY 2012-13) - CIP 73130B, Completed by Tefler Oil Company DBA Windsor Fuel Company of Pittsburg, California, and Authorization for the City Clerk to File the Notice of Completion – Resolution 2014-136 accepted the project

   D. Adoption of a Resolution Approving a Memorandum of Understanding With the South Side Community Organization of Tracy, California and Authorizing the Mayor to Execute the Agreement – Resolution 2014-137 approved the MOU.

   F. Approval of a General Services Agreement, Not to Exceed $240,000, With Advanced Building Cleaners, Inc., for Services Required for Street, Alley, and Parking Lot Sweeping; Authorize the City Manager to Execute Extensions and Any Minor Amendments Associated With this Agreement for Administrative Efficiency; and Authorize the Mayor to Execute the Agreement – Resolution 2014-138 approved the agreement.

   G. Authorization to Enter Into an Agreement With The State of California Department of Transportation, Related to the Portion of State Highway Route 205 from the West City Limits at Holly Drive to the East City Limits at MacArthur Drive, and Authorization for the City Manager to Execute Current and All Future Freeway Agreements, Including Any Amendments to Those Agreements – Resolution 2014-139 authorized entering into an agreement with the State.

H. Acceptance of the Tracy Boulevard Overlay Project – CIP 73130A, Completed by Knife River Construction of Stockton, California, and Authorization for the City Clerk to File the Notice of Completion – Resolution 2014-140 accepted the project.

J. Approve an Amendment to the Master Fee Schedule to Modify the Development Services Public Improvement Plan Check Fee – Resolution 2014-141 approved the amendment.

A. Approval of Minutes – Regular meeting minutes of May 20, 2014, and closed session minutes of August 19, 2014. Paul Miles, 1397 Mansfield Street, stated on May 20, 2014, under Items from the Audience he had provided more information on the City's failure to investigate his alleged complaints against the Police Chief than was included in the minutes. Mr. Miles also commented on a request made under Items from the Audience for an update on the Tracy Senior Advisory Commission. The minutes had included information from a handout which was given to the Council at the May 20th meeting. Mr. Miles requested the minutes be corrected. It was moved by Mayor Pro Tem Maciel and seconded by Council Member Manne to adopt the regular meeting minutes of May 20, 2014, and the closed session minutes of August 19, 2014. Voice vote found all in favor; passed and so ordered.

C. Authorize Replacement of Forty-Nine Existing Taser Devices and the Purchase of an Additional Thirty Seven Taser Devices, Along With Related Equipment from Pro Force in an Amount Not to Exceed $125,000 and Authorize the Mayor to Execute the Agreement – Jim Howell, 340 Hunter Trail, inquired if the replacement devices would also be digital. If so, Mr. Howell felt the $125,000 would be better spent elsewhere since the City would have to spend $125,000 or more every four years to replace them. Police Lieutenant Alex Neicu stated the replacements are also digital. They have a limited shelf life and a wear down factor which becomes more apparent each year. They are part of the City's perishable equipment which has to be replaced periodically. It was moved by Mayor Pro Tem Maciel and second by Council Member Manne to adopt Resolution 2014-142, Authorizing Replacement of Forty-Nine Existing Taser Devices and the Purchase of an Additional Thirty Seven Taser Devices, along With Related Equipment from Pro Force in an Amount Not to Exceed $125,000 and Authorizing the Mayor to Sign the Agreement. Voice vote found all in favor; passed and so ordered.

E. Approve a Reimbursement Agreement With the United States Fish and Wildlife Service for the Preparation of Technical Review and Consultation Services for the Tracy Hills Specific Plan Project – Jim Howell asked who pays for the preparation of Technical Review and Consultation Services for the project. Bill Dean, Assistant Director of Development Services, stated the City has a Cost Recovery Agreement with Integral Communities to cover all costs associated with processing the applications. In response to a question from Mr. Howell regarding whether Tracy Hills would pay, Mr. Dean stated eventually Tracy Hills would pay. It was moved by Mayor Pro Tem Maciel and seconded by Council Member Rickman to adopt Resolution 2014-143, Approving a Reimbursement Agreement With the United States Fish and Wildlife Service for Environmental Review and Consultation Work Related to the Tracy Hills Specific Plan Amendment Project

and Authorizing the City Manager to Execute the Agreement. Voice vote found all in favor; passed and so ordered.

I. Approve an Exclusive Negotiating Rights Agreement by and Between the City of Tracy and Andy Zarakani for the City-Owned Property Located at 729/741 Central Avenue and Authorize the Mayor to Sign the Agreement – Paul Miles stated that disposal of City owned property is required to be put out for public bid. Entering into an Exclusive Negotiating Rights Agreement (ENRA) with the petitioner and seeking to agree to a purchase price for the site would seem to bypass the open competitive bid process. Andrew Malik, Director, Development Services, stated the request is for approval of an ENRA for a challenged site with structural issues. It is not a purchase agreement. Mr. Miles pointed out the attachments to the staff report indicate the city and the developer will seek to agree on a purchase price. It was moved by Mayor Pro Tem Maciel and seconded by Council Member Rickman to adopt Resolution 2014-144, Approving an Exclusive Negotiating Rights Agreement by and Between the City of Tracy and Andy Zarakani for a City-Owned Property Located at 729/741 Central Avenue and Authorizing the Mayor to Execute the Agreement. Voice vote found all in favor, passed and so ordered.

2. ITEMS FROM THE AUDIENCE

Jim Howell, 340 Hunter Trail, stated a number of dead trees and shrubs had been removed from his neighborhood and inquired when the landscape crews would return. Maria Hurtado, Assistant City Manager, stated the landscape crews are in the process of addressing the weed and dead tree issue and will follow-up with a maintenance program. Ms. Hurtado offered to meet with Mr. Howell regarding his specific area.

