

**January 14, 2002**

The regular meeting of the Tracy City Council was called to order at 6:30 p.m., Monday, January 14, 2002 in the Council Chambers of the Municipal Building. The following council members were present: S. Ferrazzano, C. Hannasch, J. Otto-Arvizu, R. Caron, and R. Stobb. Absent were: M. Fraser and D. Berndt. Also present were staff members: A. Koopman and F. Nielsen.

Hannasch asked for any additions or corrections to the minutes from the December 10, 2001 City Council meeting. Motion by Stobb, second by Caron, to approve said minutes as written. All voted in favor of the motion.

Hannasch asked if there were any additions or deletions to the agenda. He had one deletion (4B) the public hearing on a nuisance complaint at 360 Harvey Street. Motion by Caron, second by Stobb, to approve the agenda as now written. All voted in favor of the motion.

Nielsen reported there is a hazardous building located at 472 3<sup>rd</sup> Street in which there has been fire damage. The case was investigated and prosecuted by the county attorney and the court matter has been concluded. Nielsen stated the property remains in the same condition as after the fire. He indicated Jim Kerr has been working on the matter and the owner has been contacted but has not responded in regards to gaining access to property to investigate the condition of the house. Kerr has recommended to seek an administrative search warrant. Nielsen said the county has offered its court file for review. Motion by Stobb, second by Caron to seek an administrative search warrant. All voted in favor of the motion.

Hannasch indicated the address was incorrect on the order to repair or raze and remove a hazardous building which is at 136 State Street, not 6<sup>th</sup> Street as stated on the order. Nielsen stated the Council has discussed this property before. The owner is deceased but the property has not been transferred or awarded to a new owner. Nielsen said there is also a mortgage holder that must be notified concerning any proceedings with the property. He said Kerr's thought was to have the Council review the proposed order and take action on it. Motion by Caron, second by Stobb, to proceed with issuing the order to repair or raze and remove the home. Stobb asked if there had been any discussions with George Reese and if Reese had any plans or time lines for the house. Nielsen replied that Reese is more of a contact regarding the property and it has not been legally transferred to a new owner. Stobb asked if that is something the City will have to consider in issuing this order. Nielsen replied it is and all parties involved will need to be notified of the order. All in favor of the motion stated above.

Shorty Engel presented a copy of the updated financial status of the Aquatic Center and stated all the amenities have now been purchased. He added the original figure of \$313,000 was pretty accurate. Engel hopes that the concession stand and bath house fixtures will be less than planned to help offset some costs. He said there have been six good weeks of donations and he received another \$900 just today. Engel said he and Koopman are currently working on proposals from Coke and Pepsi. He said the Eagles Club is meeting tonight and will discuss a donation to the aquatic center as well.

Koopman stated that before the end of year she notified Council members that the City had received an insurance refund from Principal Financial for many years of investments that were sold off. The amount received was \$99,678 and it is currently sitting in the swimming pool fund. Koopman said she would like to add that we don't know what is going to happen since Governor Ventura has made some suggestions that could have a big impact on the City's budget. She suggested delaying any decisions about the money until the City finds out what the legislature has planned. Hannasch indicated the state is asking cities with excess money to use that instead of requesting state funds.

Ferrazzano asked if since the insurance money is in the swimming pool fund if it can be used for some of the pool amenities. Koopman replied it is being held in pool fund but won't necessarily be dedicated to the pool fund. She said if the Council decides to use all or part of money for pool it would go towards paying the debt borrowed from the hospital improvement fund. Hannasch felt it would be wise to leave the money in the pool fund until the City finds out what the legislature is going to do. Stobb said he didn't have a problem leaving it in the pool fund but he would like to see some go towards the downtown revitalization project. Otto-Arvizu said some could also go towards

park improvements. Ferrazzano asked if they can wait until May because it may be that long before the legislature decides what to do. Motion by Ferrazzano, second by Caron, to hold the insurance refund money in the aquatic center fund. All voted in favor of the motion.

Hannasch presented a Special Use Permit request from JNB Originals to establish a light manufacturing/assembly business in the Central Business District. The Planning Commission recommended approval of the permit. Motion by Stobb, second by Caron, to approve JNB Original's Special Use Permit. Ferrazzano said he thought the last time they had a special use request he asked to get a copy of the applications. Koopman replied that she gave the Council a copy of the Planning Commission recommendation form instead. It is form they developed to submit to the council. She added the actual application didn't detail a lot, most of the information was provided at the hearing rather than on the application but she can still give a copy of the application to the Council. Ferrazzano said he would like to see the applications to see how they answered the questions. All voted in favor of approving the permit.

Hannasch presented an EDA request for a Special Use Permit to establish a call center in the Central Business District. Motion by Ferrazzano, second by Stobb, to approve the request. All voted in favor of the motion.

Otto-Arvizu stated it had come to her attention that maintenance of City vehicles was not being done on a regular basis. She felt strongly that the Council should enforce having routine maintenance done on all City vehicles. Based on some of the figures she was given Otto-Arvizu said there is one vehicle that went a lot of miles before given an oil change and service on more than one occasion. Hannasch said the Lumina had some work done at Salmon's. Otto-Arvizu said she was referring to the Explorer. Hannasch said he thinks the Council should give directive to have City vehicles serviced once a month. Otto-Arvizu made a motion to that effect and Caron seconded. Ferrazzano asked if the vehicles would then be serviced whether they need it or not. Otto-Arvizu said they definitely need to be serviced that often because of the number of miles put on them and the fact that city miles are much harder on vehicles. Nielsen said he thought manufacturers have recommendations for severe mileage service. Hillger stated the Explorer has had several oil changes done at Salmon's that aren't listed on the information given to the Council. He added that they may need to re-look at the six year vehicle replacement policy. The Lumina has needed several repairs done to it and still has two years to go.

Otto-Arvizu said it was her understanding that there is a skilled person to change oil at the shop and asked if there is any reason that he isn't being utilized. Hillger stated last summer was very busy and he tried to work around the City crew's schedule. Otto-Arvizu asked Polzine if there were any problems in scheduling vehicle service. Polzine replied that if they schedule an appointment just like you would at any service station there shouldn't be a problem. All voted in favor of the motion to direct monthly maintenance of City vehicles.

Hannasch presented a resolution approving payment to Heartland Mechanical, Inc. for work completed to date on the Aquatic Center in the amount of \$2,850.00. Motion by Stobb, second by Caron, to adopt the resolution. All voted in favor of the motion. (Res. No. 2002-1)

Hannasch presented a resolution approving payment to Salonek Concrete & Construction, Inc. for work completed to date on the Aquatic Center in the amount of \$57,757.00. Motion by Stobb, second by Caron, to adopt the resolution. All voted in favor of the motion. (Res. No. 2002-2)

Hannasch presented a resolution approving payment to Salonek Concrete & Construction, Inc. for work completed to date on the Aquatic Center in the amount of \$64,620.00. Motion by Ferrazzano, second by Caron, to adopt the resolution. All voted in favor of the motion. (Res. No. 2002-3)

Hannasch presented a resolution increasing pledged securities at Minnwest Bank South totaling \$500,000. Motion by Stobb, second by Ferrazzano, to adopt the resolution. All voted in favor of the motion. (Res. No. 2002-4)

Ferrazzano asked if since the contractors were getting paid if everything was on schedule. Koopman replied that a letter has been sent to all contractors stating that there will be no exceptions to

completion date. Polzine added that the people actually constructing the pool haven't been here for a month and they are going to start slowing the others down. He said they have been contacted by Salonek and the plumber about work that needs to be done.

The Consent Calendar included the following: Fireman's Relief Association minutes for December 3, 2001 and January 7, 2002; Economic Development Authority minutes for November 16, 2001; People Service, Inc. monthly Water and Wastewater report for November, 2001; Planning Commission minutes for December 17, 2001; and Municipal Accounts Payable. Motion by Caron, seconded by Ferrazzano, to approve the above listed items. All voted in favor of the motion.

Hannasch stated that at the last Council meeting a motion was made and approved to list the house located at 100 Elm Street with a realtor but the starting price was not discussed. Peterson Real Estate provided some information from the last time the house was listed with them and recommended that \$33,000 be the starting price. Motion by Ferrazzano, second by Caron, to approve that \$33,000 be the list price. All voted in favor of the motion.

Hannasch said based on the report received from Bernard Szczesniak with Berkley Risk Administrators he thinks it would be inappropriate to approve pole vaulting in the Prairie Pavilion. Motion by Caron, second by Otto-Arvizu, declaring that pole vaulting will not be allowed in the Prairie Pavilion. Stobb said he thinks its unfortunate that it won't work out. Hannasch agreed but considering the liability it is too risky. All voted in favor of the motion.

Rick Seifert, RLK Kuusisto Engineering, briefly outlined the proposed street project. Seifert stated he met with Polzine and Koopman in mid-October to discuss street improvements and considering the bonding rate it is a good time to proceed. Seifert explained that Polzine prioritized the streets and broke down the work into categories of overlays, mill and overlays, and new construction. Seifert stated the public hearing notice included assessment rates:

- Overlay only is \$2.44 per lineal foot which reflects 25% assessed back to the owner
- Mill and overlay is \$4.48 per lineal foot which reflects 25% assessed back to the owner
- New construction with curb and gutter is \$48.68 per foot which is 100% owner paid
- New construction with gravel shoulder and tile is \$38.10 per foot - 100% owner paid

Seifert said the prices may change when bids are received. He said one change he would like the Council to consider is 4<sup>th</sup> Street East. The proposal included an overlay only but there has been trouble with standing water and so they will discuss doing a mill and overlay instead of just an overlay. Seifert stated doing a mill and overlay increases the life of a street up to fifteen years. Overlay only can increase street life up to ten years. He added if there are cracks in a street now the cracks can come up through the overlay again and so the City will need to do crack sealing and repairs along the way.

Hannasch opened the public hearing. Kenneth Anderson indicated he has property along Front Street which is between 1600 and 2100 feet. He stated that he doesn't think it's quite fair that he get assessed for that when the City put a street in last year and there were no assessments for street, sewer or storm sewer. Anderson said he thinks the City should treat all people fairly. Hannasch stated that Front Street was installed with grant funds and there were no assessments.. Anderson said Koopman was supposed to let him know about the land that was purchased from him when sewer lines were previously worked on. Koopman said she asked Anderson to look in his abstract because it would state how the transaction took place. Polzine said the City paid for the right-of-way along the fence because it meandered so the fence was put back where it should be. Anderson stated there are a lot of deferred assessments and he could do the same thing.

Dave Anderson stated the public hearing notice was sent to his father but he and his brother own the property. He handed a letter to Stobb stating he wanted it to be part of his appeal. He added that he doesn't know why his father received the letter when he and his brother own it. Koopman replied that the letters were sent based on the last updated list the City received from Lyon County. Anderson said the property is classified as farm non-homestead and he has no access onto Front Street and therefore he doesn't use the street at all. He added the county just put a road out at Lake Sarah and homeowners on one side paid for it but the farmers on the other side of the road weren't

assessed at all. Anderson said he will appeal and feels it is unjust and unfair taxation on that property and will cost over \$4000. Koopman said the appeals process would be spelled out in a letter that property owners will receive with notice of the final assessment hearing.

Marvin Vanacker, from the corner of 1<sup>st</sup> and Morgan Streets, stated he doesn't want a new street on 1<sup>st</sup> Street. He said it has been gravel for 40 years and he sees nothing wrong with it being gravel. Nielsen said 1<sup>st</sup> Street is on Vanacker's side property and he recalled something in the City ordinance that states assessments are applied differently when a side property is involved. Koopman said she would have to review the ordinance. Vanacker said by the time he gets done paying for Morgan Street and the pool referendum he doesn't want another payment.

Julie Wyffels asked how much it would cost her for 100 feet on Adams Street and 150 feet on Greenwood Avenue for just an overlay. Stobb said Greenwood is both mill and overlay. Polzine said Greenwood needs some attention otherwise the City will end up with a lot more problems. He added it was last overlaid in 1984. Hannasch calculated Wyffels assessment would be about \$675 over a ten year period. Koopman said the City hasn't sold the bonds yet but they are usually spread out over a ten year period. Caron said Wyffels cost would actually be about \$916 over ten years.

Richard Brown asked what the different figures were for just overlay and for both mill and overlay. Hannasch replied the estimate was \$4.48 for mill and overlay and \$2.44 for overlay only. Brown asked if a property is assessed if the owner can pay the whole thing up front. Koopman replied he could. Brown then asked if the owner lives in the house for five years and goes to sell if he has to pay off the assessments. Koopman replied that is negotiated at the time of sale between the buyer and seller. Brown asked when the property owners would be notified about the final costs. Koopman replied an assessment hearing is held when the City gets the final figures and it is determined how long the assessments would stretch out, the interest rate and the amount of payments.

Hannasch said the City received four letters from people out in Broadacres who have expressed some concerns about the street project:

January 9, 2002

Tracy City Council

This letter is in regard to the road improvements in my neighborhood.

Most in this area do not feel the roadway improvements are necessary. The roads are in good condition.

Many living in this area are on fixed incomes. A tax of this size will create a hardship on us. Do the elderly and low income need to be given additional burdens?

Some of the property in this area is not even worth the amount they are being taxed for the improvements. Please reconsider putting an overlay on our streets.

Thank you,

Betty Pool

Tracy City Council

The streets in Broadacres are not that old I would think a good seal coat would be enough.

My property would be taxed on 3 sides which would amount to more than half the value of the property. Along with the school and pool tax this year would make it totally out of line.

When they put the streets in they got a grant and paid 100 percent I think that would be the way to go.

Archie Daniels

To City Council  
Tracy, MN

In Re: Street overlay

We feel that we do not need the overlay on the streets in Broadacres. The expense to the taxpayers will be a hardship to some of us. Our taxes are already being raised by other projects.

Sincerely,

Guys and Irene Bakker

January 11

To who it should concern;

In regard to the road repair notice received in letter postmarked Dec 20<sup>th</sup>. I strongly object to the unrequired project on my side street.

(1) On a busy day there may be 6 cars a day on this good street. Usually less cars.

(2) I am in no position to pay any more in taxes or assessments. I live on a very fixed income of S. Security, S.S I, and the balance dictated by Human Resources of Marshall. Case number 684518, case worker Donna Watkins, 507-537-6747.

I don't know who comes up with these ideas, or why, but do suggest they take it a little further and apply for a road work grant.

There may be a recession in our country BUT it has not lessened the cost of living. I'm 83, legally blind, congestive heart failure - don't add to my burden of living.

Sincerely,

Sylvia Popp  
901 S. Center

Hannasch said he appreciates that citizens have been hit with things like the aquatic center and the school referendums and now the street improvements. He said this is why the Council has have public hearings. But Hannasch thinks the City has to follow through on a street improvement plan. Vanacker stated he had one vote in the pool referendum and one vote in the school referendum but the Council has the responsibility of voting on his behalf.

Dave Anderson asked if there will be an appeal process. Koopman stated the notice he receives will have the appeal process outlined in it. Anderson said to make sure the notice gets mailed to him rather than his father. Ferrazzano asked if they would be appealing the cost or the decision to do the project. Koopman replied they would appeal after the project was completed before the assessments are applied.

Dan Anderson stated the property across road with homes on is worth much more than and their farm property. He asked if it can be worked out where homeowners pay more of the assessment than them. Hannasch replied this would be discussed at the assessment hearing.

Stobb asked in past years if the roads have been tested, borings taken, etc. Seifert replied that they have taken some borings. Polzine said all you have to do is drive down the streets and you know they need work. Stobb asked if the Council needs to get the ball rolling by deciding on some specifications to get bids. Hannasch said on every street project there are some people that don't want the work done but the Council needs to look at the percentage of people on the street who do want the repairs done. Polzine said a decision needs to be made on the gravel streets. He said the work doesn't have to be done but there is a petition on Roosevelt Street with over 50% wanting it paved. The other streets listed need to have work done. Otto- Arvizu asked at what point does the Council drop anything from the project. Koopman said they would have to make a decision at tonight's meeting. She added that the Council will need to order the improvement before she could begin working on issuing bonds.

Ackerman said he owns half a block and his neighbor told him she was planning to attend the Council meeting as she was also opposed to the 1<sup>st</sup> Street project but she didn't show up. As for the rest of the street the City owns part and elevator owns part. Ackerman said he came before the council ten years ago and stated he didn't want 1<sup>st</sup> Street paved. Otto-Arvizu asked if the City would be looking at any problems if the street was not paved. Polzine replied there currently weren't any. Stobb said 1<sup>st</sup> Street is part of the downtown revitalization area and asked if any grant money from that project could be used for street improvements there. Koopman said she would have to check on that.

Ferrazzano asked if any grants could be applied for street improvements. Koopman said it is very difficult to get grants for street improvements as they are considered normal maintenance. Otto-Arvizu asked if there were any on 10<sup>th</sup> Street that said no. Koopman replied there weren't. Otto-Arvizu made a motion not to do the new construction on 1<sup>st</sup> Street and Stobb seconded. Hannasch suggested to make a motion stating what the Council wanted to have done on the project and eliminate the things they didn't. Otto-Arvizu made a motion to order the improvement and preparation of plans for the 2002 street improvement project with exception of the new construction on 1<sup>st</sup> Street. Koopman asked if they wanted to add a change on 4<sup>th</sup> Street East to mill and overlay and stated the Council needed to discuss on Roosevelt and 10<sup>th</sup> Streets if they want to do curb and gutter or gravel the shoulders and tile them. Otto-Arvizu asked if the tile would take care of storm water problems. Seifert replied that it would. Polzine said the only problem we may have on Roosevelt is that there is no place to tile to but if we can get curb and gutter the storm water will flow to Highway 14. Koopman said curb and gutter would be better course of action and would mean a longer street life. Otto-Arvizu amended her motion to include curb and gutter on Roosevelt and 10<sup>th</sup> Streets and eliminate 1<sup>st</sup> Street. Caron seconded the motion. After discussion it was decided 10<sup>th</sup> Street should be constructed with a rural design, gravel shoulders with tile running beneath.

Ferrazzano asked Anderson if his objection to the Front Street project is that the street doesn't need work done. Dave Anderson replied that he doesn't have an access Front Street. Ferrazzano asked Anderson if he thinks something needs to be done with the street. Anderson replied as far as he's concerned no, he doesn't use it. Otto-Arvizu stated that Seifert was not working with the City when Front Street was last done. She said there were a lot of problems with the previous work.

Dan Anderson said most cities do something with seven to ten percent of their roads, when interest rates are high they do less roads and when interest rates low they do more. Hannasch said this is why Tracy does street projects every couple years to help on upkeep of streets. Otto-Arvizu said she was under the impression that any time a city does improvements the assessment is supposed to enhance the property, if the owner can prove it doesn't that is something to consider in an appeal. Dave Anderson said he plans to appeal. Koopman said the hearing notice that he will receive will give him the steps to take for an appeal process. Anderson asked when the notice will come out. Koopman said after the project is completed an assessment hearing is held.

Koopman asked if Otto-Arvizu included changing 4<sup>th</sup> Street East to mill and overlay in her motion. Otto-Arvizu said she would include that change. Koopman reviewed the Council's motion which includes a rural design on 10<sup>th</sup> Street, a change to mill and overlay on 4<sup>th</sup> Street East, eliminating 1<sup>st</sup> Street, and new construction with curb and gutter on Roosevelt Street. Brown asked the Council if they would regret not doing curb and gutter on 10<sup>th</sup> Street after the fact in order to save \$10 per foot. Seifert replied that the life of the street would be shorter than with curb and gutter but would still

function to divert storm water. All voted in favor of the motion stated above. (Res. No. 2002-5)

Otto-Arvizu asked for clarification for the use of the old ambulance garage. She understood that the office portion was going to food shelf and garage part is being shared 50/50 between the fire department and the street department. Keith Engesser replied that the arrangement was if the City needs the use of the garage they can contact him and he will arrange to move the trucks. Caron said he thinks it should be shared 50/50 because you never know what the City might need it for. Engesser said he is trying to avoid parking trucks behind trucks as they currently have to do on the other side of the garage. Hannasch thought if the two departments can communicate and share the garage it should work out fine and the City as a whole will get the best use out of it. Caron asked about the utility expenses. Koopman said it is a City department and so they will be part of the City budget. Engesser said Polzine just came to him today about storing some railings for the bleachers and he thought there should be plenty of room for them. Koopman said the Pavilion is cramped for space and it would help if some things could be stored at the garage. Ferrazzano felt that everyone is getting along now and thought they should keep it that way. If an issue arises it can be dealt with at that time. Ferrazzano thought what Otto-Arvizu was concerned with is that Polzine’s replacement when he retires doesn’t run into any issues with it. Stobb said in the last meeting’s minutes it says the meeting room is to be shared between the food shelf and fire department. Engesser said the meeting room will all be used by the food shelf.

The Mayor appointed the following individuals to their respective positions:

City Clerk/Administrator	Audrey Koopman
Public Works Director/Deputy Clerk	Don Polzine
Finance Director	David Spencer
City Attorney	Frank Nielsen
Assistant City Attorney	Jim Kerr
Fire Chief	Keith Engesser
Assistant Fire Chief	Dennis Vandeputte
Fire Marshal	John Judkins
Weed Inspector	Tom Greenfield
City Forester	Don Polzine
Building Inspector	Gary Garrels
City Assessor	Orlin Bruss
Civil Defense Director	Bryan Hillger

Motion by Caron, seconded by Ferrazzano to approve the above listed appointments.

Motion by Stobb, seconded by Ferrazzano to approve the following appointments:

President Pro-Tem	Russ Stobb
Community Ed Financial/Advisory Board	Mike Fraser
Planning Commission	Russ Stobb
Economic Development Authority	Jan Otto-Arvizu
	Robert Caron
Attorney meetings	Claire Hannasch
	Jan Otto-Arvizu
Hospital Advisory Board	Claire Hannasch

All voted in favor of the motion.

Motion by Ferrazzano, seconded to Stobb, to establish the second and fourth Mondays of each month at 6:30 p.m. in the Council Chambers of the Municipal Building as the time and place for Council meetings. All voted in favor of the motion.

Motion by Ferrazzano, seconded by Stobb, to adopt Robert's Rules of Order and the standard agenda format as the rules and order of business for Council proceedings. All voted in favor of the motion.

Motion by Stobb, seconded by Caron, to approve the *Headlight Herald* as the official municipal newspaper. All voted in favor of the motion.

Motion by Stobb, seconded by Caron, to approve Minnwest Bank South, the 4-M Fund and Salomon Smith and Barney as the official municipal depositories. All voted in favor of the motion.

There being no further business motion by Caron, seconded by Stobb, to adjourn. All voted in favor of the motion.

ATTEST:

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City Administrator

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Mayor

## January 28, 2002

The regular meeting of the Tracy City Council was called to order at 6:30 p.m., Monday, January 28, 2002 in the Council Chambers of the Municipal Building. The following council members were present: S. Ferrazzano, M. Fraser, C. Hannasch, D. Berndt, J. Otto-Arvizu, R. Caron, and R. Stobb. Also present were staff members: A. Koopman and F. Nielsen.

Hannasch asked for any additions or corrections to the minutes from the January 14, 2002 City Council meeting. Motion by Berndt, second by Caron, to approve said minutes as written. All voted in favor of the motion.

Hannasch asked if there were any additions or deletions to the agenda. He had one deletion (5A) ordinance compliance and three additions, (7A) a payment request from Fulda Electric for work done on the aquatic center, (7B) a payment request from Fulda Electric for work done on the aquatic center, and (7C) a payment request from Heartland Mechanical for work done on the aquatic center. Koopman requested to add a comment under (10B) mayor and council communications. Motion by Fraser, second by Stobb, to approve the agenda as now written. All voted in favor of the motion.

Nielsen reported an update on the Wickstrom property which the Council discussed a couple months ago. He said Wickstrom agreed to update the property abstract at her expense but after looking at the abstract Nielsen felt it wasn't quite in order to review at this time. He was going to request the abstractor to do further work on it. Hannasch stated there would be no action needed from the Council at this time. Stobb asked if it was the property on 4<sup>th</sup> Street they had discussed. Nielsen replied it was.

Nielsen stated he thought two years ago the City had reached the end of the saga of negotiating agreements with the City engineers. The idea had been to once and for all get all the necessary language down so the City wouldn't have to review engineering agreements each time they were done. Nielsen said the current agreement does not incorporate many of concerns that past Councils wanted addressed so he will have to go back again and tell engineers why the City has wanted certain conditions in the past and why the City wants them in the current agreement. Hannasch asked if this would require any action from the Council. Nielsen replied unless the Council wants to accept the agreement as is no action was needed. Hannasch said he thinks the agreement should include the City's conditions before acceptance. Ferrazzano asked if there is any reason the engineers generated this document if the City hasn't used it in the past. Nielsen said the only thing he can think is the new engineer may not have previously been involved with the writing of agreements with the City of Tracy. Ferrazzano asked if the City gives him an example of past agreements if it would resolve the issue. Nielsen thought they should be able to get it rewritten.

Stobb asked if one of those conditions had to do with on-site inspections. Nielsen replied yes. Otto-Arvizu asked Koopman or Polzine if they could refresh her memory in regards to the City in the past hiring an inspector. Polzine said in 1987 the City did but hasn't since then. Otto-Arvizu said that was for the City's protection. Polzine said in last five projects the City has expressed that concern and have since had quality people inspecting on the job. Otto-Arvizu asked if the agreement language is good enough to cover that condition. Polzine replied he thinks that is what Nielsen is talking about. Nielsen said the City has paid extra before for on-site person to inspect as work is done. Polzine stated that Rick Siefert has been an inspector on previous projects until he got his engineers license.

Hannasch presented a resolution approving payment to Fulda Electrical Service, Inc. for work completed to date on the Aquatic Center in the amount of \$13,319.95. Motion by Stobb, second by Caron, to adopt the resolution. All voted in favor of the motion. (Res. No. 2002-05)

Hannasch presented a resolution approving payment to Fulda Electrical Service, Inc. for work completed to date on the Aquatic Center in the amount of \$11,246.10. Motion by Berndt, second by Fraser, to adopt the resolution. All voted in favor of the motion. (Res. No. 2002-06)

Hannasch presented a resolution approving payment to Heartland Mechanical, Inc. for work completed to date on the Aquatic Center in the amount of \$23,750.00. Motion by Caron, second by

Fraser, to adopt the resolution. All voted in favor of the motion. (Res. No. 2002-07)

The Consent Calendar included the following: People Service, Inc. monthly Water and Wastewater report for December, 2001; Cemetery Commission minutes for November 15, 2001; Monthly Financial Report; and Municipal Accounts Payable. Motion by Caron, seconded by Fraser, to approve the above listed items. All voted in favor of the motion.

Otto-Arvizu referred to her memo included with the agenda regarding City vehicle maintenance and requested a small committee to work on issues like this. Hannasch said he talked to Otto-Arvizu, Hillger and Koopman regarding the situation and he want to have two council members, Otto-Arvizu and Caron, meet along with Koopman Hillger and himself to look at the six year turnover of police vehicle. Hannasch added that two weeks ago the Council put out the directive for regular maintenance on City vehicles. Stobb said the Police Commission hasn't been active for a very long time and perhaps this was an issue for them to look at. Hannasch replied it was not an issue for the Police Commission because their only jurisdiction is with hiring and discipline. Stobb thought it was just that the Commission isn't involved with everyday police activities. Hannasch said he believes with the change four years ago the only thing the Police Commission can be involved with is the hiring. Stobb felt the City was underutilizing the Commission, there is a member who was appointed last year who has never been to a meeting and didn't know he was appointed until notified. Hannasch doesn't disagree but under the language set up four years ago their only jurisdiction is hiring and discipline.

Ferrazzano asked what the change was from four years ago. Hannasch replied the Commission used to be in charge of more activities of police department. Otto-Arvizu said those duties were removed from them by Hillger quoting a law that the Council should be in charge of the department. Fraser added it was an Attorney General's opinion. Stobb said if he recalls at the time the Police Commission was trying to control some of everyday activities. He asked if Hannasch was anticipating just one meeting. Hannasch said it should be just one meeting and then they can move on. Stobb said from language in the memo it sounded like maybe more was involved. Otto-Arvizu asked if the Police Commission is required to hold a certain number of meetings. Koopman replied the ordinance requires one meeting annually. Motion by Fraser, second by Stobb, to hold the small committee meeting. Ferrazzano asked for the purpose of the meeting. Hannasch replied that Hillger had stated at the last meeting that the schedule of police vehicles lasting six years was causing trouble so the committee is going to discuss changes to make them last. All voted in favor of the motion.

Hannasch reminded the Council the joint meeting with the School Board would be held at 6:00 p.m. tomorrow night, January 29, 2002.

Koopman wanted to inform the Council that the MPCA found leakage in the water treatment ponds. They have discussed in the past doing a request for proposals instead of automatically using the City engineers so to save time she put out a request for proposals which are due in her office by February 5<sup>th</sup>. Polzine and herself will review the proposals along with People Service representatives . Hannasch said the person with as much knowledge and insight on the problem is Polzine so he saw no problem proceeding that way. Stobb said it sounds like an efficient way to proceed and made a motion to do so, Caron seconded. All voted in favor of the motion.

There being no further business motion by Caron, seconded by Ferrazzano, to adjourn. All voted in favor of the motion.

ATTEST:

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City Administrator

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Mayor

### January 29, 2002

The special joint meeting between the Tracy City Council and the District #417 School Board was called to order at 6:00 p.m., Tuesday, January 29, 2002 in the Council Chambers of the Municipal Building. The following School Board members were present: Ed Carter and Gary Hippe. The following Council members were present: S. Ferrazzano, M. Fraser, C. Hannasch, R. Caron, and R. Stobb. Absent were: D. Berndt, J. Otto-Arvizu, Dan Zimanski, Eric Nelson, and Sandy Carpenter. Also present were: Superintendent R. Clark, City Administrator A. Koopman, City Attorney J. Kerr, Advisory Board Member Steve Olson and Community Education Secretary/Assistant Linda Fultz.

Hannasch welcomed those present at the meeting. He felt it was important that they were meeting to try and resolve some of the issues in question. Hannasch said the first order of business was to elect a chairperson. Ferrazzano nominated Steve Olson and Caron seconded. There being no other nominees the meeting was turned over to Olson. Olson stated that on behalf of the Advisory Committee he appreciated that the Council and School Board were meeting to work through the issues concerning the pool aid. He said for the first order of business Dr. Clark provided a possible agenda for the meeting. Olson asked if there were any additions to the items listed. Koopman asked if they were going to discuss the possibility of hiring an assistant director for Community Ed. Olson stated one item as chairman he would like to see discussed was summer recreation. Motion by Ferrazzano, second by Fraser, to approve the agenda as now written. All voted in favor of the motion.

M. Carlson, E. Nelson and S. Carpenter arrived at the meeting.

Olson stated the first item was to discuss the City request for a contribution to swimming pool operations. Koopman stated on July 3, 2001 she approached Lyon County Commissioners regarding a contribution from them. They agreed to budget \$10,000 for the years 2002, 2003, and 2004 and an additional \$10,000 in 2005 provided that the school district appropriate \$10,000. This in turn has prompted discussion at the Advisory Board level about using Community Ed funds for that purpose. Koopman said the thought was to appropriate \$2500 for the years 2002, 2003, 2004 and 2005. The Advisory Board discussed this on several occasions and made a motion to recommend to the School Board that the funds be appropriated. Olson stated the motion referred to was at an Advisory Board meeting held on August 16, 2001.

Hannasch said he feels from the School Board, the County, the City and surrounding areas that the \$2500 actually doubles in strength because the county has promised the additional \$10,000. It has been discussed there are other areas this funding could come from within the school district budget but with the changes in Community Ed this money could be appropriated from those funds without changing the Community Ed program. Hannasch stated he feels this would be a wise and good decision and feels that the community is very much behind the pool project, both the rural and City areas. He said the Community as a whole has shown its support by voting in favor of both the pool referendum and the school referendum and feels the public would support this decision.

Nelson said the school district's biggest concern is that Community Ed does not have the funds available to make this contribution. The program is currently deficit spending and has been for about the last five years. Olson asked if it would be appropriate to discuss the nature of the deficit and where it originated from. Nelson replied the largest contribution has been to the pool and the second largest to the driver education program. Hannasch said in other years there was approximately \$9,000 to \$10,000 contributed to the pool annually. Nelson replied it was in the cost share program. Hannasch said the another part of the deficit can be attributed to the top level wage scales prior to the program being moved under school administration. Koopman asked Nelson if he didn't feel that now without Bill Tauer's salary coming out of Community Ed and without the \$11,000 deficit created by the pool that there would be sufficient funds to cover the \$2500 appropriation. Nelson said he would call it less of a deficit but there would still be deficit spending as of the last budget. He said it has been his position that resources are better used to keep the school district strong. Koopman replied that Community Ed funds don't really have anything to do with the school district per say. Nelson reiterated they don't have Community Ed funds available. Koopman replied they are levied for each year. Nelson retorted they are spending more than they can levy. Koopman said part of that deficit is from driver's education. Nelson replied that is true but it is something that every

student in the district benefits from. Koopman said it is the City's position that every student in the district can benefit from swimming lessons. Nelson said they can but they don't, a higher percentage participate in drivers education than take swimming lessons. Nelson said he hasn't done a survey to know for sure but what kid doesn't take driver's education that attends school. Koopman stated a majority of students take swimming lessons at some stage but added Shorty Engel could better answer that. Carpenter said out of her daughter's class there can't be more than ten. Nelson asked how many kids take swimming lessons in a session. Engel replied that it varies from year to year and he doesn't have the information with him. Nelson asked what the largest class there has been in the last five years. Engel replied there are as many as 25 in one class and he guessed an average of 350 per season. Nelson asked how many grades are there. Engel said from water babies to lifeguard training. Nelson said there are over 900 kids in the district so that is half at best.

Kerr asked why the school district sees fit to subsidize driver's education. He said he paid for his daughter's driver's education himself in the cities at a cost somewhere between \$350 and \$500. Nelson said they charge for the service and charge one of the highest fees in the area. Kerr said that any way you cut it the school is subsidizing drivers education. Nelson replied it is a service the school district has chosen to provide for the patrons in the district. Kerr said this may not be a proper use of general revenue when you look at the statute regarding Community Education. He said he could list those items and one of the things that is listed twice in the statute is summer programs. Another part listed is recreational programs but there is nothing listed about drivers education. Kerr said the School Board has levied for this year \$29,052.13, with \$19,686.63 for the basic levy, \$5,360.87 for entitlement and a one time adjustment of \$4002.63. The City is asking for \$2500 which is less than 10% of this levied amount. The year before the Board levied \$17,355.54 with an entitlement of \$7,674.41 for a total of \$25,029.95. Kerr said the School Board is saying they have no problem taking salaries out of this levy and the question is what amount of salary is really related to community education of either Dr. Clark's or Mr. Tauer's. The School Board has no problem with that but seems to ignore what the statute calls for which is summer education. Clark replied if Kerr would check the rest of the statute it says "may provide." Carter added Community Ed is for all the people in the district of all ages and the City wants to put 10% of the budget just into the swimming population which is about one-third of the population. He said Kerr has come to the meeting to make the proposal that the School Board is unjustly subsidizing drivers education.

Nelson asked why they were having a meeting with the pastor of the Lutheran Church and the City Attorney when the School Board was supposed to have a joint meeting with the City Council. Hannasch replied that Olson was selected as chairman at the start of the meeting. He said the whole community is going to gain from this expenditure and in other years Community Ed was spending \$10,000 on the pool per year. The City is now asking for \$2500 for the next four years only. This \$10,000 would be matched by the County which would mean there is \$20,000 coming into the community. Hannasch felt this would be a very wise expenditure and that they should look at other ways of cutting the deficit spending.

Ferrazzano said that leads to a comment he has, if what the School Board is saying is that they cannot afford \$2500 because they are already deficit spending what plans are in place to cut the deficit spending. For example, forget for the moment the \$2500 contribution, what plans do they have to reduce the spending now. Nelson said they are reviewing the budget right now and are in the process of establishing what they are going to cut next year. Clark said they cut \$167,000 last year, they cut approximately \$100,000 the year before. Koopman asked what specifically is being cut out of Community Ed because that is the issue. Clark replied the issue is the difference between the operating structure of finances in the public school which is dictated by law. under the UFARS Code, and under the UFARS code the participants of a program are charged to that program in expenditure. There has been a great deal of discussion about what is appropriate and what is inappropriate expenditure. Clark said he was not here when Mr. Tauer was moved from whatever position he was in and Mr. Gladis was not longer employed in this position and I can't tell you what it was. But Clark said during his tenure he has consistently reviewed the participation level of the director which was at 50% when he started and he believes it was down to about 35% when Mr. Tauer left the position. Koopman stated it was 30%. Clark said now his participation is less than 5% and that reduced a \$16,000 deficit. If they charge 5% to Clark the cost comes to about \$4000. The Board has restructured the cost to a reduction of about \$12,000. Clark asked if that answered Ferrazzano's question. Ferrazzano replied somewhat but specifically, if he understands correctly, they are

concerned about deficit spending in the Community Ed budget and he asked when going through the budget reviews if they are reviewing what Community Ed money is going towards. Clark replied they are. Ferrazzano asked if Clark knew when the review process would be completed. Clark said one of the issues that has been raised and is being reviewed consistently is that no course will be a negative. One of the major contributors of that was a weight room and open gymnasium where people participated but didn't pay and they no longer do that. Clark stated the rest of the programs are self-sufficient. Ferrazzano asked if it would be possible when the Board is done reviewing the Community Ed budget that there may be \$2500 they could contribute to the pool. Clark said he would not speak for the board but would speak candidly as a person, he came to this meeting to discuss this possibility and he came assured that everyone would be on equal basis. Clark stated he has said over and over that this is a power struggle, it is not about \$2500, this is a power issue. You have an attorney here speaking, the City is behind a large desk and we're out here in the audience again. Clark said right away they are feeling like second graders, that is the way he felt when he walked in. There are a few other issues he said he need not go into but \$2500 is not the issue. Clark said the County set and placed an unreasonable burden, they didn't visit with the school. They simply said if the school gives \$10,000 then the County will give \$10,000 to match. The County placed the school in a position that only loses. Clark said instead of the County saying can you come up \$2500 and match this for four years it goes to the press and we read it in the press. A number of other comments have been made by different people from around the community saying what a bunch of less-than-desirables are running this school, they can't come up with \$2500. Clark said they have been spending more than revenue for a large number of years and the purpose is to bring it back. He said they have been bringing it back a dollar at a time, and just when they get close to that the Governor changes the rules again. Hannasch asked Clark if he thought the people of Tracy gave the school a very definite vote of support when they passed the referendum this fall. Clark replied the people of District #417 did. Hannasch said the City of Tracy is very much a definite part of that. Clark agreed. Nelson said so are the cities of Currie, Garvin and Amiret. Hannasch said Clark is saying \$2500 is not the issue, but he does not believe number one, that anyone on the Council believes that they are superior to the Board of Education. Hannasch said they each have a job to do and each tries to do it in the best way they know how, they each try to be good stewards of the area they are given a responsibility for. This meeting was not set up to downgrade anybody. Hannasch said he was sorry he did not invite the Board up to sit with the Council when they started, but they are not here to downgrade people they are here to solve a problem. That is the main goal.

Hannasch said he really believes on the School Board's part, and he knows Nelson is one person who says he does not want to make a commitment for the next School Board that follows, but sometimes you have to make a commitment for more than one year at a time. The City Council made a commitment of 20 years on the pool bond, and it was an area that was needed in the City of Tracy if they are going to continue bringing young families in. The City committed a lot of dollars to the pool project and accepted that last year the School Board decided not to be a part of the fundraiser. The City has now come back asking for \$2500 and Hannasch felt they were being very fair in this request and thinks this can be worked out. Clark replied that he doesn't disagree with Hannasch and appreciated his comments. He said this has been a long buildup and it's coming to a head tonight and hopefully it can be put away. Hannasch said he respects everyone on the Council, on the School Board and on the Advisory Board and everyone is just trying to do their jobs. He added they will disagree at times and even bite each other's heads off but they will have to move past that. Olson stated they needed to move beyond discussion of seating arrangements and he wanted to clarify for Mr. Nelson that he was not here as pastor of the Lutheran Church but as Chairman of the Community Ed Advisory Board. Olson said they have heard discussions about trying to constructively work towards a solution and as chairman he would like to entertain some moves in that direction.

Hannasch said the Chairman of the School Board is not present and he understands Nelson is the Vice Chairman. Hannasch asked Nelson as they get into the Community Ed budget is there any possibility of coming up with the \$2500 contribution and asked if they would give it serious consideration. He felt the School Board owed it to the community and to themselves. Olson asked to move a bit closer to Roberts Rules of Order and since they already had preliminary discussion as chair he would entertain a motion concerning the recommendation that Community Ed donate the \$2500 for the years discussed. Nelson said as a point of information, the \$2500 is a School Board issue as to whether it is donated or not and he asked if they would have to make the motion. Koopman replied they are the only ones who can make that motion. Olson said he would like to see

a concrete proposal for discussion. There is a recommendation from the Advisory Board which is mandated by a statute and the members represent various segments of the community. Olson said he is a representative of not only Tracy but of the clergy which is specifically mentioned in the statute as well and the Advisory Board recommendation was that the contribution be made. There is also a School Board representative on the Advisory Board as well as a City Council representative. That resolution was passed and brought to the School Board for their discussion and action. As chairman Olson said he would like to see a concrete proposal either for or against because the meeting is not moving forward towards a solution.