Ms. McManus, President of the South Side Community Organization thanked Council for approving an MOU with the Organization.

Dave Helm welcomed Mr. Brown, City Manager, to Tracy. Mr. Helm thanked Maria Hurtado, Assistant City Manager, and Gary Hampton, Police Chief, for stepping up during the City Manager recruitment process. Mr. Helm suggested the Council consider reducing the number of consultants the City uses.

DEVIATION

4. PUBLIC HEARING TO CONSIDER AN APPEAL OF THE PLANNING COMMISSION DENIAL OF DEVELOPMENT REVIEW APPLICATION D14-0003 FOR A 45,000 SQUARE FOOT MEDICAL OFFICE BUILDING LOCATED AT 445 WEST EATON AVENUE AND A PARKING LOT AT 418, 424, 432, AND 434 WEST EATON AVENUE APPLICANT IS DAVID O. ROMANO AND PROPERTY OWNER IS SUTTER GOULD MEDICAL FOUNDATION, APPLICATION NUMBER APL14-0001 – Kimberly Matlock, Assistant Planner, presented the staff report and used a power point in her presentation.

The Sutter Gould Medical Foundation is in the process of expanding their medical campus on Eaton and Bessie Avenues. Staff supports Sutter's concept which will expand medical services offered to the Tracy community.

The project site is located on the southeast perimeter of the Medical Office (MO) zone where the Eaton Medical Plaza currently sits, adjacent to existing single-family homes zoned Medium Density Residential. Many properties in the MO zone are still occupied by residential uses that were constructed around the 1920's, prior to the establishment of the MO zone in 1988. Over time, several of these properties have been converted to medical offices with City permits.

Sutter's Development Review application proposes a new 45,000 square foot medical office building and associated parking areas with access from Eaton Avenue, Bessie Avenue, and Beverly Place. Sutter proposes to keep the Eaton Medical Plaza building operational while the new facility and parking areas are constructed. Eaton Medical Plaza building will then be demolished and parking areas will be constructed in a phased construction plan over approximately 18 months. Additional employee parking is proposed to be constructed on the south side of Eaton Avenue with two driveways onto Eaton Avenue. Sutter's proposed two-story building employs a mix of modern materials and colors.

While medical office uses are permitted, the City has an opportunity to ensure successful integration of the building and site improvements with the adjacent residential neighborhoods through the Development Review permit process. Site planning considerations include the following:

- Mitigation of light, noise, privacy, and undesirable aesthetic impacts of the building on neighboring residences
- Building location and architecture that is complementary with the buildings in the vicinity and neighborhood context
- Streetscape experience after the removal of buildings and trees currently lining Eaton Avenue
- Improved vehicular circulation by locating the driveways further from the intersections
- Improved pedestrian circulation by encouraging pedestrian use of the crosswalk when the building is closer to the intersection
- Loss of established mature on-site trees and street trees on Eaton Avenue

Final actions on Development Review permits are made by the City Council, the Planning Commission, and in some cases, the Development Services Director. Due to the community interest in the project, the Development Services Director determined that the community would be better served through the public hearing process at Planning Commission, which took place on March 26, 2014. Several members of the public spoke in opposition of the project as designed, citing reasons related to building proximity to houses, building height, undesirable aesthetic impacts, lack of sufficient parking, increase in traffic, detriment to the established neighborhood's character, loss of mature shade trees, and the unlikeliness of the Valley Oak surviving its extraction and replanting.

The concept of holding the building to the corner was also discussed at the March 26th public hearing. This concept is a design tool that is considered with any development project and is most successful when it achieves a higher quality design at prominent intersections. Following the discussion, the Planning Commission stated that while they are not opposed to Sutter's building and services expansion, the project could not be approved as designed and voted to deny the project.

Ms. Matlock closed her presentation by showing a series of slides which depicted the location and architecture of the homes, medical buildings, the hospital and a two-story medical office building in Stockton located on a street with parking behind.

Mayor Ives opened the public hearing.

Dave Romano, LDA Partners, used a power point in his presentation. Mr. Romano gave an overview of the site, the project and the services which would be provided at the facility. On October 3, 2013, a meeting was held with local residents and changes were made to the original plan. More changes were suggested by the Planning Commission in order to be sensitive to the neighborhood and to give Tracy the best possible project. Mr. Romano stated the site is zoned for this project and discussed access and circulation in and out of the building. Substantial changes have been made to the project and Mr. Romano added this is the best design for the community.

Jacob Beury, Project Manager, also used a power point in his presentation and stated he had met with the Planning Commission in March and discussed how to improve the project even further. Mr. Beury discussed pedestrian and vehicular access to the project, the materials which would be used, and the landscaping. Mr. Beury indicated the project would be a two story building replacing the three story building which is currently on the site.

Dr. David Pedersen, Family doctor with Gould Medical Group which became affiliated with Sutter in the 1990s, stated Tracy has a need for an integrated medical system which puts the patient first and focuses on patient care. This medical facility will partner with Sutter Tracy to provide one-stop shopping for patients in adult and pediatric medicine.

Dave Thompson, Chief Executive Officer, Sutter Tracy Community Hospital, stated the hospital has 550 employees, 300 of which live in Tracy. Fully occupied the facility will add 70 new non-physician jobs with a medical payroll of $4 million per year. With the addition of new physicians the payroll will increase to $6 million per year. Jobs include benefits and a pension plan. Additional jobs will be created as the number of patients increase. This facility will expand medical care in Tracy and throughout the surrounding communities. Three neighborhood meetings have been held and discussions have occurred with adjacent land owners. Several property owners have expressed their support of the project. Parking has also been improved not only for the new facility but also for the medical offices in the area. Several changes and enhancements to the project have been made, and Mr. Thompson asked Council to grant the appeal.