D. Zimanski arrived at the meeting.

Stobb asked if it would be appropriate in order to get something concrete to look at the five points that involved both the joint powers agreement and the school's involvement with the pool. He asked the School Board if they had that information. Olson said Stobb was referencing the October 22, 2001 meeting and the following policy that was adopted by the City Council and submitted to the School Board:

1. Independent School District 417 would no longer be in the "pool business" which means no further involvement and/or responsibility for the Tracy Pool/Aquatic Center including but not limited to budgeting, direct funding, staffing, operating or maintaining said Pool/Aquatic Center in any manner.
2. City of Tracy would be solely involved and/or responsible for the Tracy Pool/Aquatic Center including but not limited to budgeting, direction, funding, staffing, operating and maintaining said Pool/Aquatic Center in all respects.
3. City of Tracy requests Independent School District 417 to contribute an annual payment of \$2500.00 from Independent School District 417 general community education revenue to help offset costs in the form of salaries for lifeguards/instructors and equipment maintenance associated with providing District Community Education programs, i.e. swimming lesson programs and/or recreational and leisure time pool activities.
4. City of Tracy requests Independent School District 417 to authorize the advertisement of the availability for swimming lessons/leisure time pool activities in the Community Education brochure.
5. City of Tracy continues to request a joint meeting between the City Council and School Board to clarify and revise the Joint Powers Agreement.

Ferrazzano said he thinks the group just has to deal with item number #3. The other items are to be dealt with later in the agenda.

Jan Otto-Arvizu arrived at 6:30 p.m.

Ferrazzano asked if the School District wants to give \$2500, yes or no. That's what the Board has to decide. Stobb asked if they need to resolve item Number #1 so that the school knows they will no longer be involved with those operating expenses or is that already determined. Olson said he would assume that a donation would be included under a revised joint powers agreement. Hannasch said that was one of the things that was brought up to start with, that the school no longer wanted to be in the pool business and the City understood that this was part of the deal. The request for \$2500 was a separate four-year issue and it would mean termination of that part of the agreement. Ferrazzano said the only way to be constructive and to get something out of this joint meeting is for the School Board to say no, we aren't giving \$2500. The City would ask why and if the reply was because of deficit spending the City would ask if there was any way to get around this problem so the school could get to the point where they could give \$2500. Nelson said the School Board has not acted on whether or not they are going to donate the \$2500 in a public meeting and so cannot answer Ferrazzano's question tonight. Ferrazzano asked what the School Board members think individually. Nelson said they can't answer that question now but if the Council could poll the School Board. Ferrazzano replied he was not trying to scrutinize anyone. Nelson said they haven't had an agenda

released to discuss the issue.

Carter said the issue came up with the joint powers agreement because the school was no longer interested in being involved with the pool and were told they could not unilaterally withdraw. If the Council and Board are going to address the joint powers agreement maybe they should do that because as it stands the school is liable for half the costs of the pool. Ferrazzano suggested moving the agenda around and doing that first then if that is the problem. Koopman said the Council already adopted that in a previous meeting and stated their position on that issue. You can't really rewrite the joint powers agreement until you know what it's going to contain. Koopman said everything still hinges around the contribution. The Council has already stated its position which relieves the school of obligation to the pool. Ferrazzano said he doesn't want to scrutinize anyone and grill them he just wants to know what everyone's gut feeling is regarding the issue. Nelson said he supports the swimming pool but he also feels with the budget situation and uncertainty of the future of the school they have to be very careful with their resources. He said the school is on a different budget schedule than the City and works on a fiscal year rather than calendar year. Hannasch asked how much money comes into Community Ed for salaries and expenses and how much is expended on those things and what other areas are causing deficit spending. Ferrazzano said that is what Nelson is saying he has to look at. Nelson replied the dollars are given to the School Board, they don't decide what they will levy, the State of Minnesota decides that. The only change they can make is to levy less. Otto-Arvizu asked if it was true once it is in the Community Ed fund the money can't be used in the general fund for anything else. Nelson replied that was correct.

Zimanski stated a joint powers agreement would probably still exist whether or not the School Board made that particular financial contribution because there are other activities they want to work collaboratively on whether or not there is a specific dollar amount issued to the pool operation costs. He didn't feel the agreement should necessarily hinge on the contribution. It was referenced earlier that they should look at the agreement first. Carlson asked if the County has given any indication as to when the City would receive the \$30,000 contribution. Koopman replied \$10,000 would be appropriated annually in years 2002, 2003, and 2004 and the matching \$10,000 would be received in year 2005. Olson asked if there was a consensus to move to a joint powers discussion. Ferrazzano made a motion to discuss the joint powers agreement first and Hippe seconded. All voted in favor of the motion.

Olson asked if anyone would be willing to give a brief summary of the current agreement. Koopman stated the school district and the City first joined together in 1971 under a joint powers agreement for Community Education and at that time costs were shared equally for operations and capital expenditures on the pool. At that time there was a full time Community Ed Director and full time secretary. She said they have now "regressed" to a very part time assistant director along with Dr. Clark who has the license waiver necessary to be Community Ed Director. There has been a reduction from a 16 hour position to roughly three hours per day. In 1986 the joint powers agreement was revised and rather than the school sharing 50 % of operating costs and capital expenditures it was reduced to 50% of operational costs and that is what still remains in the existing agreement. The Advisory Board still exists and is active and the agreement also lists the facilities that each party contributes to Community Ed. It lists the responsibilities the City and School have taken on, and states that the school takes care of the books as an in-kind contribution. Koopman said once the pool is removed from the agreement it will certainly lighten the school's load as far as taking care of all the accounting for the pool. Otto-Arvizu asked if the City provides facilities for the summer recreation programs. Koopman replied the City provides the baseball fields and that is what summer rec is primarily centered around. The City also provides the Prairie Pavilion. The school in turn provides three tennis courts and a baseball field and she wasn't sure if that field is in use. Carpenter stated the Midget League plays there. Koopman said the agreement also lists what facilities and equipment Community Ed provides.

Stobb asked if there is a problem with this agreement other than 50/50 sharing basis of the swimming pool or are there other issues to look at. Nelson stated Section #3 needs to be revised regarding bookkeeping and accounting. Olson asked if everyone felt it would be appropriate for the School Board and Council to each put together a subcommittee to meet and work out the differences on the agreement. Zimanski said he thinks he understands it as Stobb put it, it is mainly the pool and accounting portions of the agreement that need adjusting but the other portions of the agreement

include activities and facilities that they probably want to continue with. Olson said there should probably also be an update on the list of facilities contributed. He said as he read it there should probably be a bit more statutory language basically where it talks about the Advisory Board. Olson said he would like to see more detail. Stobb said there is some cleaning up to do but the City has already agreed that the school will be released from involvement with the pool and it was verbally stated the school would not be involved with the bookkeeping of the pool. Olson asked if that is the consensus of the Council. Ferrazzano asked if those were biggest concerns of the School Board other than the cleaning up of the agreement and if not then they finally agree on something. Caron said basically there is nothing else the school furnishes to the contract other than the baseball field. Koopman said maybe that is a valid point. Nelson said the school provides all the classrooms for adult education classes. He said he thinks there is some misconception about Community Ed and summer recreation. Summer rec can be part of Community Education but in most of the districts and communities around this area it's combined with Community Ed but the City makes a contribution to Community Ed to help fund summer recreation. Nelson stated Community Education is about the adult programs more so than anything for students and there is a separation there. Koopman said she doesn't agree with that. Olson said there are communities where summer recreation is part of the Community Education program. Nelson said he was talking about a survey he took around southwestern Minnesota. Koopman said there was a survey done by Bill Tauer with four of eight communities running summer rec through Community Ed. Nelson had indicated the majority of cities function this way. Carpenter said a majority were not in the pool business. Koopman didn't feel that four communities constituted a majority, but she added the City does contribute to Community Ed and has ever since the partnership started. Nelson said summer recreation is independent and most communities are contributing to Community Education to help summer recreation. Nelson said there was the City's \$8000 contribution that was amended out of the agreement. Kerr asked if the facilities provided were part of the City's contribution. Stobb said they are talking about something that cash flows so there is no loss associated with that. Koopman said it was her understanding that summer rec cash flows and so doesn't cause or create more deficit. Otto-Arvizu asked Nelson when he said classrooms are provided for adult education if those rooms are pro-rated to Community Ed after regular hours. Nelson replied there was no charge for the rooms. Clark said that program is set up where the participants pay a fee for the classes and 15 % of the fee goes into the Community Ed fund and the remainder goes to the instructor.

Zimanski said it was mentioned earlier that they finally fundamentally agree on something, he didn't feel it was the Board's intention to fundamentally disagree about any portion of it. The Board's intention was initially to make an amendment to the agreement but there was a legal opinion that they couldn't just amend it, they had to discontinue the whole agreement and revise it and adopt a new one which is the track they are going down now. Zimanski said they didn't want to have a big disagreement about it. Olson said perhaps Hannasch or Clark could make a recommendation for a proposal to work on the joint powers agreement. Hannasch stated the question is if the Board wants to completely redo the agreement now before making a decision about the \$2500 contribution or do they want to do an agreement now and redo one four years from now. There are different ways to approach it. You could go into a good faith agreement and have a joint powers agreement without the \$2500 anywhere in it but hopefully the School Board could come up with the contribution within the next couple years. Hannasch said they now sit at a point where the School Board is not ready to sign anything with the \$2500 in it, but maybe the Council is not ready to sign anything until a decision has been made about the contribution. He added they do know that the pool portion has been taken out of it, that much has been decided, but maybe they should wait on everything until the Board makes a decision.

Nelson made a motion to assign the rewriting of the joint powers agreement to two Council members and two School Board members. Ferrazzano seconded the motion. Zimanski asked if the City Administrator and Superintendent would be in attendance. Clark said he would attend. Hannasch asked if they wanted to decide who would be on the committee now or at the next meeting. Nelson said each could decide on their committee members at their next meetings when they are under official business or they could do it now. Ferrazzano suggested deciding now and volunteered to be on the committee. Hannasch asked if Stobb wanted to be on the committee. Stobb suggested Fraser who is on the Community Ed Board. Fraser volunteered to join the committee. Hannasch asked if the School Board wanted their Community Ed members on the committee or if they wanted anyone else. Nelson replied they would have their Community Ed members. Zimanski said Nelson and

Carpenter would represent the Board.

Olson said his assumption is that the School Board has not officially taken a position on the contribution so they will dispense with that. He said there are two other items that the Advisory Board included, one is a motion made by Dr. Clark at the August 16, 2001 meeting, seconded by Koopman, which is exploring the option of hiring an assistant director for Community Ed. Olson stated Linda Fultz is currently doing an excellent job and doing the bulk of the administration for Community Ed. The Advisory Board feels strongly there is a need for care and oversight of the program and was wondering if at this meeting that could be decided. Nelson stated the expenditure of Community Ed funds is at the sole discretion of the School Board so what can they do at the joint powers meeting. Olson said basically it is a recommendation from the Advisory Board whose responsibility is to advise the community which is represented by both the school and the City. Olson said he realizes they cannot act on it. Nelson asked what Olson would like them to do. Olson said he would like to see some discussion on the issue and perhaps do some polling in the community to see if this is a direction people would like to go. There is some concern in the Advisory Board about the oversight of the program. Ferrazzano thought it was a good idea to hire an assistant director. Olson stated if it is a consensus perhaps it is something the School Board can take back to their meeting. Clark said he suggested after the last Advisory Board meeting that he would go to the School Board and request an increase in pay for the position. Clark said if he were to attempt to make a recommendation for the secretary position it would constitute unfair bargaining. If the School Board is to look at increasing compensation for Linda Fultz they need to come up with a title other than secretary. Olson said that is something they could maybe come to a consensus on. Clark said that might be an opportunity for discussion at this meeting, and perhaps they could replace the secretary position with a recommendation for assistant director. That would answer some of the other questions, for instance do they increase compensation for the secretary position plus add another position which would compound the cost factor. Clark said if they combine the secretary and assistant position to get around the master agreement challenges that exist.

Otto-Arvizu asked if the Board would look at increasing the hours to some degree to accommodate the compensation. Clark replied the discussion has taken place but at this point it stands at three hours. Otto-Arvizu asked if Clark felt that three hours was enough to take care of the program. Fultz said she was at two hours before but since September she has added an hour. She said there are days when she has had to use more time and some days when she doesn't need as much. Otto-Arvizu asked if Fultz had a bank of hours to draw on if that would help get the job done she needs to plus give down time. Clark said that is an option they can look at. Fultz said it depends on classes too, sometimes she puts in her three hours but then has a class to go to requiring additional time, so it depends on how Dr. Clark wants to handle that. Olson said the Advisory Board would feel strongly that Fultz should be compensated for her hours, they wouldn't want to ask for donated time. Nelson said the School Board feels the same and are in the process of evaluating the position. Zimanski asked if the Advisory Board has a recommendation or opinion as to whether they think three hours is enough for the position, or if they have discussed a certain number of pooled hours. Olson replied they have not been a part of that discussion but would like to be. He has been involved on the Advisory Board for a number of years and believes the position is at the minimal number of hours right now. Zimanski said the School Board would be interested in their recommendation.

Olson stated in chairing this meeting he would like to ask Clark or Nelson concerning a time frame in regard to a decision about the pool contribution. Olson said they are subject to the School Board's time frame and the Advisory Board wanted to know when they speculated the process would be completed. Nelson said he thinks what they were waiting for is to see how this joint meeting developed and what the request was. He said he would like to share his frustration on how it has all been handled. It has been a power struggle and he was not impressed with how the meeting was set up. Nelson said he was misguided on how the meeting would be set up. He thought it was going to be a joint powers meeting between the Council members and the School Board members. Nelson said the first discussion he had was with the City Attorney and City Administrator. Koopman said she is part of the Advisory Board and that is why she was attending. Nelson replied this isn't Advisory Board issue, this is a joint powers meeting and above the Advisory. He wanted to meet with the Council members and elect officers from members of the Council or School Board to run the meeting. Nelson stated the meeting became exactly what he feared the most. Nelson said he just wanted to meet with the Council members but it became this big blown up affair. Hannasch said he

never viewed this as a big power struggle. Nelson replied he knew Hannasch didn't but he hasn't been involved with it since the beginning like at the Advisory Committee meetings where Koopman has been coming and demanding \$2500 from the school. Koopman said she has not demanded the contribution, all she did was point out in the past that there have been some budget questions raised, for example there were some salaries taken out of Community Ed funds that probably should not have been and should probably have been taken out of the general fund. Nelson retorted that is not her discretion. Koopman said that may be but she pointed that fact out to Nelson merely because that is part of what has caused the deficit spending. Nelson replied that may be but it is not her discretion. Koopman said that is true but if the facts are going to be laid out on the table then that is what she did at the Advisory Board meetings. She simply asked questions. Nelson said that is the way the School Board apportioned the dollars for Community Education. Koopman said her concern from the very beginning has been about where Community Education going. She added the school wants out of the pool and that's fine, the City has conceded to that point without question, and now you will no longer be subject to an average \$9200 deficit from pool expenditures. Nelson said it has been a deficit longer than that. Koopman replied she realizes that and it has always been a deficit and has been as long as she has been with the City. Koopman said the pool is longer going to be contributing to the deficit in Community Ed and along with the revisions in salaries there should be sufficient money from the levy that has been made to contribute the \$2500. Nelson said he concurs with all of that but Koopman's perception has been that the money is there. He asked why she can't be thankful that the school has been contributing to the pool for the past 50 years. Koopman replied the City has been contributing to Community Ed for the past 50 years. Nelson said just like every other community contributes.

Ferrazzano suggested to the chairman that the big issue is the City doesn't know what School Board is going to recommend regarding the contribution and the joint powers agreement is going to be handled by the subcommittee, so instead of having people yelling at each other and instead of having people upset by the way the meeting was arranged he moved to adjourn. Nelson seconded the motion. The majority of those present voted to adjourn.

**February 11, 2002**

The regular meeting of the Tracy City Council was called to order at 6:30 p.m., Monday, February 11, 2002 in the Council Chambers of the Municipal Building. The following council members were present: S. Ferrazzano, M. Fraser, D. Berndt, C. Hannasch, J. Otto-Arvizu, and R. Stobb. Absent was: R. Caron. Also present were staff members: A. Koopman and F. Nielsen.

Hannasch asked for any additions or corrections to the minutes from the January 28, 2002 City Council meeting. Motion by Fraser, second by Stobb, to approve said minutes as written. All voted in favor of the motion.

Hannasch asked if there were any additions or deletions to the agenda. Koopman added (8C) the Police Activity Report and (8D) the Police Maintenance Log to the Consent Calendar. She said copies were distributed at tonight's meeting. Motion by Ferrazzano, second by Berndt, to approve the agenda as now written. All voted in favor of the motion.

Nielsen reported the engineering agreement for the street project was still being worked on. After the last meeting he talked to Rick Siefert and asked him to go back to the sewer separation file and use that agreement as a standard so the City wouldn't have to review the whole agreement again. When the sewer separation project was done the City requested RLK Kuusisto use the same agreement format that was used in previous street projects. The City had extensive discussions with RLK about what they required in the agreements. Instead the engineer at the time came up with totally new agreement instead of using the previous format and they had to start from scratch. Nielsen said with the new street project they are looking at a whole new agreement format again. The revised form that Siefert sent was the first draft that the City rejected from the sewer separation project instead of the revised agreement. Siefert said he would locate the correct agreement and look at that. Hannasch said the issue will be on the next agenda. Fraser asked if Siefert couldn't find a copy of the agreement. Nielsen thought the problem is that Siefert was not familiar with the project agreement and just found the wrong one.

Shorty Engel presented a proposal for swimming pool fees for the coming season. He gave three options for the Council to consider. The season pass options range from \$130-150 for non-resident families, from \$80-90 for resident families, non-resident single is \$90-100 and resident single is \$50-60. Engel said during a visit to Glencoe the pool managers told him to make sure that the City charges enough for pool passes to cover expenses. Their City Council wouldn't let them raise the fee and they came up short in their budget. Otto-Arvizu stated Glencoe is quite a distance away and asked Engel if he had compared rates in Slayton and other local facilities. Engel replied the proposed non-resident rates are higher but comparable on resident rates because they figured people within City limits are already paying for a 20 year referendum and they didn't want to raise rates too much.

Engel said Hannasch and Gary Tholen are in the process of working on an individual donations project. Hannasch said they are looking at donations from the surrounding rural area and other local communities. He said Brian Ludeman and Neil Daniels are going to co-chair the project plus there will be six team captains and 30 solicitors who are each going to select a certain number of rural people to ask for donations. Hannasch and Tholen came up with certificate of residency and anyone who will donate \$1500 over the next five years will receive this certificate and then they can get same pool rates as residents of Tracy. Hannasch said another idea they developed is people will be allowed to donate corn in the fall and sales of the corn can go towards the pool fund. He said the pool committee is looking for approval from the Council on the plan.

Fraser asked how they arrived at the \$1500 donation figure. Hannasch said they figured out how much they needed to raise and how many people they estimated it would take to raise it. Anyone donating this amount will be listed on a plaque outside the pool facility. There is a need to raise extra money because bids came in higher than the City was told they would be. Hannasch said there is tremendous support in the rural area for the pool and the committee feels they've come up with a good plan. Otto-Arvizu asked how long the certificate of residency would be for. Hannasch replied for the life of the pool. Nielsen asked who the certificate would be good for. Hannasch said it would cover the husband, wife and kids. He added the certificate would stay with the farm that donated so

if a son takes over the operation it would pass on to them. Ferrazzano thought it might be kind of tricky if grandparents want to give a donation so their grandchildren can get a pool residency. Hannasch said grandparents could designate a family they would want the certificate for but it would only be good for a single family. Ferrazzano said he thinks it's good idea but it may be tough to implement and may be a bit sticky to designate who is a resident and who isn't. Nielsen asked if the City has difficulty with the issue in the past. Engel replied not a whole lot in terms of buying season passes. He said if they state that if a farmer donates and has three kids that only one of the kids are going to be able to use that residency. Hannasch stated if the certificate passes to the next generation only one family would qualify to use it. Nielsen said it seems to him in the past there was some kind of disagreement where a kid was staying with his grandmother over the summer and wanted a resident pass. Engel stated they had a visitors pass and only charged them \$15 for two weeks.