Pete Mitracos, Resident, on behalf of Concerned Neighbors of Sutter, offered a power point in his presentation, and stated he agreed with the decision made by staff. There is a lack of adequate parking on the site and traffic congestion will be increased. Mr. Mitracos gave an overview of Sutter's Central Valley Expansion history, the profit made by the various medical entities, and suggested that very little community benefit is received from Sutter. Mr. Mitracos questioned whether Sutter will increase the number of jobs or simply move doctors and staff from existing buildings.

Mr. Mitracos gave a brief overview of Sutter's interest in building at the Gateway Business Park, which after it failed resulted in Sutter purchasing Eaton Medical. In 2013

Sutter began discussions with City planning staff and in March 2014 the Planning Commission unanimously denied Sutter's application for the current project.

Mr. Mitracos discussed the parking situation and indicated the project could be short as many as 469 parking places. Mr. Mitracos stated site planning issues have not been addressed and suggested the project be sent back to planning staff. Mr. Mitracos compared a number of medical facilities in the area which are similar in size to the current project but which are built on much larger sites. In closing, Mr. Mitracos stated the City needs to set the standards and uphold them, and asked Council to deny the appeal.

Arch Bakerink, 1030 Central Avenue, questioned the financial statements presented by Mr. Mitracos. Mr. Bakerink was concerned with what would happen if the project is not built and stated he believed the hospital would lose doctors. Mr. Bakerink believed the project would create jobs and more highly paid and qualified health care workers, and concluded by stating his support for the project.

Steve Nicolaou, 1068 Atherton Drive, suggested that any Council Member who sits on a board which receives donations from the Tracy Hospital Foundation should consider recusing themselves from voting on this item.

A number of handouts in support of, and in opposition to the project were provided to the Council from residents who were unable to attend the meeting.

Residents who spoke in opposition to the project voiced their concerns related to traffic, pollution and parking issues, loss of peacefulness in the area, the building violates the character of the neighborhood and will contribute to urban blight, the project does not meet the requirements of the City's General Plan, the project is too large for a residential area and Gateway would be a better fit, and the lack of an environmental impact report.

Other speakers agreed the facility was needed but not at the proposed location.

Residents who spoke in favor of the project cited a belief in the Sutter vision, the fact that the owner has the right to build, the medical care provided for battered and homeless women, the quality health care services which will be brought to Tracy, doctors will have quicker access to patients in emergency care and ICU, and the fact that the area is zoned for medical office buildings.

Mayor Ives closed the public hearing.

Mayor Ives recessed the meeting at 9:40 p.m. The meeting was reconvened at 9:50 p.m.

Council Member Rickman referred to the Planning Commission minutes of March 26, 2014, and asked staff to comment. Bill Dean, Assistant Director, Development Services responded the project is not inconsistent with the General Plan, but could be improved by modifying the architecture and relocating the building further away from the residents.

Council Member Rickman referred to the General Plan Objectives and Design goals and Standards included in the staff report and asked why it was important to have this

building in this position. Mr. Dean responded because it is a site that provides an opportunity to create a more pedestrian feel and one way to achieve that is to bring the building up to the corner. This site also provides an opportunity to move a 45,000 square foot development further away from the residents.

In response to a question from Council Member Rickman regarding the neighborhood's historical component, Mr. Dean responded when new development occurs in certain neighborhoods the City tries to blend the development with the architectural theme in order to soften the look and better integrate the buildings.

Council Member Rickman asked Mr. Dean to comment on the traffic aspect. Mr. Dean responded when staff considers a development it is not just vehicular traffic, but an opportunity to look at multi modal connectivity and mobility throughout the community. One way to do that is to create development that adds to the pedestrian safety feel of an area.

Council Member Manne stated significant changes have been made by the Planning Commission and asked at what point the item is no longer an appeal but a new agenda item. Mr. Dean responded this item is an appeal of an application which was sent to Planning Commission and denied. The item before you has not been evaluated in detail by staff. Dan Sodergren, City Attorney, stated Council should make its decision on what staff presented originally. If Council likes what was proposed by Sutter the changes could be incorporated into the Conditions of Approval and would not need to go back to the Planning Commission. However, at the discretion of the Council the changes could be sent back to the Planning Commission.

Council Member Manne asked why an EIR had not been done. Mr. Dean responded when denial of a project is recommended a CEQA analysis is not required. However, if the application moves forward some issues would be revisited including traffic studies.

In response to a question from Council Member Manne regarding whether Council Members would have to recuse themselves from voting on this issue if they sat on the board of a non-profit organization which received donations from the Hospital Foundation, Mr. Sodergren responded he did not see it as a conflict. Mr. Manne stated he did not have a conflict.

Council Member Rickman asked what the hours of operation would be for the facility, and how an increase in the number of patients would be accommodated. David Camboia, Director of Business Development for Sutter Gould Medical Foundation, stated the facility will serve 20,000 initially, and 45,000 patients with a full complement of staff. Normal hours of operation would be 8 a.m. to 5 p.m. Some departments would be able to offer services from 6 a.m. to 8 p.m., but that is not the intent at this time. However, in the future, if the building reaches full capacity the hours will be extended to accommodate the additional patients.

In response to a question from Council Member Rickman regarding the building setup, Mr. Beury stated the building is similar to other Sutter medical facilities in many ways, although this facility has many specialty service areas which are designed differently and located closer to the areas they serve. The layout of this building has been designed for the site, the neighborhood, proximity to the hospital and for the specialties it offers.