Fraser asked why there were three tiers of pool prices. Engel replied there were just three options for the Council to choose from. He added that according to projected expenses the pool should come out ahead at the end of the season. Ferrazzano asked which of the three Engel preferred. Engel replied he had no preference. Hannasch said most people on the committee thought Option A would fit the best. Engel said the rates set are close to Slayton's and they wouldn't want to go higher if they want to draw people in. Otto-Arvizu said that was her point in asking if Engel thought the rates were competitive in attracting larger numbers to the pool. Hannasch said they don't want to have to come back at end of the year and ask for money to cover expenses. Otto-Arvizu said they can either have higher prices or lower prices and draw off the numbers. Ferrazzano said if the pool can manage with Option A that would be his choice. Otto-Arvizu asked if Engel thought they should feel it through the first year. Hannasch said that is why he would go for Option A because they can always change rates next year. Nielsen asked how much revenue was produced from admission rates last year. Engel replied with the City and the school each paying \$10,000 there isn't an exact figure. Nielsen asked if last year if admission tickets brought in \$100,000 for example and they doubled rates for this next year it should bring in \$200,000. He said seems to him they would want to know what kind of revenue they will be getting from each option before making a decision. Engel said he thinks it would be difficult to project based on last year because they are going to have a completely different facility and different clientele.

Hannasch said there will also be a lot of different amenities available. Otto-Arvizu said she was at the Pipestone pool and was amazed last year at the number of adults who went there.

Hannasch said he thinks Option A is a reasonable figure for rates. Ferrazzano made a motion to approve Option A and Otto-Arvizu seconded. Hannasch felt both residents and non-residents will be comfortable with the prices. Engel said the committee compared the price of admission to a basketball game which is \$5.00 per adult and worked from that point looking at possibly an 85 to 90 day season. Nielsen said if the City has to change the rates next year would the Council rather raise rates or lower them. Otto-Arvizu said she would like to attract as many people as possible. She feared if prices were too high it would reduce some numbers. Polzine said there are a lot of places that have slides and charge extra for them or patrons have to purchase a bracelet to use the slides and he has heard a lot of complaints about that. Engel said the daily admission last year was two dollars but patrons had to pay for afternoon and evening sessions separately.

Otto-Arvizu asked if food like pizzas were going to be offered as concessions. Engel said they are going to have an extensive concessions stand. Gary Tholen is in charge of organizing it and he has an excellent background in the restaurant business. He is doing the research, buying equipment, and setting up the menus.

Ferrazzano asked if the pool party rental was for the whole pool. Engel replied it would be. Ferrazzano asked what times of the day it would be available for rental. Engel replied it would be between 8:00 and 10:00 p.m. Fraser said it wouldn't take away anything from the daytime pool hours then. Ferrazzano said someone couldn't have an afternoon party at the pool then. Engel replied no.

Stobb asked if they will have to hire more life guards with the aquatic center. Engel said they just got guidelines from the Minnesota Department of Health and because of the amenities they will have to have more on duty. He said they are working at budgeting for the staff. Stobb asked if the expense for staff will be higher than planned. Engel replied that \$42,000 was projected for staffing

and there will be at least one, maybe two, extra people on the pool staff plus two extra people in the concession stand and an admissions person. Ferrazzano amended his motion to adopt Option A plus all the listed fees. Otto-Arvizu seconded the amendment. All voted in favor of the motion.

Hannasch said the committee also needs action taken on the certificate of residency. Stobb asked if they need to know tonight. Hannasch said they are putting the plan together at a meeting tonight and wanted to finish so they could start collecting donations. Stobb said his big hesitation is that the certificate is good forever. Hannasch said it's good for the life of the pool. Hannasch said the committee will go with whatever the Council approves. Otto-Arvizu asked Stobb if he was thinking the certificate could match the 20 year City obligation. Stobb replied that was a possibility because 20 years is a long time. Otto-Arvizu asked what they are looking at for the life of the pool. Engel said they are hoping 35 years. Otto-Arvizu asked if the certificate stays with the land if it would also have to stay with the same family. Hannasch replied it would. He thinks it's a good way to thank the people that will get involved and they do need to raise additional money for the pool. They had talked about giving a one year free pass but this way they save more money in the long run but the pool still gets the donations needed plus revenue from the pool fees. Otto-Arvizu said if there is a 20 year cut-off savings would be short \$500. Hannasch said the minimum donation to get a residency is \$1500 over five years which is \$300 per year. He said there are farmers on the committee and they thought it was a good proposal. Ferrazzano said he thinks it's a good idea but he is concerned about defining the family. He suggested perhaps they could define the number of family members who could take advantage of the certificate, perhaps eight people and the names could be recorded. Ferrazzano said it may not be the fairest way but it would be the easiest because then you can list specifically the people who could take advantage of the certificate. Hannasch asked how many season passes would be issued per year. Ferrazzano replied it doesn't have to be eight people, it can be two. Hannasch asked how many years would it be for then. Ferrazzano said 20 years is fine. Hannasch said issuing two season passes every year would be like extending it to 40 years. Ferrazzano said it would be two people getting a resident pass for 20 years, it's not forty years. Engel said he thinks they are complicating it a bit by saying that might happen, it will probably be just a single family buying a pass. Otto-Arvizu said you may get grandparents wanting to designate other grandchildren. Hannasch felt it should be kept limited one to one. Stobb didn't think there would be a problem with a grandparent designating a family. Hannasch agreed if it was for one family. He also felt the 20 year time frame would be a reasonable change. Marv VanAcker stated he was confused about if one family meant one member of the family. Engel said it was one family membership, not one person. Ferrazzano asked if the pool gets a \$1500 donation who gets the certificate. Hannasch said for instance if John Smith donates the John Smith family would receive the certificate. He said the committee who proposed this plan put a lot of thought into it. Stobb moved to go with what was originally proposed but change the certificate to a 20 year limit. Fraser seconded the motion. All voted in favor of the motion.

Hannasch informed the Council that Marv VanAcker had put in a request to purchase a piece of tax forfeited property across the street from his own property. Hannasch said the property is 37 ½ feet wide and asked VanAcker if he had a specific purpose for the property in mind. VanAcker said for right now he wanted to plant some trees. Hannasch asked if the property to west of it was also vacant. VanAcker replied it has a vacant house but he was not sure what the owner is planning to do with it and wasn't sure how much they own. Hannasch thought they owned the entire half block.

Ferrazzano asked what is owed on property for back taxes. Koopman said the City acquired it through tax-forfeiture and at the time the City acquired 17 different properties so she wasn't sure. She said the property is 37 feet wide and 175 feet long. Otto-Arvizu said it has been the practice of the City to sell unbuildable lots to an owner of an adjoining property at a reasonable price. The fact that it is across the street would mean it could not be part of homestead and she asked VanAcker if he was aware of that. VanAcker replied he was.

VanAcker said it is up to the City Council if they want it back on the City tax rolls. Hannasch said he would like a chance to look into it before taking any action. Otto-Arvizu said that lot is also a corner lot subject to taxation on street improvements and other such things. Ferrazzano asked when the City acquired the lot. Koopman replied about 1990. She added that it is within the target area of the downtown revitalization plan which is something to keep in mind. Ferrazzano said his feeling is someone want to buy something that has been sitting there since 1990 more power to him. Nielsen

said this was a possible location they were looking at when planning to build the four-plexes. Otto-Arvizu said they did some negotiating with the owner next to this property. She asked if it was an abandoned property or if no one was living there currently. Koopman replied it is not abandoned. Otto-Arvizu said if the lot in question was combined with the neighboring lot it might be a site for development. VanAcker said that is what he was told the last time he asked about the lot. Otto-Arvizu said she would like the opportunity to look at the lot.

Nielsen asked if there are utilities under that street. Polzine replied only a storm sewer. Nielsen said the street could almost be abandoned as it doesn't service any property. Polzine said there is one house on the other end towards South Street and there is a warehouse located on it. VanAcker said the elevator uses it. He said he never thought about asking the Council to close half a street but now that it was brought up it's a thought. Hannasch said he would like to give the Council a chance to look around the property. Otto-Arvizu asked if it would be wise to check with the Downtown Revitalization Committee and the EDA before making a decision. There are parking problems downtown and she felt they need to look at it as a whole. Stobb said they could look at parking perhaps or future townhouses. Otto-Arvizu said there is a housing survey that has come back in and they are waiting for recommendations. The results will help tell the City what it can sustain for new housing units built. Hannasch said there has been some interest expressed about a condominium unit. Stobb said selling to VanAcker is an option to look at but he felt the Council also needs to look at other possibilities. Stobb asked if they should check with the neighbor to west. Koopman said they have a Harold Alexander in Lake Preston, South Dakota so it would take some correspondence. Polzine thought the owner was deceased. Stobb asked VanAcker if he was going to make an offer. VanAcker replied not until he talked to the Council but his question would be how much vacant property does the City need. He said he waited this long and asked Koopman if she could drop him a line when the Council decides something.

Hannasch reported on the police committee meeting. He said they discussed some of the things regarding maintenance of vehicles and what could be done to improve the life of vehicles to make sure they will last six years. One thing that will be done is to install hour meters on the motors of the vehicles. Hannasch asked Hillger if they had been installed yet. Hillger replied no. Hannasch said vehicles will then be serviced based on hours instead of miles and should give a longer life on engines. He said officers will try to limit miles to 45 miles per shift. The monthly police activity report will be submitted to Koopman and will be included with the agenda packet. There has also been a recommendation to establish a permanent police committee to discuss issues and make recommendations as the need arises. One of the Council members called Koopman and asked if the committee would meet monthly. Hannasch said they were only meet if a need was expressed by Hillger, Koopman or one of the Council members. Hannasch said he thinks it's a good way to handle some problems without them becoming major issues. The recommendation is for Hillger, Koopman, Caron, Otto-Arvizu and himself to be on the committee.

Berndt asked if it's an issue that is going to come back to the Council anyway why couldn't the Police Commission handle this. Hannasch said the Police Commission doesn't have any jurisdiction in these types of issues. The purpose of the committee is if there are problems or questions the committee can meet without waiting to get on the Council agenda. The committee is not trying to run the day to day operations of the police department, that is Hillger's responsibility. Berndt said that is what he was trying to make understood. Hannasch said Hillger had brought up the police vehicles lasting for six years which was discussed extensively at the meeting. The committee came up with the some guidelines and things to watch for but this way if they find a vehicle is not going to last for six years they have something to go by. Ferrazzano made a motion to adopt the recommendation of the committee and Berndt seconded. All voted in favor of the motion.

Hannasch presented People's Service recommendations regarding water service in Tracy. He said the City did get some money back from People's Service. Koopman said according to the contract if the amount budgeted for maintenance is not all used the City gets it back and so \$1,121 was reimbursed. Ferrazzano asked if the refund goes to the general fund. Koopman replied it goes to the utility fund. Stobb asked if the Council needs to make any decisions about People's Service recommendations. Koopman replied not at this time. She and Polzine will be meeting with People's Service to review the request for proposals for the lagoons and then they will submit a recommendation to the Council.

Koopman referred to a copy of the e-mail she sent to various representatives and senators regarding how the Governor’s budget plans would impact the City. She said Seth Schmidt did very good article in the Headlight Herald about the situation. She had asked him to get the story into paper to get the word out about the possible budget cuts. Based on the Governor’s proposed plan, the City would be subject to a reduction of Local Government Aid (LGA) equaling \$189,916 which would force the City to either borrow money or lay off personnel. Fraser asked if she had gotten any responses. Koopman replied Marty Siefert, Jim Vickerman and Steve Sviggum all responded and said they would fight to make sure LGA was not touched. She said both the house and senate plans do not include plans to cut local government aid. The plan the Governor has proposed is not a fair way to reduce the State’s deficit because it strictly looks at percentage increases in the levy and aids without looking at why cities had increases and our reason is the pool. Without the pool Tracy would have only had a 1.8% increase. Koopman said Ventura has made some very bold statements that unless the legislature takes some steps to reduce the deficit he is going to show his power. Fraser asked if Koopman sent an e-mail to Ventura. Koopman replied she didn’t but could certainly do that. She said at the meeting she attended it was said to take this issue very seriously. She encouraged each Council member to drop a line to legislators. Stobb asked what the Governor’s plan do to the City in 2003. Koopman said they would be looking at \$28,883 compared to 2002 and cuts of \$189,916. Koopman said the sad thing is amount the City’s budget would be cut is more than amount being levied in the general fund. Hannasch thought the Governor should be contacted.

The Consent Calendar included the following: Municipal Accounts Payable; Fireman’s Relief Association minutes for February 4, 2002; Police Activity Report; and Police Vehicle Maintenance Log. Motion by Fraser, seconded by Ferrazzano, to approve the above listed items. All voted in favor of the motion.

There being no further business motion by Ferrazzano, seconded by Berndt, to adjourn. All voted in favor of the motion.

ATTEST:

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City Administrator

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Mayor

**February 25, 2002**

The regular meeting of the Tracy City Council was called to order at 6:30 p.m., Monday, February 25, 2002 in the Council Chambers of the Municipal Building. The following council members were present: S. Ferrazzano, M. Fraser, D. Berndt, C. Hannasch, J. Otto-Arvizu, R. Caron, and R. Stobb. Also present were staff members: A. Koopman and F. Nielsen.

Hannasch asked for any additions or corrections to the minutes from the February 11, 2002 City Council meeting. Motion by Berndt, second by Fraser, to approve said minutes as written. All voted in favor of the motion.

Hannasch asked if there were any additions or deletions to the agenda. Motion by Caron, second by Stobb, to approve the agenda as written. All voted in favor of the motion.

Hannasch stated a public hearing would be held at 6:45 and moved on to the memo received from McLeodUSA cable franchise regarding compliance with the franchise agreement. In the memo McLeod stated they would like to keep the franchise the same and are searching for office space in Tracy. Hannasch said McLeod has filed for bankruptcy which may be part of the reason they are not in compliance. Koopman said McLeod is asking for extension until June 1, 2002 to be in compliance with the franchise agreement. They were supposed to have been by December 31, 2001. Fraser asked if they knew about the office requirement. Koopman replied they did from the beginning. Hannasch thought it would be wise to give the extension. Ferrazzano asked why they needed an extension and if they are having trouble finding office space. Koopman replied she didn't know and said their plans were to have an office established. Ferrazzano said if they knew about it he thinks June is too much of an extension, he suggested giving 30 or 60 days to be in compliance or to submit in writing a reason why they need a longer extension. Ferrazzano felt it shouldn't be an excuse that they can't find office space or someone to manage it and made a motion to give McLeod 60 days to be in compliance or submit a reason why they need until June. Caron seconded the motion. Otto-Arvizu asked what the consequence would be if they cannot comply. Ferrazzano said the City can always pull the franchise agreement and they could lose needed customers. Stobb said if they lose customers the customers will lose service. Otto-Arvizu said her concern is to have equity because McLeod has a competitor in Tracy. Ferrazzano said maybe ultimately the consequence will be nothing but the Council can still notify them of the possibility. Stobb asked about the other part of Ferrazzano's motion to give a reason for the extension. Ferrazzano thinks McLeod should give a sufficient reason why they can't comply.

Otto-Arvizu asked if someone calls the local phone number for Charter if they get a local person. Fraser replied during regular business hours they will. All voted in favor of the above stated motion.

Nielsen reported that he got a chance to review the third version of the street project agreement received from RLK Kuusisto and the format received now was relatively the same as the sewer separation project agreement. He said Article 11.5.2 was changed slightly to include that the City of Tracy will be responsible for all expenses including attorney's fees in the collection of an unpaid invoice. Nielsen said on page 15 a testing plan was provided whereas the 2001 agreement had a testing plan heading but no information under it and this agreement has a plan in place. He said whatever date the current street plan is estimated for completion needs to be put into the agreement. Since this is a different type of work being done than the sewer project the compensation package is altered. RLK Kuusisto previously sent copy of the fee schedule and it wasn't included with this agreement so Nielsen assumes the previous fee schedule is acceptable. Overall Nielsen felt this agreement was acceptable. He asked Polzine if a completion date had been established. Polzine replied it had. Nielsen said on page 15 paragraph C needs to have the date changed to the year 2002 as it currently reads 2000. Koopman asked the Council if they wanted to expose the City to the cost of attorney fees in Article 11.5.2 on page 14. She didn't feel they City should have to pay expense of fighting it's own case and theirs as well. Otto-Arvizu said unless it means if the City loses that it may stand to pay for lawyers fees. Koopman said this agreement indicates it is an automatic expense. Hannasch asked if Koopman would suggest striking that line of the agreement. Koopman replied she doesn't think the City would want to obligate itself for any of these expenses because there would be a reason for non-payment. Ferrazzano asked if they would want to strike whole sentence. Fraser asked if there would be a problem paying an invoice within 30 days. Koopman replied no, but if so it's for a reason. Fraser said the agreement includes a one percent finance charge

for invoices not paid. Koopman said that was customary. She said they don't have to strike the whole paragraph just the one sentence.

Ferrazzano made a motion to approve the agreement contingent on striking the last sentence of Article 11.5.2 regarding expenses and attorney's fees and costs for unpaid invoices. Fraser seconded the motion and all voted in favor.

Hannasch opened a public hearing regarding a public nuisance at 174 Center Street. Hillger reported as of this afternoon conditions are much the same except one vehicle was removed and a blue tarp was put over the garage opening but was starting to come down. He recommend to proceed with the nuisance. Hannasch asked if anyone was present to speak. There being no one he closed the public hearing. Caron said it is possible the owner is moving around the first of March. Koopman said the Council can still issue an order of abatement which gives the owner 60 days to comply. Motion by Stobb to proceed and second by Caron. All voted in favor of the motion.

Hannasch presented the Board and Commission vacancies:

Planning Commission: One vacancy  
Eugene Hook reapplied

Motion by Stobb, second by Ferrazzano, to appoint Hook to the Planning Commission, term to expire 2006. All voted in favor of the motion.

Library Board: Two vacancies  
Marlene Buck and Fylla Paulson applied

Motion by Caron, second by Stobb, to appoint Buck and Paulson to the Library Board, terms to expire 2005. All voted in favor of the motion.

Police Commission: Two vacancies - one term expires 2003 and one in 2005  
Dale Johnson Jr. applied

Stobb asked if the Council could appoint Johnson to longer term rather than the remainder of the shorter term. Motion by Ferrazzano, second by Fraser, to appoint Johnson to the Police Commission, term to expire 2005. All voted in favor of the motion.

H.R.A. Board: One vacancy  
Dale Krog applied

Motion by Stobb, second by Fraser to appoint Krog to the H.R.A. Board, term to expire 2007. All voted in favor of the motion.

Multi-Purpose Center Board: Two vacancies  
No applications received

Hannasch asked for anyone interested to please apply at City Hall.

E.D.A. Board: One vacancy  
Bill Chukuske applied

Motion by Caron, second by Stobb, to appoint Chukuske to the E.D.A. Board, term to expire 2007. All voted in favor of the motion.

Hospital Community Board: Two vacancies  
Steve Zens applied for the Currie area

Hannasch said there is a vacancy for the Milroy area but he doesn't think the present Milroy representative realizes his term is up and he is south for winter. Hannasch suggested waiting to see if the current rep wanted to reapply. Motion by Caron, second by Stobb, to appoint Zens to the Hospital Community Board, term to expire 2005. All voted in favor of the motion.



**March 11, 2002**

The regular meeting of the Tracy City Council was called to order at 6:30 p.m., Monday, March 11, 2002 in the Council Chambers of the Municipal Building. The following Council members were present: C. Hannasch, S. Ferrazzano, M. Fraser, D. Berndt, J. Otto-Arvizu, R. Caron and R. Stobb. Also present: A. Koopman.

The Mayor asked for any additions or corrections to the minutes for February 25, 2002. Motion by Berndt, seconded by Fraser to approve said minutes as written. All voted in favor of the motion.

The Mayor asked for any additions or deletions to the agenda. The following additions were made: (6C) TMB Softball request; (7D) A resolution approving payment to Salonek Construction for work completed on the Aquatic Center. Motion by Stobb, seconded by Fraser to approve the agenda as now written. All voted in favor of the motion.

John Judkins, Fire Marshal reviewed a report on a hazardous building located at 472 3<sup>rd</sup> Street. He explained that they received an administrative search warrant that allowed them access to the interior of this structure and an investigation was conducted on February 26, 2002. The photos he presented indicated areas that confirmed the hazardous condition. The structure as it currently sets does not create a fire hazard because both the electricity and gas have been disconnected. The structure was not fully secured. From a public health standpoint, he noted that there is asbestos siding that is broken and asbestos surrounding the piping in the basement. Environmentally this is unsafe and the removal of asbestos can be very costly. He noted specific areas such as the foundation and front porch that visibly contribute to the hazardous condition of the structure. In addition, there are number of posts in the basement that are supporting the upper floor. Gary Garrels, Building Inspector, stated that if the Council orders the repair of this structure, he will require an structural engineer to inspect the structural soundness. This would be at the expense of the owner. No effort has been made to improve this structure since the fire which took place three years ago. After some discussion, Caron moved and Fraser seconded to declare the structure located at 472 3<sup>rd</sup> Street as hazardous and order it removed within 90 days. All voted in favor of the motion.

The Council reviewed the 2001 audit presented by Nicole Larson, Kinner & Company, LTD.