Council Member Rickman asked why the building cannot be relocated if the layout is designed for the site. Mr. Beury responded that moving the building would create a number of different problems including placing a busy entrance next to the homes. Mr. Beury responded the facility has been built to a campus design which is centered around an open area with buildings flanking it. Moving the building would weaken the campus design.

Mayor Pro Tem Maciel stated he had visited the site and talked with the residents who had offered a number of alternatives regarding how the building sits on the site. Mayor Pro Tem Maciel stated if Council is to embrace the building at this site, it will generate traffic, and it will change the character of the neighborhood. However, the Council has an entity before them willing to spend a lot of money to create jobs which will add millions of dollars to the community through payroll, and will enhance the level of medical service to residents. Mayor Pro Tem Maciel stated he believed the project does adhere to the General Plan provisions, and if the appeal is granted Sutter will continue to have an obligation to be a good neighbor. Mayor Pro Tem Maciel stated he would support the appeal with the conditions that have been laid out. In response to a question from Mayor Pro Tem Maciel related to traffic and environmental review, Mr. Dean stated some type of environmental review and traffic study would be conducted. Mayor Pro Tem Maciel stated he was not sure some of the concerns rise to the requirements of the General Plan and added he believed the facility would be an improvement to the neighborhood.

Council Member Young suggested the Council step back and listen to the community. The Council is challenged to look at in the bigger picture to determine what is best for Tracy. The hospital will be serving newer generations long after current residents are gone, but added the Council has to look at what it wants for the City now. Council Member Young stated many of the issues that had been brought up were provided with alternatives in the presentations.

Council Member Manne stated that throughout the process he had kept an open mind. The decision is not an easy one, but Council Member Manne stated he was concerned with the health and safety of the community and added he had to agree with the applicant.

Council Member Rickman stated Sutter has benefitted the community and he believed this project was a good one which would provide an economic boost to the City. However, there has to be a balance between Sutter and the surrounding neighborhood. Council Member Rickman added that taking into consideration the General Plan requirements he was concerned with the lack of privacy, devaluation of property, aesthetic impact and the buffer zone. Council Member Rickman stated he wanted to know specifically why the building could not be moved to the corner to provide a buffer, and added he wanted the project sent back to Planning Commission to have some of the residents' concerns addressed.

Mayor Ives stated many years ago a decision was made to locate medical facilities in the area and questioned whether where this facility was located on the site would make a substantial difference. The medical zone has served the community well and if this facility improves medical services to the community it is worthy of further evaluation. Education, jobs and healthcare are important to the whole community. Mayor Ives stated he was willing to grant the appeal with the understanding that there is some improvement that the public process has determined. Not every change the neighbors

want has been granted, but Sutter has made many changes. Mayor Ives added he was in favor with the understanding that the application will have to go through the standardized process.

In response to a question from Council Member Rickman, Mr. Sodergren stated Council can deny the appeal, or uphold the appeal with or without conditions. If the motion is approved to uphold the appeal with conditions as proposed by the applicant, staff would bring back draft findings, draft Conditions of Approval and draft environmental documents for Council to review.

Council Member Manne motioned to approve the appeal with conditions as relayed by the applicant. Mayor Pro Tem Maciel seconded the motion. Voice vote found Council Member Manne, Mayor Pro Tem Maciel, Council Member Young and Mayor Ives in favor; Council Member Rickman opposed. Motion carried 4:1.

Mayor Ives recessed the meeting at 10:45 p.m. The meeting was reconvened at 10:50 p.m.

Mayor Ives announced that agenda item 5 would be rescheduled to October 7, and agenda items 7 and 8 would be rescheduled to a later date.

3. PUBLIC HEARING TO CONSIDER ADOPTION OF A RESOLUTION REVISING THE IMPLEMENTATION GUIDELINES OF THE RESIDENTIAL GROWTH MANAGEMENT ORDINANCE (GMO) – Bill Dean, Assistant Director, Development Services, presented the staff report. The GMO, established in 1987, has been amended several times in response to General Plan updates, new and amended Specific Plans, changing demands for residential housing units, and Measure A. The GMO Guidelines were developed to provide policy direction to the development community, staff and the Growth Management Board in administering the GMO, as amended by Measure A. The most recent amendment to the GMO Guidelines was completed in 2012 when significant decisions regarding locational/project priorities were made.

The amendment to the GMO Guidelines would modify the timing of RGA applications and allocations. When the current GMO Guidelines were adopted, it was anticipated that a number of small development projects would begin construction at varying times in 2013 and 2014. The Guidelines were established to allow applications for RGAs to be received and processed at any time during those calendar years in order to facilitate those projects being moved through the entitlement process quickly. In 2012, it was envisioned that a more stringent application deadline would better facilitate RGA allocation and GMO implementation for years beyond 2014. Accordingly, the GMO Guidelines currently contain strict, once a year RGA application requirements.

While a number of residential projects have moved forward in 2013 and 2014, there are still several that are completing the development application process and wish to begin construction at various timeframes throughout 2015 and 2016. Allowing the Growth Management Board to act as needed in 2015/2016 as opposed to only once a year would greatly facilitate the completion of these projects.

An extension for an additional two years of being able to receive RGAs at any time in the calendar year (through 2016) would help more projects obtain permits during the next two years, as many permits are available and larger projects are not yet ready to begin

construction. Any project vested to prior versions of the GMO and GMO Guidelines would still be subject to those guidelines.

The adoption of these GMO Guidelines is not subject to the California Environmental Quality Act because it is not a project which has the potential to cause a significant effect on the environment. All development projects are required to comply with CEQA as a part of their project approvals, and all of the potential environmental impacts are studied and mitigated through the development process, not through the administration of the GMO.