Motion by Berndt, seconded by Stobb to appoint Thad Lessman to serve on the Police Commission. All voted in favor of the motion.

Motion by Ferrazzano, seconded by Fraser to appoint Dave Tieg to fill the unexpired term of Ivan VanEssen on the EDA Board. All voted in favor of the motion.

Motion by Caron, seconded by Stobb to appoint Dave Zwach to serve on the Hospital Advisory Board. All voted in favor of the motion.

S. Ferrazzano, D. Berndt and M. Fraser were appointed to serve on the Board of Equalization scheduled on May 2, 2002 at 7:00 p.m.

TMB Softball requested authorization to place a batting cage at the Softball Complex. Discussion included the need for an agreement covering liability exposure. Motion by Caron, seconded by Fraser to authorize the placement of a batting cage and enter into an agreement with Tracy Area High School for the use of the Softball Complex and Sebastian Field for their softball program including responsibility for paying for their share of the lighting costs.

Motion by Stobb, seconded by Caron to adopt a resolution approving payment to Heartland Mechanical, Inc. in the amount of \$23,293.05 for work completed on the Aquatic Center. All voted in favor of the motion. (Res. No. 2002- 10)

Motion by Berndt, seconded by Caron to adopt a resolution approving payment to Olympic Pools, Inc. in the amount of \$24,557.00 for work completed on the Aquatic Center. All voted in favor of the motion. (Res. No. 2002-11)

Motion by Stobb, seconded by Fraser to adopt a resolution approving payment to Fulda Electrical Service, Inc. in the amount of \$5,130.00 for work completed on the Aquatic Center. All voted in favor of the motion. (Res. No. 2002-12)

Motion by Stobb, seconded by Caron to approve payment to Salonek Concrete & Construction in the amount of \$41,389.36 for work completed on the Aquatic Center. All voted in favor of the motion. (Res. No. 2002-13)

The Consent Calendar included the following: Municipal Accounts Payable, Planning Commission minutes for March 4, 2002, Cemetery Commission minutes for February 21, 2002, Multi-Purpose Center minutes for February 11, 2002, Firemen's Relief Association minutes for February 4 and March 4, 2002, Police Activity report for February and Police maintenance log. Motion by Stobb, seconded by Caron to approve the above listed items. All voted in favor of the motion.

There being no further business, Caron moved and Fraser seconded to adjourn. All voted in favor of the motion at 7:19 p.m.

ATTEST:

\_\_\_\_\_  
City Administrator

\_\_\_\_\_  
Mayor

### March 25, 2002

The regular meeting of the Tracy City Council was called to order at 6:30 p.m., Monday, March 25, 2002 in the Council Chambers of the Municipal Building. The following council members were present: Hannasch, Ferrazzano, Fraser, Berndt, and Caron. Members absent: R. Stobb and J. Otto-Arvizu. Also present were staff members: A. Koopman and D. Polzine.

The Mayor asked for any additions or corrections to the minutes for March 11, 2002. Motion by Ferrazzano, seconded by Berndt to approve said minutes as written. All voted in favor of the motion.

The Mayor asked for any additions or deletions to the agenda. Motion by Caron, seconded by Berndt to approve the agenda as written. All voted in favor of the motion.

Rick Seifert, RLK Kuusisto, presented the plans and specifications for the extension of the sewer separation project. The plans were reviewed by the Public Works Director and he recommended their approval. Motion by Fraser, seconded by Ferrazzano to adopt a resolution approving plans and specifications and authorizing the advertisement for bids. All voted in favor of the motion. (Res. No. 2002-14)

Mr. Seifert also presented plans and specifications for the 2002 Street Improvement Project. The Council reviewed cost estimates for 10<sup>th</sup> Street that included the cost for curb and gutter, curb and gutter on the East side of 10<sup>th</sup> and no curb and gutter. After a brief discussion, the council agreed that the cost difference justified the installation of curb and gutter on both sides of 10<sup>th</sup> Street. The plans were reviewed by the Public Works Director and he recommended their approval. Motion by Fraser, seconded by Ferrazzano to adopt a resolution approving the plans and specifications including the installation of curb and gutter on both sides of 10<sup>th</sup> Street and authorizing the advertisement for bids. All voted in favor of the motion. (Res. No. 2002-15)

A resolution ordering installation of branch sewer and water pipes in advance of street paving was introduced. It was noted that the resolution included the installation of sewer and water lines for each platted lot. The Council agreed that the term should be changed to each "residential" lot. Motion by Caron, seconded by Fraser to adopt said resolution as amended. All voted in favor of the motion. (Res. No. 2002-16)

The City Administrator reported that the houses located at 173 9<sup>th</sup> Street and 800 Rowland Street have experienced a fire and there has been no apparent improvements made to either house. She requested authorization to proceed with inspections to determine the condition of each house. She stated that the house located at 173 9<sup>th</sup> Street is owned by John Carlson and he has agreed to cooperate with the City and will allow an inspection. We will also try to get voluntary cooperation from the owner of the other house, however if we are unable we may have to seek an administrative search warrant. Motion by Caron, seconded by Fraser to order inspections be conducted on each house. All voted in favor of the motion.

The City Administrator reported that a committee consisting of representatives from Peoples Service, Don Polzine and herself interviewed three engineering firms for work on the wastewater treatment facility. The committee recommend selecting the firm of Widseth, Smith and Nolting from Alexandria. Motion by Caron, seconded by Fraser to accept the committee's recommendation. All voted in favor of the motion.

Motion by Ferrazzano, seconded by Caron to appoint Pat Peterson to serve a term on the Planning Commission which would expire in 2006. All voted in favor of the motion.

Motion by Ferrazzano, seconded by Caron to appoint Ruth Helgemo to serve a term on the Multi-Purpose Board which would expire in 2005. All voted in favor of the motion.

The following applicants submitted their application for renewal of their set-up and private bottle clubs license:

Sanders Eastside  
Tracy Eagles Club

Motion by Caron, seconded by Fraser to grant renewal of said licenses. All voted in favor of the motion.

The Consent Calendar included the following: Municipal Accounts Payable, Multi-Purpose Center minutes for March 11, 2002, Monthly water and wastewater report, Monthly financial report for February and USAquatics meeting minutes. Motion by Fraser, seconded by Caron to approve the above listed items. All voted in favor of the motion.

There being no further business, Caron moved and Fraser seconded to adjourn. All voted in favor of the motion at 6:44 p.m.

ATTEST:

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City Administrator

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Mayor

**April 8, 2002**

The regular meeting of the Tracy City Council was called to order at 6:30 p.m., Monday, April 8, 2002 in the Council Chambers of the Municipal Building. The following Council members were present: C. Hannasch, S. Ferrazzano, M. Fraser, D. Berndt, R. Caron and R. Stobb. Absent : J. Otto-Arvizu. Also present were staff members: A. Koopman, D. Polzine and F. Nielsen.

The Mayor asked for any additions or corrections to the minutes for March 25, 2002. Motion by Berndt, seconded by Ferrazzano to approve said minutes as written. All voted in favor of the motion.

The Mayor asked for any additions or corrections to the agenda. The following addition was made: (10-A) Joint City Council/School Board meeting : S. Ferrazzano. Motion by Fraser, seconded by Ferrazzano to approve the agenda as now written. All voted in favor of the motion.

Jan Otto-Arvizu arrived at 6:40 p.m.

Gary Garrels, Building Inspector, reported that he and the Fire Marshal inspected the home located at 173 9<sup>th</sup> Street. Mr. Carlson, owner, requested six months to complete the exterior. A discussion followed on periodic time lines for completion. It was the consensus to request Mr. Carlson to provide a schedule to complete the exterior improvements. Motion by Caron, seconded by Stobb to table this matter until the next meeting. All voted in favor of the motion.

Mr. Garrels also reported on the house located at 800 Rowland Street. He explained that he’s uncertain who actually owns the property. State Farm Insurance paid the lending institution \$16,900 and neither the insurance company nor the bank claim ownership. After a brief discussion, Fraser moved and Stobb seconded to verify ownership and seek an administrative search warrant. All voted in favor of the motion.

Shorty Engel explained that a volunteer committee was formed for the purpose of passing a referendum and fund raising for the aquatic center. The committee formed various strategies including contacting service organizations, business organizations and individual donations. Individual committee members were assigned to contact these groups. He was directed to contact both Pepsi and Coke to see who would offer the best proposal. He was encouraged to contact both bottling companies by the committee as well as USAquatics. The Council was informed on January 14<sup>th</sup> that bids were requested from each company. He and the administrator met with Coke five times and Pepsi once and twice by mail. Each company was given two chances to provide proposals and were notified that we would be accepting the best proposal. The following outlines each proposal.

	Pepsi	Coke
10 Year Agreement	Same	Same
\$5,000 Donation	One payment	Over 2 years
Equipment (provide & maintain)	Same	Same
Umbrellas	20	10
Rebate	\$5/500 cases	\$3/525 cases
Pricing	Same	Same

Based on the above information, we entered into an agreement with Pepsi. He explained that according to his job description, he is responsible for the efficient economic operation of the pool and felt that this decision could be made without Council approval because of similar actions over the past 30 years. He reminded the Council that this is an agreement with a vendor and we are looking for every opportunity to increase revenue at the aquatic center. Mr. Caron questioned whether the Council should have approved this agreement first. Mayor Hannasch indicated that there may have been an error and after visiting with the City Attorney he found that his interruption was a little different than his opinion was. He felt that with this now being brought before the Council he was looking for a motion to ratify the agreement with Pepsi. He felt that the Pepsi agreement was the best of the two proposals and if the Council would ratify the agreement it would then receive Council approval. Mr. Engel wanted to clarify with Mr. Caron if his concern was because it was a signed ten year written agreement and if that would make a difference with any other agreements

or as an example if he goes to Food Pride, they will furnish a cooler if we sell their products, but we don't actually have a signed agreement with Food Pride. Mr. Caron felt that the written agreement required Council approval especially if it is a ten year contract. The distinction Mr Ferrazzano would make is if there are things that you can do without signing an agreement that's one thing but when there is an agreement that's signed by the Mayor that's binding the City for a ten year period he would expect that it would come to the Council for approval. Mayor Hannasch stated that if he was wrong, he apologized, but he felt that this was a job that Shorty was given by the Pool Committee to go out and put together the best agreement that he could with the vendors and he did that and they asked to have it signed and this is what we did so if there was an error it would come back to him. Mr. Ferrazzano stated whether or not we end up going with Pepsi, that's not the point it's the procedure we go through. He felt that the Council needs to be part of the decision making process and not be bound to things that are signed that they have no input on. His concern was from a procedural standpoint. He didn't feel that he was in a position to ratify the agreement at this point because wanted to question the people that made these proposals. The Mayor questioned then why did we direct individuals to spend all this time to get the proposals if they have to be brought to the Council. Then we're saying that the committee is given a job to do something and we don't trust the job they're doing and he didn't feel that was right. Mr. Berndt stated that he had the understanding that these proposals were coming to the Council for discussion. He also questioned the number of umbrellas that Pepsi would be furnishing. The proposal summary says 20 umbrellas and the agreement says 10. Mr. Engel explained that there will be 10 umbrellas and they will replace them after five years. Mr. Caron stated that he talked to Coke and they didn't put it in writing, but they said they would replace the umbrellas every two years or as needed. The City Administrator then pointed out that is where the concern lies. She stated that they were directed by the Pool Committee and USAquatics also recommended that we should contact each bottling company to see where we could get the best offer. This was done. We met with each bottling company and they were given equal opportunity and both understood that when the last proposal was submitted that the best offer would be accepted.. Now according to Mr. Caron Coke is saying after the fact that they will replace umbrellas after two years or as needed. Their proposal did not include this information. She felt if that's what their proposal would be, that's what they should have included. She stated the we negotiated in good faith and contended that at no time did it enter her mind that this agreement would require Council action. This agreement that was signed by the Mayor and herself merely outlines the written proposal that was submitted by Pepsi which was the better of the two offers based on the information that was provided. She compared it to the written agreements the Liquor Store has with CNN for their pool tables and dart boards. They are written agreements committing the City for a specified period of time. She stated that if we acted in error, she apologized but at no time did she think that this would require Council action. Mayor Hannasch questioned if we had signed the agreement with Coke, would we even be discussing it? Some Council members disagreed. Mr. Caron felt that with it being a ten year contract that's what brings up the whole thing. Mr. Caron then moved that the first contract be overruled, discuss the bids and make their own decision. Mr. Engel then questioned that when the pool equipment is purchased through various wholesalers, do we have to come back to the Council for approval on these purchases. The City Administrator's stated that this is where the concern lies, what authority do we as department heads have to act independently. She questioned whether agreements with all vendors required Council approval. Mr. Caron felt that was a whole different level compared to a ten year contract with Pepsi. The City Administrator pointed out that there would have been a 10 year commitment with either Pepsi or Coke in order to get the \$5,000 donation. Mr. Berndt questioned why Pepsi was chosen. Mr. Engel responded that Pepsi would pay the \$5,000 in one payment at the beginning of the agreement versus Coke spreading this payment out over two years, plus a rebate of \$5.00 per case after 500 cases compared to Coke which required 525 cases to be sold and would pay a \$3.00 rebate per case. The City Administrator pointed out the the three deciding factor were the initial payment, the rebate and the umbrellas. Mr. Berndt felt that we could get a better case price. Mr. Engel pointed out that we actually spent more time with Coke than we did with Pepsi. Mr. Berndt stated that we are paying full price at \$18.00 per case. Mr Engel responded that the case price is guaranteed for ten years. Mr. Berndt didn't feel that the rebate was relevant because we wouldn't sell 525 cases. The City Administrator pointed out that Glencoe receive a rebate. Mr. Caron stated that Marshall only sold 148 cases last year. Mr. Engel responded that he visited with Doug Goodman from Marshall Community Ed and was informed that the bulk of Marshall's pop sales come from canisters. Mr. Stobb questioned if these same conversations came back to the pool committee. Mayor Hannasch stated that Shorty received these figures and shared them with some

of the pool committee and they were satisfied. We acted in good faith and didn't know there was a problem until last Monday night when he was jumped about it. Mr. Ferrazzano pointed out that he was not alleging that anyone didn't act in good faith he was just concerned about the procedure that if we can't be approached about binding contracts for ten years, what can we be approached about. He felt things were missed and that the Council should have been consulted before we are bound by a contract. He didn't feel it was necessary to micro-manage, but something that is reduced to writing and is signed has us bound for ten year he wants to be involved in that discussion. Mr. Caron then repeated his motion to overrule the contract that was signed, and discuss the bids. The motion was seconded by Ferrazzano. Mr. Berndt questioned whether Coke gave a second proposal. Mr. Engel responded that they did. The original proposals varied in years, amounts, etc. After receiving Glencoe's proposal he requested both bottling companies to present similar proposals. Mrs. Arvizu questioned if we make the current contract null and void means that we will force Pepsi to resign a contract if they are selected. Mr. Ferrazzano pointed out that Pepsi could be of the opinion that they already executed a document from their standpoint it's valid, and that is a possibility. Mr. Fraser questioned the City Attorney if we can undo this contract. Mr. Nielsen stated that in his opinion it's not a valid contract because it was never approved by the Council. Mrs. Arvizu stated that the point they are trying to make is that they don't want to be left out of things and they want to be included and having somebody representing us when we are not allowed to vote on things bothers us. Mr. Engel wanted to clarify if they were talking about written agreements or things that are done daily, do we need approval for that. Mr. Caron responded, not daily, but there must be a dollar amount that can be spent before it has to come back to the Council. The City Administrator stated that when it is a capital expenditure we do get Council approval. Mr. Caron felt that this matter was entirely different. He said that he already knows that Coke told the school that they are not going to install scoreboards. Mr. Engel stated that was untrue. Bill Tauer is dealing with a ten year contract with Coke and they will put them in. Mr. Caron then called for the question. Upon roll call, the following vote was recorded: voting aye: Berndt, Caron, Ferrazzano, Fraser, Arvizu and Stobb; voting nay: Hannasch. The motion carried.

The discussion then centered around the two contracts. Mayor Hannasch pointed out from a dollar standpoint, Pepsi has the best contract and requested a motion to accept the contract with Pepsi. Mr. Ferrazzano pointed out that there are other things to consider such as Coke-Cola's connection to this town, their proximity, the people who are employed by Coke that live in this town. He felt that these things need to be considered as well. He understood the need to receive the best economic package but felt that there are other things that should weigh into the decision that are not listed on paper. Mayor Hannasch questioned if another organization is never given a chance to participate in things in Tracy because we ask them for a bid and only accept the bid from one company because we have done business with them, eventually we'll never get another proposal because why propose if they are not going to look at it anyway. It may be the best proposal but we're still not going to take it. Mr. Ferrazzano reiterated that there are other things that should be considered other than what's put on paper. Mr. Caron stated that should be considered more than estimated sales. In his opinion there are three things that have to be looked at. The ten year agreement, the dollar amount given, and the umbrellas. He estimated that there was \$1500 difference in umbrellas, he felt that with the people that live in town that work at Coke, the \$1500 over ten years is minor. The City Administrator suggested that we should then ask Coke to match Pepsi's bid. Mr. Caron said he would, that he would like to get this done tonight. She explained what they were trying to do was to generate more revenue for the aquatic center, because the more revenue we can generate through sources such as vendors, the less tax dollars will have to be spent to subsidize our facility. She stated that if you're looking at spending tax payers money, that is ultimately what they have to look at. She questioned how the Council could consider a proposal less than what Pepsi's was. Mr. Engel questioned the fairness of going back to Coke to let them match it now. Mr. Berndt agreed. The City Administrator pointed out that if the Council was considering accepting Coke's proposal which is less than Pepsi's, it just didn't make sense. She also noted in her conversation with Mr. Tauer that the School never asked Pepsi for proposal so we don't know what they would have provided over the years. Mr. Caron noted the mileage difference between the two bottling companies. Mr. Caron stated that Coke has worked with everyone in town, Fire Department, Box Car Days. He then made a motion to accept the Coke contract. Mayor Hannasch felt that what we're saying then we'll request bids but we're not going to look at them we'll go back to the same vendor. Mr. Stobb questioned if we turn down the initial agreement I wonder if we really shouldn't go back. Just after school today a person described to him that the \$5,000 donation was peanuts for a big company and the person talking to

him felt that we can do a lot better than that. Mayor Hannasch agreed. We have turned down the Pepsi offer then we should go back and bring them both back to the table so they can tell us what they will do. Mr. Ferrazzano agreed. Mrs. Arvizu pointed out that we have had two trains of thought, one is Coke's relationship with our community and she is also hearing from some council members that they still want to see it done on a competitive basis and will go with the best proposal. She suggested that we may even need to decide what is more important to us as values because we have talked about two different things. Mr. Ferrazzano stated that he's not saying that his sole determining factor as to what proposal to accept is based on the fact that Coke is connected to our city, that's merely added to the mix. Now if the numbers are better for one company and they don't have the same connections, of course it would be more economically feasible to go with that company even if they don't have the same connections to the City that the other company does. But, if they are nearly identical then what may tip the scale is the companies involvement in this town. He suggested that we start at square one and say to each company, give us a proposal again. The discussion then centered around the format to use for proposals. It was the consensus the each proposal needs to address the following: 5 year and 10 year proposal, cash donation, number of umbrellas, price per case, rebate amount and that they will provide and maintain all vending equipment. Mayor also pointed out another consideration that hasn't been mentioned as we talk about the relationship to Marshall is that last year, a number of times the pool was out of pop. Coke was not providing good service. Mr. Engel also noted that the year before, the service was horrendous and we considered changing at that time, but it did get better when they found out that we were building an aquatic center and he got a new machine. Otherwise he was calling them on an every other day basis. After further discussion, Mr. Caron's motion to accept Coke's contract died due to lack of a second. Mr. Caron then moved and Ferrazzano seconded to request Coke and Pepsi to resubmit a proposal including both a 5 and 10 year agreement, cash donation, number of umbrellas, price per case, rebate amount and provide and maintain the vending equipment with said proposals being submitted no later than April 17, 2002. Mrs. Arvizu suggested that the RFP be faxed to both Pepsi and Coke. It was also suggested that each company be contacted by phone. All voted in favor of the motion.

Motion by Ferrazzano, seconded by Stobb to appoint Ralph DesLauriers to serve a term on the Multi-Purpose Center until 2005. All voted in favor of the motion.

American Payment Centers requested authorization to install a drive-up payment box for Charter Communications to be located next to the City's drive-up payment box for utility bills. Their proposal if accepted by the City would include replacing the City's current pedestal with stainless steel. Motion by Ferrazzano, seconded by Caron to grant said request. All voted in favor of the motion.

Motion by Ferrazzano, seconded by Caron to direct the City Administrator to write a letter to Xcel Energy and Aquila to see if they would be interested in installing drive-up payment boxes. All voted in favor of the motion.