The GMO Guidelines are also subject to Government Code Section 6583.6, relating to residential growth limitations. This section requires that any ordinance which limits the number of housing units that may be constructed on an annual basis to make findings as to the public health, safety and welfare of the City to justify the reduction of housing opportunities in the region. The proposed changes to the GMO Guidelines will not be detrimental to the heath safety and welfare of the residents of Tracy because they aid only in the administration (i.e. timing of RGAS) of the existing regulations within the GMO.

Mayor Ives opened the public hearing. Since there was no one wishing to address the Council the public hearing was closed.

Mayor Pro Tem Maciel motioned to adopt Resolution 2014-145, Revising the Implementation Guidelines of the Growth Management Ordinance. Council Member Manne seconded the motion. Voice vote found all in favor; passed and so ordered.

5. DISCUSS AND PROVIDE DIRECTION ON A CITY COUNCIL POLICY FOR FILLING CITY COUNCIL VACANCIES AND VACANCIES OCCURRING IN THE OFFICE OF MAYOR – Item rescheduled to October 7, 2014.

6. APPROVE THE SAN JOAQUIN COUNTY MASTER RADIO COMMUNICATIONS PLAN; AUTHORIZE A LAND LEASE AGREEMENT FOR INSTALLATION, MAINTENANCE AND OPERATION OF A COUNTY OWNED PUBLIC SAFETY RADIO COMMUNICATIONS TOWER AND EQUIPMENT WITH THE COUNTY OF SAN JOAQUIN (“RADIO TOWER”); APPROVE AN AMENDMENT TO THE JOINT USE AGREEMENT BETWEEN THE CITY AND THE COUNTY FOR COMMUNICATIONS FACILITIES TO INCLUDE THE RADIO TOWER; APPROPRIATE $2,500,000 DOLLARS FROM THE CITY’S GENERAL FUND TO CIP # 71050 FOR NEW COMMUNICATIONS EQUIPMENT AND SITE IMPROVEMENTS; AND AUTHORIZE THE MAYOR TO EXECUTE A PURCHASE AGREEMENT FOR RADIO COMMUNICATIONS EQUIPMENT WITH MOTOROLA INCORPORATED FOR AN AMOUNT NOT TO EXCEED $2,500,000 – Lani Smith, Support Operations Manager, presented the staff report. On April 16, 2013, the City adopted a Citywide Public Safety Master Plan (Resolution 2013-56). The Master Plan identifies the need for a radio communications tower, equipment, and appurtenances to serve new development and to update and improve existing communications coverage throughout the City. The Master Plan also anticipates that without the Radio Tower new development will impact critical contact between emergency field units and the communications center. Also, radio coverage is needed in areas the existing communications system does not currently cover.

Staff has met with property owners and land developers to discuss the impact of new development and to identify funding strategies to fund the Radio Tower through a combination of developer fees, grant awards and City funds.

The Radio Tower will be a joint project between the City and County that continues to meet the goals of the Master Radio Communications Plan by expanding radio coverage for and between the City and County. The proposed radio coverage expansion is in direct compliance with the Master Radio Communications Plan.

San Joaquin County owns and operates a wide variety of radio equipment and radio frequencies that serve the communication needs of local public safety departments and government agencies. In March 2008, the City and County entered into a Joint Use Agreement for Communications Facilities. Per the Agreement, the City needs to use County-owned equipment as part of its communications infrastructure. Since the Agreement is specific to the tower located at the Tracy Police Department staff will amend the agreement to include the new Radio Tower. The City and County identified a need to install a second site consisting of the Radio Tower. Extensive research was conducted to locate a Radio Tower at a beneficial location for both the City and County. The City owns real property located at 15178 W. Schulte Road, APN: 209-230-29, in Tracy California (the "Property"). The City intends to lease the Property to the County so the County can build the proposed Radio Tower. In exchange for leasing the land, the County would install, maintain, and operate the Radio Tower.

The City and County worked collaboratively to facilitate joint use of radio communication services for the San Joaquin County Operational Area. The Plan sets goals to establish a county wide public safety digital simulcast infrastructure to serve as the building block for interoperability. This infrastructure would allow public safety agencies to have a single countywide interoperability channel for not only emergency communications in a disaster but also for daily tactical activities. Staff recommended that the City Council formally adopt the Plan which will augment the Public Safety Master Plan by articulating specific methods to improve public safety communications.

To accommodate the Radio Tower project, a land lease of City property is required. Staff proposed that the City lease the property to the County for the purposes of it becoming and remaining a radio site with a 180' communications tower with a County built and owned equipment shelter and generator. The proposed lease provides for the City to install and provide the access road and chain link fencing with access gate to prevent unauthorized entry onto the Property. The cost for the site improvements is projected to be $250,000. City and County staff also proposed amending the Joint Use Agreement for Communications Facilities to include the new Radio Tower.

The proposed radio system equipment from Motorola has been priced to comply with the Houston Galveston Area Council Cooperative Purchasing Agreement. This is a competitively bid nationwide cooperative purchasing agreement that the City of Tracy can purchase from pursuant to Tracy Municipal Code section 2.20.220.

The proposed Motorola K-Core for Tracy Police can directly connect and interface the UHF Conventional System to the San Joaquin County System as a Conventional Sub-System for departmental interoperations in the event of a multiple agency crisis or event. This provides Tracy Police with the same System Level capabilities as the San

Joaquin County System including the same dispatch screens and infrastructure resources, and also allows San Joaquin County the same capabilities as Tracy Police. Additionally, when San Joaquin Countywide System implements ISSI (Project 25 Inter-RF Subsystem Interface P25 ISSI), this will provide Tracy Police the ability to interoperate with Sacramento County and other Motorola P25 Systems via the ISSI interface and retain all Motorola features and capabilities. The proposed system provides system level redundancy for the Tracy Police Department, sharing resources, and complete interoperability with San Joaquin County and is a complete standalone system that does not need to rely on the county system to operate. Lastly, the proposed Motorola K Core Communications System for Tracy Police is capable of supporting trunking functionality without having to replace proposed equipment. The consoles and radios are capable of interoperating with the San Joaquin County wide trunked system as proposed in the San Joaquin County Master Plan.