The Consent Calendar included the following: Municipal Accounts Payable, USAquatics meeting minutes, Police maintenance report, Fire Department annual report and Police Activity Report and Police Log. Motion by Ferrazzano, seconded by Stobb to approve the above listed items. All voted in favor of the motion.

Mr. Ferrazzano reported that the committee appointed to work on the Joint Powers Agreement met on April 1, 2002. The School Board representatives were Eric Nelson and Sandy Carpenter with City reps including Mike Fraser and himself. They reviewed the proposed agreement prepared by Mr. Kerr and basically agreed on the main things. They felt that the equipment list should be updated. Mr. Nelson was going to take it back to their Board and fax him with the changes. Mr. Ferrazzano has not received the fax as yet.

There being no further business, Ferrazzano moved and Stobb seconded to adjourn. All voted in favor of the motion at 7:48 p.m.

ATTEST:

**April 22, 2002**

The regular meeting of the Tracy City Council was called to order at 6:30 p.m., Monday, April 22, 2002 in the Council Chambers of the Municipal Building. The following council members were present: S. Ferrazzano, M. Fraser, C. Hannasch, J. Otto-Arvizu, R. Caron, and R. Stobb. Absent was: D. Berndt. Also present were staff members: A. Koopman and F. Nielsen.

Hannasch asked for any additions or corrections to the minutes from the April 8, 2002 City Council meeting. Motion by Ferrazzano, second by Caron, to approve said minutes as written. All voted in favor of the motion.

Hannasch asked if there were any additions or deletions to the agenda. Koopman asked to make a change to the agenda items under Petitions, Requests, Communications and add (6A) a request from Art Marben to make some comments regarding the aquatic center. She stated that Marben has a conflict with another meeting and requested to speak by 7:15 p.m. She also added under (6B) Dick Kelley’s request to make comments regarding the aquatic center. Motion by Ferrazzano, second by Fraser, to approve the agenda as written. All voted in favor of the motion.

Hannasch reported that three bids were received for 2002 Roadway Improvements projects:

Central Specialties, Inc., Alexandria, MN	\$391,941.68
McLaughlin & Schultz, Inc., Marshall, MN	\$436,776.08
Duininck Brother, Inc., Prinsburg, MN	\$490,764.40

Stobb asked if the City had ever worked with Central Specialties before. Koopman replied no but she believed they got Highway 14 project bid. Motion by Stobb, second by Caron, to adopt a resolution accepting the bind submitted by Central Specialties, Inc. in the amount of \$391,941.68. All voted in favor of the motion. (Res. No. 2002-17)

Hannasch stated that seven bids were received for the combined sewer separation - Circle Drive project. The three low bids received were as follows:

Schmidt Construction, Alexandria, MN	\$205,944.25
Duininck Brothers, Inc., Prinsburg, MN	\$257,903.91
Bartz Excavating, Inc., Marshall, MN	\$287,670.00

Caron asked if there was money left from the previous sewer separation project. Koopman replied that there was. Motion by Caron, second by Fraser, to adopt a resolution accepting the bid submitted by Schmidt Construction, in the amount of \$205,944.25. All voted in favor of the motion. (Res. No. 2002-18)

Larry Van Hout was present from Widseth Smith Nolting regarding the Wastewater Stabilization Pond Study. The agreement prepared by his company follows what was outlined in their proposal. They will do background research on the ponds, during the spring discharge they will monitor that and after that they will do a water balance study. In the proposal Widseth Smith Nolting requested a lump sum fee of \$6,000 which is the total on the agreement. Van Hout stated that People’s Service and Koopman are working together with him to prepare for the study. He added they will do west side first then the east side and should have some results on the west side by June. Hannasch asked when the work would be completed. Van Hout replied by late summer.

Stobb asked if the final report given would be something that a contractor could work from. Van Hout replied no that an engineer would need to draw up plans. Nielsen asked to make one comment that to be consistent he recommended Article 13 be deleted from the agreement. He said in the City’s last few contracts similar statements had been deleted. Van Hout agreed to that change. Motion by Ferrazzano, second by Stobb, to approve the agreement with Widseth Smith Nolting provided that Article 13 was deleted. All voted in favor of the motion.

Hannasch reported that a question had been raised as to who would pay the closing costs on the Lavoy deed for an industrial park lot. He said it has always been City's policy that the buyer pay any closing costs. Caron asked if Lavoy brought the issue up. Koopman replied he did. Caron asked how much closing costs would be. Nielsen said he wasn't sure since there was no abstract available. Koopman said there is a base abstract for the property. Nielsen guessed the cost would be around \$250 to \$300. Hannasch felt they should go with precedence and have buyer pay the closing costs. Otto-Arvizu asked if the City normally has an abstract for its properties. Koopman replied for the Eastview lots they only have a base abstract. Motion by Caron, second by Fraser, to require the buyer to pay all closing costs. All voted in favor of the motion.

Hannasch stated that as of 3:00 p.m. on Wednesday, April 22, 2002 the only bottling company proposal received was from Coca-Cola which included both a five year and ten year agreement proposal. Hannasch said he talked to Caron prior to the meeting who has agreed to abstain from voting on this issue. The proposals both state that Coca-Cola will provide all necessary equipment and will make available two GDM 45 coolers and ten Coca-Cola umbrellas for outdoor use to be replaced as necessary. The five year proposal includes a donation of \$2500 to the aquatic center in return for exclusive beverage rights. Included in both agreements a rebate of \$2.00 per case for every 1-500 cases sold and a rebate of \$4.00 per case for every case over 500 sold. Hannasch asked if the pricing was guaranteed. Marla Verlinde with Viking Coca-Cola replied no it will be regular wholesale pricing. Hannasch asked if the rebate would change if price per case changed. Verlinde said it would not. Fraser asked if there was guaranteed pricing on the first proposal submitted by Coke. Verlinde replied there wasn't. Koopman said Pepsi was the only one with guaranteed pricing.

Hannasch said they need to look at the difference between the five and ten year proposals and since this is the only bid received and because of time constraints he suggested getting a motion on the table. Stobb said the only real difference in the five and ten year agreements is the money up front, \$2500 as opposed to \$6000. Fraser said he didn't understand the portion of the agreement regarding renegotiating at the end of the contract. Verlinde said it was put in for protection of both parties involved. Fraser asked if the aquatic center didn't meet Coke's expectations what would happen. Verlinde replied depending on the volume sold at the end of the contract Coke will look at the rebate amount and money donated up front. If there were three terrible summers where there were a lot of rain closings Coke would look at renegotiating terms. She said Coke is taking a risk and there is nothing stating at the end of five years the pool is obligated to take a contract with Coke again but they hope Tracy will renegotiate with them. Hannasch stated the risk factor goes both ways but the big difference is the tremendous drop from what was previously proposed for a donation from \$5000 to \$2500. Caron said that was for a ten year contract this is for a five year. He said Coke actually increase the donation on the ten year contract to \$6000.

Ferrazzano made a motion to accept the ten year proposal with Coke. Stobb said he would second for discussion. Hannasch said the one thing he wondered is what increases have there been in the last 3-5 years in price per case. Rodney Guza from Coke replied there isn't a set rate and he has never seen it go up over a dollar per case. Generally increases have been between 60 cents and a dollar per year with price increases being due to manufacturing and syrup costs increasing. Guza added that normally their competitor stays along the same lines. Hannasch stated in the next ten years there could be a possible \$6-10 price increase per case. Guza replied it is possible. He said he can't possibly guarantee that prices won't go up in the next ten years and it is possible they could go down, however unlikely. Caron said the price only went up twice in the last five years. Guza said he thinks it has gone up three times. Fraser asked how the \$6000 would be paid, over time or in one lump sum. Verlinde replied in one lump sum. Stobb asked if the rebate would come in periodically or at the end of the season. Guza replied probably at the end of the season. Coke will have a volume report and the rebate will come as a credit to the account and not as a check. Hannasch said at the end of the contract it should come back as a check. Guza said he would guess that was correct but he would have to check to make sure. Stobb asked if they were working off the wholesale price list for 2002 and each year they would work off a similar list. Guza replied yes, the 20 ounce beverage pricing is standard and whatever they are charging is the same as any store in the area. Nielsen asked if the pricing is all for 24 bottles per case for all beverages. Guza said he didn't have a price list with him but the only exception may be the cappuccino's and teas which are 12 per case. The other exceptions according to the price list are 1 liter waters, Mandalay teas and Havana iced cappuccino which come 12 per case. He said they probably would not initially have 1 liters in stock. Stobb said the contract

does not specify it has to be a case of 24 to get the rebate and asked if it applied to any size case. Guza replied the rebate applies to any size case.

Stobb asked Nielsen if he had any other correspondence with Pepsi. Nielsen replied he had a discussion with their attorney but nothing that would prevent Council from proceeding. All voted in favor of the motion to accept the ten year contract with Viking Coca-Cola.

Robert Gervais presented a recommendation from the EDA to consider the renovation of the Corner Craft building. He said at this time the renovations would be non-specific and wouldn't be done necessarily for a call center. Plans would be to install ADA bathrooms and update water and electrical lines. Gervais said at this time the EDA didn't budget enough funds to do project on their own but the goal is at some point down the road to get a call center established. The EDA wants to get a private investor or group of investors involved. Hannasch asked what kind of dollar figure were they considering. Gervais replied \$125,000 which would include the following:

- \$65,000 - actual renovation
- \$30,000 - consultant
- \$30,000 - equipment

Otto-Arvizu asked what the consultant would provide. Gervais replied the cost was a ballpark estimate but the consultant would tell them what kind of phone lines and equipment would be needed for a call center. Fraser asked what kind of equipment was going to be purchased for \$30,000. Gervais replied it would be general equipment for the building such as phone lines. He said the EDA has one of best buildings on main street but doesn't have anyone knocking down the door. The EDA wants to incubate the building and make it more attractive to potential businesses. Ferrazzano stated when the term incubate is used that involves more than getting building ready. Gervais replied the EDA is asking the City for just the renovation portion of the plan. Otto-Arvizu said in the past the EDA made a \$10,000 investment in the building and she thinks it's a good investment but she has been concerned that consultants have told the EDA to prep the building. She said in Lake Wilson they had a similar situation and cultivated a partner in order to have a hand in getting a viable business in a building.

Gervais said it is the EDA's job is to cultivate the economy. The question is do we build and hope they come or get more involved. Otto-Arvizu stated right now the investment is \$10,000, if they renovate the investment is \$75,000 and they are upping the ante. She felt a need to balance things, there are so many things going at once with downtown revitalization and the aquatic center and it all works together but at what point do we say enough is enough. Otto-Arvizu said at this point she doesn't feel comfortable investing a lot of dollars without knowing someone is very interested in the building. Gervais said their consultants have contacted businesses that are interested but at this point the EDA doesn't have anything to offer them.

Ferrazzano asked about equipment acquisition and asked if it was equipment that one company can use but another will come in and say they can't utilize it. Gervais replied it would be standard equipment usable by any business, such as phone and computer lines and central switches. Ferrazzano asked about the \$30,000 consulting fee and asked if they could renovate and buy equipment without paying a consultant. Gervais said the consultant would tell them where to place vital phone and data lines and other related equipment. Hannasch added that part of this consulting fee would be to market the facility to get businesses interested in the building. Caron asked how long that fee would retain a consultant. Gervais said it would be 120 days or about four months.

Fraser asked about the Minnesota Community Capital Fund the EDA was looking at. Gervais replied it was not up and running yet but should be by the end of July or early August. He added this will take a \$25,000 investment by the EDA. Otto-Arvizu said the EDA did send a letter of intent to participate. Gervais said the EDA is also working with the Minnesota Technology and Telecommunications group. Stobb said he was not totally opposed but it would be nice to see the project bid out and see what we would be getting for the investment.

Hannasch tabled discussion so Art Marben could do a presentation. Marben said as a member of the aquatic center committee he had been asked to speak about the recent problems surrounding the pool.

He said members have donated many hours of time for the project and two members of committee have been criticized by another member stating that they will benefit financially from the project. This has been a very unfair statement. These committee members so accused have said they may step aside because of these comments. Marben said the expertise of these members would be a great loss to the committee and difficult to replace.

Hannasch redirected discussion to the EDA request and stated Jim Kerr has done some research regarding the EDA owning a business. Kerr stated the statute and enabling legislation names the City Attorney's office as council to the City. He said the attorney's office has not been consulted about any of discussion for the building renovation and said he is not aware of the fact that when you are a municipal body you cannot act as a private party. Kerr read aloud a memo sent to Koopman regarding EDA authority. He said the EDA is under the authority to purchase property but something very vital has to be done before any further action is taken, first a public hearing must be held and then an inspection of the property must be done to establish an economic development district. Kerr recommended making the district the entire downtown business district.

Gervais asked if they do establish an economic development district if they could proceed with the renovations. Kerr replied to a point, there are limits as to providing capital under the Minnesota statute, he thought a 25% limit. He said we're ahead of ourselves and would want to get a district established and then determine where we are legally limited. Gervais asked if this would be similar to a TIF district, a Tax Increment Finance district. Kerr replied it was. Gervais said he would soon be attending a meeting regarding this type of district. He said after the EDA meeting last Friday and having received a copy of Kerr's memo he contacted the League of Minnesota Cities and is waiting to get some input from a couple other cities involved in the same type of situation. Kerr asked if was looking at other legal council. Gervais replied no he just contacted the LMC to get some feedback and a couple of cities who purchased businesses. Kerr said they need to get the appropriate data before proceeding. Ferrazzano asked what kind of data was needed. Kerr said he couldn't tell him right now. Ferrazzano replied he didn't need to know immediately. Stobb said he knows Kerr is very meticulous with words and stated that his memo was based on "limited research." Stobb asked if there is any chance in looking into it that he might find anything different. Kerr replied that since he wrote his memo Friday that he has since continued to check and has not found anything to say the EDA could run a business.

Otto-Arvizu asked if the EDA leased the building to a company if that is a possibility. Kerr replied he thought that would be all right. Gervais asked if that was similar to O'Brien court. Ferrazzano asked how the EDA can run that and not a call center. Kerr replied they have a housing authority for O'Brien. Gervais said the next EDA meeting is May 3 and they would discuss the matter then. Otto-Arvizu asked how much notice is needed for a public hearing. Koopman replied 10 days and added she thinks what Kerr is saying is that all buildings would need to be inspected that would be included in the economic development district.

Dick Kelley stated he had a couple questions regarding the bid for the pop contract. He said the Council was probably perfectly right to drop the 10 year contract without having contacted the City Council but he hoped they could discuss the matter in a friendly way. One of questions Kelley had is would the length of the 10 year contract have been different if Marla Verlinde had worked for Pepsi. Caron replied it had nothing to do with who worked for whom, it had to do with the way it was handled. Kelley questioned Caron why at the last meeting did they turn down Pepsi's proposal then make a motion to accept Coke's. Mr. Caron responded that it was because the Council had a chance to review it. Kelley said that answered his questions.

Shorty Engel stated that before he began with the agenda items he was going to address several issues brought to his attention. He began by reading the administrative code which states:

“Councilpersons shall participate in Council meetings. Councilperson's duties shall be performed, without exception, by the Council as a whole. Councilpersons, as individuals, shall have no administrative authority including any right to conduct City affairs and business with private individuals, corporations, political subdivisions or state and federal agencies.  
“

Engel asked Caron if he could explain how he could say he was going to “clean house” and say that “Engel was out and Chris Miller was in.” Caron replied he hasn’t said anything. Engel said he has had at least 15 people quote these things to him. He added to date he has spent 1500 hours of volunteered time on the pool project. In addition the committee members have volunteered a lot of their time and he doesn’t believe they should be subject to this type of treatment. Caron asked Engel why he gets so defensive when a question is asked. Engel replied he only gets defensive when his integrity is questioned.

Stobb said he felt very awkward when Engel approached him about the things that were said about what the council was going to do at tonight’s meeting when he hadn’t heard anything about it. Hannasch said everything needs to move on past the bad feelings. Gary Tholen called him and said he feels his integrity has been questioned and is wondering if he can continue working on the aquatic center project. Hannasch recommended moving on and approving the aquatic center requests. Ferrazzano said he agrees but the one thing he wants to focus on is the way things were done. He said he doesn’t have a problem as long as things were done properly but if it weren’t for Caron bringing the pop contract to the Council’s attention they wouldn’t have known. That has been straightened out and Ferrazzano said he doesn’t think it was a matter of personal attacks on anyone, just a matter of getting things done properly.

Hannasch said the Council can either approve one item at a time or in one lump. Caron said this will be a trial year and there will likely be some changes at the end of it. Hannasch said they have relied on the pool manager with a lot of years of experience and felt the proposal was well done. Stobb made a motion to approve the following aquatic center requests and Fraser seconded.

1. Salary Schedule
2. Vendor List
3. Hours of Operation
4. Food Item/Price List
5. Equipment List
6. Proposed Work Schedule

All voted in favor of the motion.

Polzine informed the Council when they did the aquatic center proposal there was a lot of equipment placed in the mechanical room. The old building had frost problems and the floor heaved so there were broken pipes. He recommended putting a heater in the mechanical room to keep the equipment warm. Heartland Mechanical gave him a quote of \$1,075 for the heater including installation. Motion by Stobb, second by Ferrazzano, to approve purchase of the heater. All voted in favor of the motion.

Polzine reported that the current storm sewer runs under where the slides need to go and they need to look at fixing this or water will be bubbling up around the slides. Motion by Stobb, second by Fraser, to approve the storm sewer installation. All voted in favor of the motion.

Gary Garrels stated that he had spoken to John Carlson regarding the exterior improvements to the house at 173 9<sup>th</sup> Street and Carlson has a time line to propose to the Council. Carlson asked for six months to get the exterior of the place back into shape. He made out a schedule of what would be done every two months and passed it around for Council members to review. Carlson added that he wrote out the schedule according to what side of house would be fixed first. Hannasch said this is what they were asking for at the last Council meeting and should be in compliance with what the Council needs. Garrels said they would need some start and finish dates for the project. Carlson replied he should be starting this weekend or the next. Hannasch asked if Carlson could be done in five months and that way be done by October 1 since weather in October can turn bad. Carlson replied he should be able to. Stobb said Carlson already has broken down in months what would be completed. Ferrazzano made a motion to give Carlson six months from today to complete the repairs and Stobb seconded. All voted in favor of the motion.

Hannasch reported that the Softball Association has requested that the City forgive the last payment on the lighting agreement in the amount of \$2099.81. Koopman suggested rather than forgiving the

full amount the Council revise the existing agreement to extend over another five year period requiring an annual payment of \$420. Motion by Stobb to adopt a resolution approving a 5 year payment agreement, second by Ferrazzano. All voted in favor of the motion. (Res. No.2002-18-A)

Neil Daniels reported that to date the Revitalization Committee has taken several steps in making improvements to the downtown area. They are currently applying for a federal Block Grant for an area between South and Rowland Street and Fifth and Center Streets. Survey results for this grant are good and the project has been turned back over to Rick Goodeman to start writing the grant application. The committee has had people up at state capital trying to get money through a state bonding bill for the downtown lighting project. Daniels said by Labor Day they want to get a welcome to Tracy sign on both ends of town and have secured money from private individuals and the Chamber for this project.

The next project is to fix up the corner of Craig Avenue and Center Street. The proposal is \$3200 for intersection beautification. Greenwood Nursery has volunteered to donate in labor, valued at \$1900 and another private party is donating benches at a value of about \$2,000. Daniels said there has never been any money designated for the committee to use but they have been getting things done without it. At this time the Revitalization Committee is asking the Council to provide the "up front" money of \$3200 since time is an issue for this project. The committee will be doing to fund raisers and figuring out other ways to repay the City for the project. Otto-Arvizu asked if the request was for a loan or a donation. Koopman replied it would be a loan. Ferrazzano said he thinks it's important to get something done that people can see to show citizens they are making progress because up to now there has been a lot of talk. Motion by Stobb, second by Ferrazzano, to loan \$3270 to the revitalization committee. All voted in favor of the motion.

Chief Hillger reported that in the last month they have had building materials and numerous cases of people dumping yard waste in the bags at the City dump. Hannasch suggested running another article in the newspaper reminding or notifying people not to leave bags at the dump. Hillger stated the City of Lambertton was threatened with a \$10,000 fine and their dump was closed for five years for having illegal materials. Fraser asked if the dump was still locked at night or if it didn't seem to matter. Hillger replied it doesn't seem that the dumping occurs at night. Stobb asked if the \$500 reward still stands. Koopman replied it does. Stobb suggested putting a sign about reward at the dump.