For the reasons stated above, and based on the written approval from the City Manager Motorola Communications Incorporated qualifies as a sole source vender pursuant to Tracy Municipal Code section 2.20.180(b)(2). Several costs are associated with the Radio Tower project; however this report addresses costs related to the purchase of tower equipment and a land lease agreement between the City and the County for installation, maintenance, and operation of a County-owned radio communications tower.

The cost to purchase radio communications equipment from Motorola is approximately $2.5 million. This cost will be shared between the City and applicable developers, although the City would be reimbursed approximately $1.3 million in developer fees. The City will initially fund the full cost of the communications equipment from its General Fund. The development community will reimburse the City their respective share of the tower equipment cost and other related expenses over a period of time.

The land lease agreement between the City and the County provides for the lease of City land to the County in exchange for the construction, maintenance, and operation of a County-owned radio communications tower which the City will be allowed to use for its radio communications. It is anticipated that the County will secure a grant to build the tower and use County funds to purchase and install the County and City radio communications equipment on the tower. The City will be responsible for constructing and maintaining an access road to the communications tower and installing fencing to prevent unauthorized entry. These costs are projected to be $250,000 and are included in the recommended appropriation from the General Fund Balance.

Although not known at this time, it is anticipated that a future need for radio communications equipment exists for fire services. After the equipment needs have been identified, development impact fees will need to be adjusted accordingly. The Radio Tower will be built in a manner that will support the Fire Department's communications needs.

Entering into a lease with San Joaquin County is statutorily exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15269 (c) related to specific actions necessary to prevent or mitigate an emergency. Providing land via a lease to the County for the location of critical public safety equipment helps to prevent and mitigate emergencies. San Joaquin County, the entity constructing the tower is separately conducting CEQA review for construction of the tower.

Council Member Rickman inquired if the tower would improve radio reception in Corral Hollow Canyon. David Newaj, Assistant Director, Information Services Department, San Joaquin County, responded the new tower would improve reception in the Canyon.

Mayor Ives invited public comment.

George Riddle, 1850 Harvest Landing Lane, asked if there would any room on the antennae for amateur radio repeaters. Jeremy Watney, Police Captain, responded there will be plenty of room on the tower, since in the future, the Fire Department intends to utilize the tower as well.

Dave Helm stated he hoped the system would be seamless so police and fire could communicate on the same radio system. Mr. Helm added he strongly supported this system.

Dave Anderson, 1940 Earl Way, reiterated Mr. Riddle's concerns regarding whether the amateur radio emergency network would be supported. Mr. Anderson asked if the tower would be lighted since it is on the approach path to the airport. Ms. Smith stated the tower would be lighted and painted.

Mayor Pro Tem Maciel motioned to adopt Resolution 2014-146, Approving the San Joaquin County Master Radio Communications Plan; Authorizing a Land Lease Agreement for Installation, Maintenance and Operation of a County Owned Public Safety Radio Communications Tower and Equipment with the County of San Joaquin ("Radio Tower"); Approving an Amendment to the Joint Use Agreement Between the City and the County for Communications Facilities to Include the Radio Tower; Appropriating $2,500,000 from the City's General Fund to CIP 71050 for new Communications Equipment and Site Improvements; and Authorizing the Mayor to Execute a Purchase Agreement for Radio Communications Equipment with Motorola Incorporated for an Amount Not to Exceed $2,500,000. Council Member Rickman seconded the motion. Voice vote found all in favor; passed and so ordered.

7. RECEIVE UPDATE ON THE CITY COUNCIL GOVERNANCE STRATEGIC PRIORITY FOR FISCAL YEAR 2013-15 – Rescheduled to a later date.

8. RECEIVE UPDATE ON CITY COUNCIL QUALITY OF LIFE STRATEGIC PRIORITY FOR FISCAL YEAR 2013-15 – Rescheduled to a later date.

9. APPROVE RESPONSES TO THE 2013 - 2014 SAN JOAQUIN COUNTY GRAND JURY REPORTS ON: (1) TRACY MUNICIPAL AIRPORT: DEVELOPMENT VS. SAFETY ZONES (CASE NO. 1213); AND (2) AGENCY APPROVAL OF RESPONSES TO GRAND JURY REPORTS: DO THEY KNOW WHAT THEY APPROVE? (CASE NO. 1613) – Dan Sodergren, City Attorney, and Maria Hurtado, Assistant City Manager presented the staff report and used a power point in their presentations. The 2013-2014 San Joaquin Grand Jury issued two reports relating to the City of Tracy: (1) Tracy Municipal Airport: Development vs. Safety Zones (Case No. 1213); and (2) Agency Approval of Responses to Grand Jury Reports: Do They Know What They Approve? (Case No. 1613). Under state law the city needs to respond to the Grand Jury within 90

days. Mr. Sodergren presented the draft response to Case No. 1613 and recommended the Council approve the response.

Mayor Ives invited public comment.

Robert Tanner, 1371 Rusher Street, stated he agreed with the City's response to Case No 1613, that future responses to Grand Jury Reports will be placed on the City's regular agenda for discussion and consideration.