Hannasch presented a resolution approving payment to Olympic Pools, Inc. for work completed to date on the Aquatic Center in the amount of \$65,313.00. Stobb asked if Olympic Pools was on schedule. Hannasch replied they were told not to leave the site by Bill Deneen with USAquatics. Motion by Ferrazzano, second by Stobb, to adopt the resolution. All voted in favor of the motion. (Res. No. 2002-19)

Hannasch presented a resolution approving payment to Heartland Mechanical, Inc. for work completed to date on the Aquatic Center in the amount of \$9,558.90. Motion by Ferrazzano, second by Stobb, to adopt the resolution. All voted in favor of the motion. (Res. No. 2002-20)

Hannasch presented a resolution approving payment to Salonek Concrete & Construction, Inc. for work completed to date on the Aquatic Center in the amount of \$21,064.00. Motion by Stobb, second by Fraser, to adopt the resolution. All voted in favor of the motion. (Res. No. 2002-21)

The Consent Calendar included the following: Municipal Accounts Payable; Multi-Purpose Center minutes for April 8, 2002; USAquatics meeting minutes; Monthly Financial Report for March; and Fireman's Relief Association minutes for April 1, 2002. Motion by Caron, seconded by Ferrazzano, to adopt the above listed items. All voted in favor of the motion.

Chief Hillger reported it was time for yearly City-wide nuisance inspections and he needs a directive from the Council to proceed. Motion by Stobb, second by Fraser, to proceed with the yearly nuisance inspections. Hannasch asked if they needed a time frame for completion. Koopman said Hillger can get the inspections done fairly quickly but it will take her some time to send notices out. All voted in favor of the motion.

Koopman reported that she had been informed by Anita Benson that funds were appropriated for bike trail. Otto-Arvizu asked how that would work with the trail running from Pipestone. Koopman said Gervais has been working on that and attended a meeting about it. She said getting the funds will make it more attractive for the Pipestone trail to want to link up with ours. Gervais said he doesn't have the date of next meeting but will be attending it.

Polzine said he attended the Detour Meeting regarding the closing of portions of Highway 14. He said they decided to detour traffic down Center Street and there has been some talk of getting a volunteer crossing guard because of kids crossing Center Street to go to the pool. Polzine added the detour will run May 15 through July 1. Polzine said he would rather have seen them detour down South Street but they don't want to cross the railroad tracks on 4<sup>th</sup> Street. Stobb asked if they could turn onto Center and cut over on South Street. Polzine replied they didn't want trucks making the sharp turn at the Dairy Queen.

There being no further business motion by Ferrazzano, seconded by Fraser, to adjourn. All voted in favor of the motion.

ATTEST:

\_\_\_\_\_  
City Administrator

\_\_\_\_\_  
Mayor

### May 13, 2002

The regular meeting of the Tracy City Council was called to order at 6:30 p.m., Monday, May 13, 2002 in the Council Chambers of the Municipal Building. The following council members were present: S. Ferrazzano, M. Fraser, C. Hannasch, D. Berndt, J. Otto-Arvizu, R. Caron, and R. Stobb. Also present were staff members: A. Koopman and F. Nielsen.

Hannasch asked for any additions or corrections to the minutes from the April 22, 2002 City Council meeting. Motion by Ferrazzano, second by Stobb, to approve said minutes as written. All voted in favor of the motion.

Hannasch asked if there were any additions or deletions to the agenda. He deleted (6D) Paint downtown sidewalks, which must be presented to the Planning Commission first; he added (5D) a police car no longer needed for public use; (7B) Circle Drive sanitary sewer report from Don Polzine; and (8G) Police Activity Report and Patrol Log. Motion by Ferrazzano, second by Caron, to approve the agenda as now written. All voted in favor of the motion.

Hannasch informed the Council that a nuisance violation at 174 Center Street has not been abated. Motion by Stobb, second by Caron, to proceed with enforcement of the abatement process. Fraser asked Hillger if anything has changed. Hillger replied as of today it hasn't. Stobb said he had a conversation with a couple of people who thought the City needed to be tougher with nuisance complaints. All voted in favor of the motion.

Todd Hagen with Ehler's & Associates, Roseville, MN presented the Bond Sale report to finance the 2002 street improvement project at a cost of \$463,000. Approximately 40% of the cost will be assessed and the remainder will be a cost to taxpayers. Hagen said the bond sale is scheduled on May 28 and between now and the sale date a special memo will be drawn up to try and get best interest rate. He reported special assessments will be charged at a rate of at least 1% over the bond rate. Rates have been at about 5.1% but things could change between now and then. Hagen said the resolution on page five provides for the sale of \$500,000 general obligation improvement bonds. Bids will be taken up to between 11:00 a.m. or 12:00 p.m. on May 28<sup>th</sup>. Hagen recommended the Council approve the resolution. Motion by Stobb, second by Fraser, to adopt the resolution and all voted in favor. (Res. No. 2002-22)

Hannasch presented a resolution declaring the following property no longer needed for public purpose:

- 34 Metal shelf standards that attach to walls
- 50 Metal shelves (various lengths/widths) for standards
- Miscellaneous display rack
- 60 Sections of 3' x 8' pegboard
- 1 Cash register
- 2 Vacuums
- Miscellaneous wood, wood shelving
- Sewing pattern storage units

Motion by Caron, second by Stobb, to adopt the resolution. Stobb asked if the items would be bid on as a whole or by the piece. Koopman replied people could bid on individual items. All voted in favor of the motion. (Res. No. 2002-23)

Polzine reported that after the airport overlay was inspected by engineers they said there was too much of a drop off on the edge of the overlay and said it had to be filled in with dirt. He said the cost will be 10% City money and 90% federal money. Hannasch asked if the work was done. Polzine replied all but the seeding. Motion by Ferrazzano, second by Fraser, to adopt the resolution approving a change order for the airport overlay project. All voted in favor of the motion. (Res. No. 2002-24)

Hannasch presented a resolution to declare a 1997 Chevy Lumina police car no longer needed for public use. Koopman said the cars usually go up for sale through Midstates Consignment Sales.

Motion by Stobb, second by Caron, to adopt the resolution. All in favor of the motion. (Res. No. 2002-25)

Hannasch asked if Dan Reiner was going to be present to discuss hospital requests. Koopman said she told him to be here by 6:45 p.m. not expecting the agenda to go so quickly. Hannasch tabled the issue until Reiner arrived.

Hannasch presented a request for approval of the Cemetery Groundskeeper Contract. Caron asked if this position could be combined into one job with the superintendent's job. Koopman replied it used to be that way but there were problems with the superintendent supervising his own work and it has worked better this way. Caron said he was more concerned with the superintendent position as it seems to be a high wage. Koopman replied the Council approved the wages before and she thinks the City gets its money's worth. The current superintendent puts in a lot of personal time and does a very good job. Motion by Stobb, second by Fraser, to approve the Groundskeeper Contract. Otto-Arvizu asked who determines when the grass needs mowing.

Koopman replied the contract specifies it can't be more than five inches long so is dependent on the length of the grass. Stobb said he mows some parts of his lawn more than others and asked if the cemetery is prorated. Koopman replied no. Otto-Arvizu asked if since the groundskeeper gets paid per mowing if he mows too often if the superintendent would give the directive. Koopman replied the superintendent would be in charge of that. All voted in favor of the motion.

Hannasch presented a request for approval of the Cemetery Superintendent contract. Motion by Stobb, second by Fraser, to approve the contract. Stobb asked if this position is actually a year round job. Koopman replied it is. Caron asked if the contract is for one year. Koopman replied yes. Ferrazzano asked if there was a deputy superintendent. Koopman replied Dick Kelly fills that position. Ferrazzano asked if the City needs a contract for that. Koopman replied the deputy fills in when the superintendent is gone which is only occasionally. Ferrazzano asked if the deputy gets paid. Koopman replied since the superintendent is a subcontractor they work it out between them. All voted in favor of the motion.

Hannasch stated if the City is going to have flower gardens it is important to keep them maintained and looking decent and so there is a request to establish a gardener's position. Caron asked who takes care of the garden by the Municipal Building. Koopman replied the Hoe and Hope Club. She thought it was the Friendship Club that takes care of the garden on the corner of South and 4<sup>th</sup> Streets. Caron asked if they were going to continue taking care of the gardens they do now. Koopman replied it is her understanding they are. Caron asked how many flower beds the City is gaining that they need to hire someone. Koopman replied there will be a new bed on the corner of Center Street and Craig, the beds by the tornado tree and if we continue with the Downtown Revitalization project we will have more. Caron asked if any of the garden clubs have been asked if they can take care of them. Koopman thought they had all they could take care of now. Ferrazzano asked how the \$1500 fee was figured. Koopman replied it was just an estimate. Stobb asked if someone could only handle one garden if they could split it up. Koopman replied whoever is hired could subcontract it out if they wanted. Ferrazzano made a motion to establish a gardener's position at \$1500 per season and Stobb seconded. All voted in favor of the motion.

Koopman reported that the larger communities in Lyon County met and spent about one and one-half hours discussing that the Humane Society will no longer house stray animals. Those that met came up with three options. The one agreed on by everyone except Lyon County Commissioners was that the county spearhead a project to establish an impoundment facility and the cost of operation would perhaps be assessed back to communities on a per capita basis. Each community would then be charged a fee per animal brought to the facility. Koopman said Greg Lewis, the County Administrator, didn't think County Commissioners would accept that idea.

The second option was to contract with the City of Marshall. Marshall took over the Humane Society's facility and is operating it. Cities can possibly contract to pay a portion of operating costs and a fee per animal.

Third option is a joint powers option which would be creating a whole new entity that would construct a facility. From a governmental standpoint that could get complicated. The cities are

meeting again tomorrow and she was directed to present these options to the Council and get some feedback. Koopman said since the Humane Society had a no kill policy they ended up with more animals than facility could hold. They needed more money which they couldn't get so they closed and the City of Marshall took it over. Koopman said something needs to be done since there is no place to bring strays. She thinks Hillger has had two calls since this started and the City needs to find a solution. Local veterinarians were contacted to see if they would be interested and they're not.

Hannasch asked if the City of Marshall has been approached about the problem. Koopman said the Marshall City Administrator was there and they would prefer Lyon County handle it. She said it seems that Lyon County would be better able to administer fees to cities within Lyon County whereas the City of Marshall would have to enter into an independent contract with each city. Ferrazzano asked what the County Administrator said the County Commissioners would object to. Koopman said he didn't specify, he just basically said they would have to come up with some other options because he didn't think this would fly. Hannasch wondered if Marshall was open to contracting. Koopman said she thinks they are open to it but she is not sure to what degree.

Koopman said she wasn't sure why the county wouldn't want to accept it because actual cost is paid for by the users so it wouldn't cost the county anything but minimal administrative costs.

Hannasch asked what the City was paying for strays. Koopman replied \$110 per animal. She thought last year that we paid around \$2,000. The \$110 housed the animal for five days and if it had to be disposed of there was an additional \$50 fee. Stobb said for \$110 per animal he would lean towards the third party alternative as long as it's centrally located. Koopman said that is one of the things that was discussed. There is a veterinarian in Taunton who was interested but it would mean traveling to the other end of the county for us. Stobb said if someone was interested in starting this on a farm place, as long as it is centrally located and someone were to make sure it was being run properly, he would rather see free enterprise take care of the problem rather than one government entity or another. Stobb said he would like to advertise to see if anyone was interested. Koopman said another thing with the Marshall facility is because of the location there have been complaints of noise from residents.

Ferrazzano said his concern with a third party is it doesn't set any parameters and so could be in another county. He opted for Lyon County because even with a third party there would have to be some government oversight anyway so they might as well be in charge. Ferrazzano didn't feel Marshall should have to coordinate everything with the rest of the county. Stobb said maybe County Commissioners could work with a third party. Koopman said they may have to look at contracting with the City of Marshall on short term basis because they have a facility. Ferrazzano asked if tomorrow's meeting would decide anything or if they were just presenting Tracy's choice of available options. Koopman replied that is the impression she had and she is to bring the number of animals that Tracy took in last year, which was 26. She asked if it was the consensus that Lyon County be in charge. Council members agreed and said their second choice would be the third party.

Hannasch referred back to the hospital requests. Dan Reiner, who has been the Hospital Administrator for the last two years, has seen increases in activity levels, especially in the outreach and rehabilitation programs. Reiner reported there are significant building issues the City needs to start looking at. At the last board of directors meeting he gave them an overview of what major needs are. Reiner said he would present what has been discussed and come back to the Council in six months with a more detailed list of needs. The hospital has a lease agreement for the building with the City of Tracy. Sioux Valley's responsibility is to buy equipment that is movable and not physically attached to the building.

Reiner distributed a document to Council members listing the major items needed saying he wanted to ask for two items to be funded this year. The hospital has entered into an agreement with an architectural firm to look at problem areas in the facility. They need handicapped doors as they currently have none in the facility. Reiner said he was surprised that when a major renovation was done in 1995 or 1996 they weren't required to install handicapped doors. He said the nurse/patient call system was purchased in the early 1960's and they can no longer get parts for repairs so it is something that must be replaced this year. The cost to replace it will be about \$90,000.

Reiner said the telephone system was purchased from the Canby hospital in 1991 or 1992 and

sometimes people call in and it doesn't ring or when transferring calls they sometime go to a patient room and sometimes switchboard goes down completely. The operating lights in the surgery room are over 20 years old and they are seeing a lot more emergency room activity. The hospital is working on building EMS activity with Balaton so they won't be diverting to Marshall as much. Reiner said they have three air conditioning units and when the hospital was built it was constructed around the AC units so they can't get in to replace them. They will have to leave them and install new ones on the roof. The hospital has significant cooling problems and have had to purchase window units for some of the patient rooms.

Reiner said they have put together a patient room remodeling plan. The floors have asbestos tiles which have permanently yellowed and they will also be replacing windows. There are currently steel framed windows which cause condensation problems causing drywall rot. The plumbing fixtures are starting to break down and corrode and new toilets will be elevated for handicapped use. Reiner said the way the lease works if items are approved to be purchased, it impacts the depreciation schedule which in turn raises the lease amount. Hannasch said the estimated cost was about \$6500 per room. Reiner said if capital items are purchased costing less than \$5000, Medicare allows them to expense it. Wherever they can legally and appropriately expense items they will do so.

Reiner said he would also anticipate that one of the areas that the Hospital Board and eventually the City of Tracy will need to respond to as rehabilitation services increase and elderly needs increase is the need for a wellness center. He said they need to decide if they should have rehabilitation services on campus or have them in a separate building. There are pros and cons for both. In Sioux Valley for instance if someone gets a hip replacement they need five or six months of therapy to recover and keep fit. In the winter months it is difficult for people to travel. Reiner feels the hospital has a responsibility to keep people healthy.

The hospital needs to purchase a GR video which is a scope used by a gastroenterologist to view the upper and lower stomach. They also need an Emergency Room stretcher and an Operating Room table which will cost \$29,000. The current OR table is 30 some years old. Reiner said they also need an ER defibrillator/external pacer which is about \$9500. The hospital has never owned a new patient bed, they have all been used or reconditioned. A new bed runs \$6000 to \$7000 and Reiner has committed for the next three or four years to purchase a minimum of two beds per year. He wants to try and buy in bulk to get the cost down to \$5000 so they can expense them. Lastly they need some portable radiology equipment which they can take to Balaton so they can do lab X-rays, and the hospital needs some EKG and stress equipment.

The hospital was fortunate to receive a grant from the State of Minnesota for \$140,000 to purchase whatever is needed. Sioux Valley has budgeted about \$100,000 as well. The plan is to use about \$90,000 of the grant money for portable equipment and the remainder to purchase permanent capital items. The two capital items most needed are the phone system and patient/nurse call system so they will put \$50,000 of the grant money towards that and the rest if approved will come from the City fund. Hannasch asked what the improvement fund balance was. Koopman thought it was sitting around \$244,000 but every month money is added to it and they haven't transferred any fund raising monies yet.

Reiner said if the move ahead with any major construction projects they will most start next spring. It will most likely involve a number of discussions with the City Council first. He said they must look at their outreach facilities which are grossly inadequate. Reiner said he has informed the Hospital Board that the outreach programs are million dollar revenue producers but are barely given any space to work in. When they work in Sioux Falls they have seven or eight exam rooms and here they get two. Only about 20 percent of specialty work stays here. The rest leaves because people choose to go elsewhere or it is not convenient to come to Tracy. Between the three communities that Reiner oversees, Westbrook, Tracy and Slayton, they should be able to support a full time orthopedic surgeon, general surgeon and cardiologist if 75-80 percent of the community would elect to come to these hospitals. In order to recruit and retain these specialists we need to give them the facilities they need and we need to do this to keep people here. Sioux Valley Health Systems has invested literally millions of dollars into a very strong specialty base of doctors. The hospital needs to do a better job of tapping into them so when specialists come out here they have the necessary things to best service the community. With all the cancer in this region there is no oncologist that comes to

this area, not even in Marshall. Doctors have too many choices about where to go and if they can't see enough patients in a few hours to make it worth coming here they won't.

Ferrazzano asked if it was Reiner's suggestion to do nothing until the next Council meeting because he was concerned if the phone system is not working and people can't get through as well as the patient/nurse call system not working they maybe shouldn't wait two weeks. Reiner replied the phone system has problems sporadically and he knows it needs to be fixed by this fall but he wants to do some homework on types and prices of phone systems. Everything is going to a digital systems so Reiner was thinking it's not wise to go with an analog system. But he needs to find out if digital is affordable and workable between Tracy, Slayton and Westbrook. Reiner said overall he is very proud that the hospital continues to do well in difficult times. February and March were slow but April was a record month and he is pleased the community is responding well to the changes the hospital has made.

Polzine reported last Thursday he was contacted by Glen Larson with Heartland Mechanical that Vera Wendorff was having sewer problems. He ran a camera in and found an obstruction in the City's sewer line. Wendorff has been having problems since last December and has a few hundred dollars involved in cleaning her sewer. Polzine said it is a private sewer line put in the 1960's but it services three houses and Wendorff is asking the City to reimburse her for her costs. Polzine said the City didn't know anything about the problem until last Thursday. Wendorff had someone to her house on December 8, February 19, April 23 and again last Thursday. Ferrazzano asked if the obstruction is still there. Polzine said they put a jetter in the line and could only go 60 feet before the pipe curved. He said his opinion is as long as there are three properties on one line the City owns it. Ferrazzano asked what the total of all the bills is.

Polzine replied about \$900 and he thinks it should be paid out of the surcharge fund. He added the only problem he has is that the City was never contacted until last Thursday. Motion by Ferrazzano, second by Caron, to reimburse Wendorff's expenses. All voted in favor of the motion. Stobb said he would like to encourage people to contact the City with any problems.

The Consent Calendar included the following: Economic Development minutes for December 7, and 21, 2001, January 4, January 18, February 1, February 15, March 1, March 15, April 5 and April 12, 2002; Municipal Accounts Payable; Cemetery Commission minutes for April 18, 2002; Monthly police maintenance log; Monthly Water and Wastewater Report; Fireman's Relief Association minutes for May 6 and revised minutes for April 1, 2002; and Police Activity Report and Patrol Log. Motion by Fraser, seconded by Stobb, to approve the above listed items. Stobb said he sometimes gets asked what is happening with the Revitalization Committee and he was interested in what Reiner spoke about and so was wondering if the Council should get minutes from the Hospital Board, Revitalization Committee and Pool Committee meetings. Otto-Arvizu thought they should get minutes from any committee meeting on the City's behalf. Koopman said she could get them copies. All voted in favor of the motion above.

Hannasch asked Council members if they wanted to do a performance evaluation for the City Administrator as a group, individually or as a small committee. He said if they decide to do it as a group they could hold a closed session at the end of the next Council meeting to do the evaluation. Or they can each write up the performance evaluation and then meet individually with Koopman. Caron asked last year if there was a committee of three. Hannasch replied yes, that each Council member filled out an evaluation form and he, Otto-Arvizu and Ferrazzano met with Koopman. Stobb seemed to recall the committee saying something about not meeting that way again for some reason. Hannasch thought the problem with a committee is sometimes someone has an idea on the evaluation form but it may not be understood or misinterpreted by someone else. Otto-Arvizu said in some information received from the League of Minnesota Cities that if a Council member was to go individually to the Administrator and say they didn't like the way something was handled that the Council isn't supposed to conduct business that way. It would be one person giving the Administrator a directive. She said this information comes from attorneys specializing in human resources. Hannasch felt it was a communication issue where if they all met everyone could give input. Ferrazzano asked if the LMC is saying they have to meet as a group and can't meet as a subcommittee anymore. Otto-Arvizu said that is why they should maybe contact with these attorneys. Ferrazzano said maybe they should plan to meet as an entire Council because that would never be wrong. Ferrazzano made a motion to do the evaluation as a whole. Stobb asked if Ferrazzano would

also add to the motion that they come with the evaluation forms filled out. Otto-Arvizu said it is helpful that if you rate someone a certain way that you have examples why. Hannasch said that was the point he was trying to make.

Koopman said after the closed session the Council will have to notify the public whether it was a satisfactory or unsatisfactory evaluation. All voted in favor of the motion above.