With regard to Case No. 1613, "Agency Approval of Responses to Grand Jury Reports: Do They Know What They Approve? " it was moved by Mayor Pro Tem Maciel and seconded by Council Member Rickman to adopt Resolution 2014-147 Approving the response and authorizing the Mayor to sign the letter. Voice vote found all in favor; passed and so ordered.

City Attorney Sodergren and Assistant City Manager Hurtado presented the Recommendations and Findings, to Case No. 1213, Tracy Municipal Airport: Development vs. Safety Zones (Case No. 1213).

Mayor Ives invited public comment.

Robert Tanner, 1371 Rusher Street, inquired what the penalty would be if the contractor did not comply with the requirements. Mr. Sodergren responded failure to comply could result in the City taking steps to void the contract (Section 5.0, Finding F 5).

Steve Nicolaou,1068 Atherton Drive, stated he agreed with the City's finding on Section 5.0. On Section 1.0, F 1, Mr. Nicolaou disagreed with the City's response regarding City staff provided inaccurate and incomplete information. Mr. Nicolaou stated he also disagreed with Section 4.0, Finding F 4, Airport Classification and Future Development. On finding F2.1, Mr. Nicolaou agreed nothing was brought to Council for approval, however, Mr. Nicolaou referred to a draft agreement dated April 18, 2013, and read into the record from Article 2: Payment Provisions, Section 2.1 Payment by Surland (2.1.1); Section 2.2 Payment of Fuel Fees by Tracy Air Center (2.2.1), and Section 3.2 Disbursement to Surland of Fuel Fees, (3.2.1).

Mr. Nicolaou entered into the record two documents including the draft agreement dated April 18, 2013, entitled "Minimum Annual Payment Guarantee Agreement," and a letter from Surland's attorneys, Miller, Starr, Regalia, 1331 N. California Blvd, Walnut Creek, CA 94596, dated October 15, 2013, addressed to Mayor Brent H. Ives and Members of the City Council, Re: Surland Communities LLC; Response to Recent and False and Scurrilous Attacks Regarding Tracy Airport.

Mark Connolly, Attorney, 121 E. Eleventh Street, stated the City was in violation of Penal Code section 933.05. Mr. Connolly read into the record a handout dated September 2, 2014, addressed to the Mayor and Members of the City Council regarding Grand Jury Report 2013-2014 Case No. 1213 - Tracy Municipal Airport: Development of Safety Zones. Mr. Connolly suggested the proposed responses included in the staff report should be rejected and the recommendations of the Grand Jury implemented.

Dave Helm commented on the following sections of Case No. 1213:

Section 1, Staff Reports Provided to the City Council, Finding F.1 – City staff provided inaccurate and incomplete information to the City Council which could jeopardize the eligibility for the City receiving future grants. Mr. Helm stated the Council did receive incomplete information and suggested the City's response was inaccurate.

Section 2, Business Proposal to the City of Tracy, Finding F 2.1 – The Tracy City Council did not enter into any written contractual agreement related to any of the contingencies contained in the Airport Agreement Memorandum. However, language in the AAM gave a clear perception that there was an agreement between City staff and the local developer to undertake the contingencies in the memorandum. Mr. Helm stated the City Manager is authorized to sign contracts up to $50,000, and asked if there was an agreement signed by the City Manager, under the authority of the Tracy Municipal Code, for $50,000.

Section 3, City Acceptance of Third Party Payments, Finding F.3 - There are no adopted policies or procedures for the City to accept a third party check for a debt owed to the City under a contractual agreement with a private firm. Mr. Helm stated on June 18, Council agreed to shorten the runway. On June 19 the check for $50,000 was cashed.

Section 4, Airport Classification and Future Development, Finding F.4 - The change in the Tracy Airport runway length, requested in the Airport Agreement Memorandum, could have resulted in significant changes in the Ellis Specific Plan uses and densities allowed to be developed within the safety zone. Mr. Helm stated the fact that the length of the runway would have no bearing on development was untrue.

Section 5, City Review of Business Licenses, Finding F.5 – The City processed an amendment to the airport fuel operator's contract without checking the current status of the operator's license. Mr. Helm stated not only did the City not check the status of the operator's license, but shortly thereafter processed an amendment that benefitted the operator.

Mr. Helm stated the responses were incorrect and encouraged Council to do the right thing.

Dave Anderson, 1940 Earl Way, stated he disagreed with the City's response to Finding F.1. Regarding Finding F.4., Mr. Anderson disagreed with the City's response adding that the increase in the number of houses from one house per acre to between 4-9 houses per acre would have net Surland $250m.

Following a lengthy Council discussion the Findings and Recommendations as amended were approved as follows:

Section 1.0 - Staff Reports Provided to the City Council

Finding - F 1 City staff provided inaccurate and incomplete information to the City Council which could jeopardize the eligibility for the City receiving future grants.

The City agrees with this finding. City staff provided inaccurate and incomplete information to the City Council relative to the information it had at the time.

Recommendation - R 1 City Council direct staff to conduct a comprehensive review for the Council by September 30, 2014, of the FAA and Caltrans safety zone requirements related to development and mandated requirements on runway lengths at the Tracy Airport to insure the City is in compliance for future grant funds.

This recommendation will be implemented by December 31, 2014. By that time, City staff will conduct a comprehensive review for the City Council of the FAA and Caltrans safety zone requirements related to development and mandated requirements on runway lengths at the Tracy Airport to insure the City is in compliance for future grant funds.

Section 2.0 - Business Proposal to the City of Tracy

Findings

F 2.1 The Tracy City Council did not enter into any written contractual agreement related to any of the contingencies contained in the Airport Agreement Memorandum. However, language in the AAM gave a clear perception that there was an agreement between City staff and the local developer to undertake the contingencies in the memorandum.

The City agrees that the Tracy City Council did not enter into any written contractual agreement related to any of the contingencies contained in the Airport Agreement Memorandum. A majority of the City Council agrees that, based on the language in the AAM, a perception could be gleaned that there was an agreement between City staff and the local developer to undertake the contingencies in the memorandum.

F 2.2 City leaders did not approve any amendment to the ESP as requested by the local developer.

The City agrees with this finding.

Recommendation

R 2 The Tracy City Council adopt a policy by September 30, 2014, requiring full disclosure of any actions taken by the City on proposed substantial changes to major development projects with the City of Tracy.

This recommendation will not be implemented as it is neither warranted nor reasonable.

Section 3.0 - City Acceptance of Third Party Payments

Finding

F 3 There are no adopted policies or procedures for the City to accept a third party check for a debt owed to the City under a contractual agreement with a private firm.

The City disagrees with this finding. The City is subject to state law requirements relating to acceptance of checks. Government Code section 6157 provides that a city must accept certain personal checks and all corporate checks, cashier's checks, money orders, or other draft methods, drawn in its favor or in favor of a designated city official,

in payment for any license, permit, or fee, or in payment of any obligation owing to the public agency.

For personal checks, a city can require the person issuing the check to furnish proof of residence in this state and that the check be drawn on a banking institution located in this state. Other than this limited instance, a city may not refuse to accept a check, money order, or other draft based on the person or corporation issuing the check or the banking institution involved.

Recommendation

R 3 The Tracy City Council adopt a policy by September 30, 2014, relating to the acceptance of third party payments for contractual obligations to the City of Tracy.

This recommendation will be implemented as soon as practicable. The City will include a reference to Government Code section 6157 in its Financial Policies the next time such policies are reviewed and updated.

Section 4.0 - Airport Classification and Future Development

Finding

F 4 The change in the Tracy Airport runway length, requested in the Airport Agreement Memorandum, could have resulted in significant changes in the Ellis Specific Plan uses and densities allowed to be developed within the safety zone.

The City agrees with this finding.

The uses and densities contained in the Ellis Specific Plan are required to be consistent with the ALUP (unless overridden by the City Council). The length of an airport's runway does play a factor in establishing safety zones within an ALUP, however, it is not the only factor. For example, although the length of the Runway at issue here meets criterion for a median general aviation safety zone, the 2009 San Joaquin County ALUP established a "hybrid" safety zone for the Runway. Therefore, even if the length of the Runway was somehow modified by the City, the Ellis Specific Plan would still have to be consistent with the current ALUP. The length of the Runway does not directly impact the uses and densities contained in the Ellis Specific Plan; such uses and densities are, however, directly impacted by the ALUP.

Section 5.0 - City Review of Business Licenses

Finding

F 5 The City processed an amendment to the airport fuel operator's contract without checking with the current status of the operator's State license.

To the extent the Grand Jury is referring to the operator's corporate status with the California Secretary of State's Office, the City agrees with this finding.

Recommendation

R 5 The Tracy City Council adopt a policy by September 30, 2014, requiring the review of the current status of a business' State license when any applicable City contract is proposed to be amended or renewed.

This recommendation will not be implemented because it is not warranted and is not reasonable. However, the City will include the following language in all of its standard form contracts:

Contractor shall provide City proof that it has filed all required documents and/or forms with the California Secretary of State and has met all requirements of the Franchise Tax Board, to the extent such requirements apply to Contractor. By entering into this Agreement, Contactor represents that is not a suspended corporation. If Contractor is a suspended corporation at the time it enters into this Contract, City may take steps to have this Agreement declared voidable.

It was moved by Council Member Rickman and seconded by Council Member Manne to adopt Resolution 2014-147 approving the responses as amended in Grand Jury Case No. 1213, "Tracy Municipal Airport: Development vs. Safety Zones." Voice vote found all in favor; passed and so ordered.

10. ITEMS FROM THE AUDIENCE - None

11. STAFF ITEMS – None

12. COUNCIL ITEMS.

A. Appoint an Applicant to the Transportation Advisory Commission from the Commission's Eligibility List – There is a vacancy on the Transportation Advisory Commission due to the resignation of Commissioner O'Neil. The last time appointments were made to the Transportation Advisory Commission was April 15, 2014. At that time the subcommittee nominated two applicants to fill vacancies on the Transportation Advisory Commission and recommended three applicants be placed on an eligibility list. Council confirmed the subcommittee's nomination and the creation of an eligibility list.

Following Mr. O'Neill's resignation staff contacted Mr. Helpley who indicated he was interested in completing the remainder of Mr. O'Neill's term. William Helpley was appointed to fill the remainder of a vacated term commencing on September 3, 2014, and expiring on April 30, 2015.

B. Appointment of City Council Member to Duel Vocational Institution Advisory Committee – At the Council meeting held on August 19, 2014, Mayor Pro Tem Maciel stated he could no longer serve on the Duel Vocational Institution Advisory Committee due to a scheduling conflict.

The Committee serves in an advisory capacity to Deuel Vocational Institution. The Committee's primary objective is to promote effective communication between the Institution and the community at large. Evelyn Tolbert, a former City Council Member, serves as the resident on the Committee.

Following a brief discussion Council decided to revisit the issue during the annual review of Council appointments in January 2015.

13. ADJOURNMENT – It was moved by Council Member Manne and seconded by Council Member Rickman to adjourn. Voice vote found all in favor; passed and so ordered. Time 1:19 a.m., September 3, 2014.

The above agenda was posted at the Tracy City Hall on August 28, 2014. The above are summary minutes. A recording is available at the office of the City Clerk.

_____
Mayor

_____
Interim City Clerk