Koopman informed the Council the next meeting would be held on Tuesday, May 28 because of the Memorial Day holiday.

There being no further business motion by Ferrazzano, seconded by Stobb, to adjourn. All voted in favor of the motion.

ATTEST:

\_\_\_\_\_  
City Administrator

\_\_\_\_\_  
Mayor

**May 28, 2002**

The regular meeting of the Tracy City Council was called to order at 6:30 p.m., Tuesday, May 28, 2002 in the Council Chambers of the Municipal Building. The following council members were present: S. Ferrazzano, M. Fraser, C. Hannasch, R. Caron, and R. Stobb. Absent was: J. Otto-Arvizu and D. Berndt. Also present were staff members: A. Koopman and F. Nielsen.

Hannasch asked for any additions or corrections to the minutes from the May 13, 2002 City Council meeting. Motion by Caron, second by Ferrazzano, to approve said minutes as written. All voted in favor of the motion.

Hannasch asked if there were any additions or deletions to the agenda. Motion by Ferrazzano, second by Caron, to approve the agenda as written. All voted in favor of the motion.

Todd Hagen with Ehler's and Associates presented the bids received for the sale of the General Obligation bonds for the 2002 Street Improvement Project. Hagen stated that he and the City staff had prepared the official statement requesting bids and he sent it to prospective purchasers. The following bids were received:

COMPANY	INTEREST RATE
Cronin & Company, Inc.	4.4966% true interest rate
Dain Rauscher, Inc.	4.8270%. true interest rate

Hagen felt Cronin & Co. had a very strong bid and he was happy to see the 4.5% interest rate since he was expecting about 5.05%. This will mean a savings of about \$18,000 over the ten year life of the bonds. Hagen said the closing is scheduled for June 19, 2002.

Hagen presented the resolution from Kennedy & Graven, the bond counsel. This resolution will award the bonds to Cronin & Co. for a purchase price of \$491,905.75 at true interest cost of 4.49%. The resolution also sets forth the terms and conditions of the bonds. Because the interest rates came in lower than predicted Hagen wanted to maintain the level of tax levy so he adjusted the 2006 maturity and increased it by \$5,000 to \$50,000. He also decreased the 2011 maturity by \$5000. The adjusted true interest cost is then 4.4916% which is even lower.

Hagen talked to the bond counsel who wanted a 4/5ths vote on the resolution ordering the improvement. With two council members absent the Council will need to wait until at least one other member is present to vote on that resolution.

Ferrazzano moved and Fraser seconded to adopt the resolution awarding the bond sale to Cronin & Co. All voted in favor of the motion. (Res. No. 2002-26)

Hannasch presented a resolution approving payment to Olympic Pools, Inc. for work completed to date on the Aquatic Center in the amount of \$43,874.00. Ferrazzano suggested waiting until they hear the swimming pool report to find out if the Council should pay for something not done yet. Hannasch said the City is always going to hold some money back so they should be protected. Motion by Stobb, second by Fraser, to adopt said resolution. All voted in favor of the motion. (Res. No. 2002-27)

Berndt arrived at 6:42 p.m.

Hannasch referred back to the street project resolution informing Berndt they needed at least six Council members present to vote on it. Fraser made a motion to adopt said resolution ordering improvement and preparation of plans for the 2002 Street Improvement Project: Supplementing Resolution No. 2002-5 and Caron seconded. All voted in favor of the motion. (Res. No. 2002-28)

Hannasch presented a resolution approving payment to Heartland Mechanical, Inc. for work completed to date on the Aquatic Center in the amount of \$1,425.00. Motion by Caron, second by Stobb, to adopt said resolution. All voted in favor of the motion. (Res. No. 2002-29)

Hannasch presented a resolution approving payment to Salonek Concrete & Construction, Inc. for work completed to date on the Aquatic Center in the amount of \$30,707.00. Motion by Caron, second by Stobb, to adopt said resolution. All voted in favor of the motion. (Res. No. 2002-30)

Rick Schaefer with USAquatics was present to report of the progress of the aquatic center project. Schaefer stated he was hired to design the facility, follow through the bidding process and to manage construction. He stated it has been more difficult working with four separate contractors. Schaefer said his duties involve keeping an eye on progress and he has tried to be in Tracy at least once per week.

Schaefer said he reviews the numbers and percentages to see if a contractor qualifies for the amount of money they have requested and also makes sure the City has enough money on hand to cover the expenses. He said generally the retained amount covers the payments. Schaefer added the Olympic Pools retainer may not be quite enough but the City has other monies to cover costs.

Schaefer said as manager he tries to keep costs to a minimum and to make sure costs are fair. He is acting as a representative of the City on this job. Hannasch said there have been some questions raised about certain aspects of the project and just what is the City's responsibility is and what is the construction managers job. There are some elements that the City has had to complete that wouldn't have gotten done. Polzine said some of the testing that has been done he didn't know the City was responsible for. Schaefer said because of frequent testing and the fact that he isn't at the job site on a daily basis, in order to keep costs down he has the City do some of the testing. Polzine said he just didn't know he was going to be so involved in the project from the start. Hannasch said the City's main concern was that we get our dollars' value for what was paid for construction engineering which was \$58,000. Some of these things weren't spelled out from the beginning. Schaefer said one of things that is different with USAquatics compared to other companies is they like to involve the City a lot, it is the City's project and they want Tracy to get what it wants. He said they try to keep costs down and if he has to be here for a pipe test he would have to drive six hours which wouldn't be very cost effective. Schaefer said the price for what he does is very competitive and his is one of the few companies that has no ties to a construction company or a company that sells products. He added if Olympic Pools had gotten the general contract and had done some of the designing they would not involve the City as much and would like to have the run of the project. USAquatics likes to see themselves as representatives of the owner. Hannasch said these were some of the issues brought up this morning.

Ferrazzano said he just wanted to know when the pool was going to be done. Schaefer said to start back at the beginning the City closed the pool a month early in order to get lower bids which did help. Since bids were early contractors were less likely to write in liquidated damages into their bid. When the project started Olympic Pools was slow about getting their bonds, contracts, and other paperwork done so there was a two week late start. Schaefer doesn't believe they were delayed by demolition and he has had to go back through his paperwork during his frequent discussions with Olympic to verify they weren't delayed by this. As it neared the winter months Olympic Pools pulled their crews off the job frequently. It was a beautiful winter and they could have worked late and made efforts to catch up but they haven't.

Ferrazzano asked if Schaefer has worked with Olympic Pools on any other jobs. Schaefer replied he has. Ferrazzano asked if they have ever been late on projects. Schaefer said on every job but they have been especially bad with this job. He has been hearing rumors that every job they have has been opening late. Schaefer thinks they took on too many jobs and have lost a lot of employees. That was their attitude through the winter and this spring when the weather started to get nice they still made no attempt to catch up. When there was a snow storm crews would show up and leave right away and not come back. What the City has to hold against them is liquidated damages. There is two weeks between substantial completion and final completion. The definition of substantial completion is that the owner is supposed to take occupancy of the facility. You can't open it to the public but you can start moving people in and start training, the water is in, and concessions can be moved in. Final completion is when you can open it to the public. There are usually punchlist items that need to be completed but they are not in the way and can be completed at night or on weekends so they won't interrupt patrons. If a contractor does not complete by the final completion date he is fined \$800 per day retroactive back to the substantial completion date. Olympic Pools has been notified

throughout the project that if they don't finish it on time they will be fined. Schaefer said there have been conversations back and forth about the plaster because weather conditions have to be ideal to put plaster in and that is something he didn't want to rush them on and end up with a bad product. But he said that's the only thing he would forgive them in. The final completion date was May 19<sup>th</sup> and nobody was done. Notices went out to Olympic Pools that liquidated damages started as of that date. They were at \$11,200 in liquidated damages and it goes up \$800 per day from there including weekends and holidays.

Schaefer said he was hesitant to give a completion date because Olympic has been an unpredictable contractor. They said the equipment room would be done and cleaned by May 19, they said they had a guy working on it whom Schaefer saw working and he was gone ten minutes after Schaefer left. Schaefer felt it wouldn't have done any good for him to stay there because the guy wouldn't have put in the work anyway. He said a reasonable date to be finished is closer to the end of next week. Olympic is starting to put in overtime which means they are starting to heed warnings. By the end of next week they hope to have water in the pool and have it balanced and heated. They are also trying to arrange so concessions filled, and lifeguards can move in. Hannasch asked what date damages started. Schaefer replied back to May 5 at a cost of \$800 per day starting May 6. He said Dan Cross, Vice President of Olympic Pools, has argued the charges. Schaefer said he works with someone on sight and Cross who works in the office. Cross said he was surprised to hear that liquidated damages had been enacted. Schaefer said Cross minces words and talks about things he can prove but won't talk about things he knows he has no argument with. Schaefer has a file with letters and reports documenting the project. He has weather reports from Don Polzine and letters from the other contractors who have continually notified Schaefer when Olympic was holding them up. He added the other contractors have been very cooperative. Stobb asked if the other contractors have any liquidated damages. Schaefer replied no, legally the City has no reason to charge them. He thinks Salonek will finish before Olympic Pools. Schaefer said it will get difficult for him if Olympic Pools gets done before Salonek and pulls out, then Schaefer will have to go back and reassess damages. He said he wouldn't do anything before talking to Koopman or Polzine but they will have to consider stopping liquidated damages if Olympic pulls out or consider continuing to assess only Olympic Pools until the other contractors are done. This will take a lot more work to hold them to it.

Schaefer explained the contract says that contractors are not supposed to seek legal aid, they are supposed to seek arbitration. He said Olympic did seek legal council regarding a letter sent to them from Schaefer. Ferrazzano questioned in talking to Cross, he doesn't feel they should pay any liquidated damages. Schaefer replied definitely not. Ferrazzano asked if they are billed or are the damages subtracted from payment. Schaefer replied when they submit a request for final payment liquidated damages would be subtracted from the amount. Fraser asked if they continue to hold a retainer. Schaefer replied retainage is held until all punch list items are completed and the City is satisfied. Fraser asked Schaefer is he was satisfied with Olympic's work. Schaefer replied he was and said he should mention that it's not a good idea to tell a contractor to be done on one particular date because work can suffer. He said Olympic's product is great it's just their schedule that's a problem. Schaefer stated the pool should be done the end of next week short of any surprises.

Ferrazzano asked when the pool is done if Olympic doesn't agree with the charges if their course of action would be to seek arbitration. Schaefer said they would correspond back and forth by mail and if they still disagree Olympic would seek arbitration. Ferrazzano asked Schaefer if he has gone to arbitration with Olympic before. Schaefer replied he hasn't but has been in court defending warranty issues over a project before with them. Ferrazzano asked if Schaefer was confident that the City will be covered. Schaefer said the contract is pretty tight. He has been careful about what he writes to them and keeps everything on file. There was one email that was loosely interpreted and he sent it back to them saying whatever they saw wasn't true. Schaefer said Cross tries whatever and can and in the end when he sent the last letter he didn't hear back and he can only assume Cross has lost the battle. Fraser asked if Schaefer has had a case where Olympic has had to pay liquidated damages. Schaefer replied he has had one other case and he is still waiting to see if Olympic disputes the issue. He said if rumors are true they are paying damages on a lot of projects. Koopman asked if the City withholds payment to make sure we hold enough money to cover liquidated damages. Schaefer said by the next pay request the City will need to start withholding. Hannasch said if it goes to June 10<sup>th</sup> it will be almost \$29,000 they owe. Schaefer said he believes there is that much in retainage. He said

Olympic has also been fined \$5900 on slide footings that they did not complete and another contractor had to do.

Stobb asked Schaefer if he would want to work with Olympic Pools again. Schaefer replied never if he had a choice. He added he wouldn't be surprised if Olympic came to town and started talking to people around town about the project. They did it on another job and were telling the owners what they wanted the owners to hear. Stobb said if any other communities want references Tracy can give them. Stobb asked how long until the pool is open to the public. Schaefer replied that completion involves filling and heating the pool and training staff so he anticipates that they can be done with that by the end of next week. They're ready to fill the pools they just don't have fencing up. Salonek is doing everything they can to get the fence up and Olympic has been told if they want to fill now they will have to build their own barrier. They have caused enough delays they can't hold the other contractors liable. Koopman said from a liability standpoint if they build their own barrier it has to be sufficient to physically keep people out. Schaefer said he told Olympic if they want to go as cheaply as possible they can use the orange snow fencing two levels high. If someone wants to get through they can get over the permanent fence just as easily as the snow fencing. Koopman asked if they couldn't just step the snow fence down. Polzine said if someone wants to get through they will but two rows of orange fencing should be sufficient if it's posted well. Schaefer said you have to balance it against what you're asking Olympic to invest in fencing. He anticipates they will wait until the permanent fence is up. Filling the pool and heating it should take about a week and they can do training in the meantime.

Polzine asked about amenities and when they will be installed. Schaefer said people should be coming this week to install the spray amenities in the splash area and two slides. He is going to try and get Miracle Recreation to come out this week. Right now they are scheduled for next week and they are tied up on a few other projects. Ferrazzano asked about some slides that are the wrong color. Schaefer said the enclosed tube slide was ordered in dark royal blue and we received a light aqua. Schaefer is going to see if he can get parts for just the tube portion in the royal blue. Ferrazzano asked if this would be cleared up by next week. Schaefer said a decision should be made this week. He added it comes from a good company to work with. Schaefer said that another one of his duties is to make sure the City gets the right equipment.

Ron Radke presented a problem about an ATM machine located at the liquor store. He said it started with a company called Credit Card Center out of Fridley, MN who offered to lease an ATM machine for \$269.00 per month and in turn they would pay the liquor store \$210 per month in fees and would pick up all state, bonding and application fees. Since that time the Credit Card Center has gone bankrupt. The lease was sold to Q&L Capital who sold it to The Commercial Money Center who has since sold it to U.S. Bancorp. The bankruptcy court awarded the Credit Card Centers portion of it to a company called Extra Cash and their only responsibility is to pay Radke the transaction fees which amount to \$1.75 per transaction and he has about 17 per month. Radke also received a letter from the state saying he needs to pay a fee to get a license. In order to do that the City Council needs to approve a resolution to approve application for the license.

Caron felt they should get rid of it. Hannasch agreed saying the liquor store was spending \$269 per month and getting only \$30.00 back. Caron said plus the liquor store has to furnish the money in the machine. Ferrazzano asked if people are spending any more having access to the machine. Radke thinks that it was a good deal at the start with the money being returned. Fraser asked what the money paid back accounted for. Radke replied different fees like a product revenue fee, an advertising fee and one was a collection fee. The problem now is that company is no longer there and there is a lease which if broken would probably involve lawyers. Berndt asked why the City would have to pay a \$269 fee if there is no license to operate the machine.

Radke said he can't answer that. Hannasch said the company that was supposed to get the license is bankrupt. Fraser asked about the copy of the lease. Radke said he has a copy of the lease agreement but he doesn't have a copy of the agreement with Credit Card Center. He has tried to get a copy but has been unable to. Fraser asked if Radke had Frank Nielsen look at the lease. Radke replied he has talked to Nielsen a couple times.

Ferrazzano said if that company has broken it's lease by not paying Radke he doesn't see why Radke can't break the lease. Radke said he assumes there are two different companies involved. Fraser asked if they signed the lease. Radke said he has another agreement with Q&L. Fraser asked who

Radke pays the money to. Radke replied he would have to check as it's a direct withdrawal. Berndt said he would think when US Bancorp took over they would have assumed the lease or would have had Radke sign a new lease. Radke said US Bancorp is the third company to hold the lease. Ferrazzano said if US Bancorp is taking over a lease they have to live up to the terms of that lease. Radke said US Bancorp does not have the portion of the lease that was paying the fees that was a different company. Fraser said so there were two different agreements. Stobb asked how long the agreement was for. Radke replied five years. Berndt said if US Bancorp is receiving the \$269 they should be liable for the portion of the lease to pay \$210 because they are absorbing the lease. Radke replied the bankruptcy court awarded US Bancorp the Credit Card Center's part of the contract to Extra Cash who only pays the transaction fees, and according to the courts that's all Extra Cash has to pay.

Ferrazzano asked how the liquor store entered into this agreement. Radke replied he signed the agreement in March 2001. Ferrazzano asked if the Council approved the contract at that time. Hannasch replied no but at that time at a cost of \$59 per month they probably would have approved it. Ferrazzano said he was just asking if it went through the Council. Radke said no matter one way or another he assumes that the Council is not going to adopt a resolution to get a license and some action of one kind or another will have to be taken. He said the Credit Card Center was supposed to furnish the license. Fraser asked if he had to be licensed because it's a municipal liquor store. Radke replied no it's just a one time fee. Stobb asked if there is anyone who is licensed that might be able to take it over. Radke said he couldn't see anyone wanting to take it over with these costs unless they have a lot of traffic. Stobb said if they were licensed they could get the \$210 reimbursed fees. Radke stated the license has nothing to do with the fees, it just to be able to operate the machine in the State of Minnesota.

Ferrazzano asked if the City can pay the state for a license and then break lease because we don't want the State to come after the City for not being licensed. Radke didn't feel they would do that they would just say to quit operating the machine. Caron said if they are going to break the lease there is no sense in paying for a license. Berndt felt they should just back out of it and tell them to pick up their machine. Radke didn't know if there would be an out with the contract.

Berndt asked if US Bancorp contacted Radke. He replied that he received a letter stating US Bancorp took over the lease and Radke should send the payments to them but he assumes it's like a mortgage when they sell it to a different company you are still liable for the terms of the lease.

Hannasch asked if Radke sent any letters about the \$210 agreement. Radke replied there is absolutely no one to get a hold of. Hannasch asked if he sent a letter to Bancorp about it. Radke replied they have nothing to do with the \$210. Extra Cash has that part of it but they are covered by the bankruptcy court who awarded Extra Cash that portion of the contract. Radke didn't feel Extra Cash did anything wrong, they just took over a company gone bankrupt. Stobb said under bankruptcy they could buy that contract at a favorable rate but how could they change the contract. Hannasch said he didn't see how that could be broken. Radke said bankruptcy court must have assigned this to the company gave the best bid. He said he had gotten a letter from the state first saying Credit Card Center filed for bankruptcy then he got a letter from bankruptcy court that said you could go with Extra Cash who they recommended but also said Radke could go with any other company if he wanted. Hannasch asked if there was any other company to go with. Radke said not that he knew of. Hannasch asked if the bankruptcy court informed him Extra Cash would only pay transaction fees. Radke said right and after six months they are supposed to pay \$200 or a percentage of the fees which will end up being \$200. Hannasch asked if that was per month. Radke replied it would be a one time fee.

Fraser asked if it was a Chapter 7 bankruptcy. Radke said he didn't know. Fraser said he guessed it was and they probably liquidated. Ferrazzano asked if there was a reason Radke didn't come to the Council about this sooner. Radke replied no. Hannasch asked how long Radke had been with Extra Cash. Radke replied since January of this year. Berndt said Radke has been paying about \$269 per month and only getting \$17 back. Radke said he has been getting about \$30 back since January but before when the bankruptcy was in progress he wasn't getting anything so he shut the machine down. Hannasch asked if Radke was paying anything then. Radke replied he still had to pay the \$269 lease payment. Berndt said it baffles him that the liquor store is paying a fee to somebody from a lease signed but they aren't paying the money back from an agreement that was signed. Nielsen said there

is a problem trying to analyze it when he has only a partial set of paperwork. Originally there were two contracts, one from the people who were supposed to pay the \$210 fees and a second contract for the lease of the machine. They are separate contracts and what affects one contract may not affect the other. From the paperwork Nielsen saw it says that right in the contract. Berndt says there are two separate companies dealing with the machine. Radke said he only dealt directly with the Credit Card Center. Nielsen said he thinks the idea with the \$210 fee is they were going to sell advertising. Hannasch said the Credit Card Center is the ones who were going to send a copy the contract and didn't and then went bankrupt.

Ferrazzano said what they want to do is wash our hands of it. He asked if they couldn't do the same thing they did with Pepsi and the Council didn't approve the agreement and so therefore there is no agreement with the City of Tracy. Nielsen said he did suggest that a long time ago. Ferrazzano asked if there was a statute of limitations on it. He felt they should say the Council didn't know anything about the agreement and doesn't want anything to do with it.

Radke said he has one other issue to throw out. According to Extra Cash's contract as long as he uses machine he gets the fees out of it, if he quits using the machine he is supposed to pay them \$125 per month. Hannasch asked if this was the new contract signed after Extra Cash took over.

Ferrazzano asked if this was \$125 for the life of the contract. Hannasch asked how long the \$269 lease contract was for. Radke said it was down to three and one-half years. Berndt asked why would he would sign a contract for \$125 when he no longer had the contract to receive \$210. Radke replied he was getting nothing in return before and with the contract he would be getting \$30 per month back. Fraser said Radke was assuming it was licensed. Radke said the license is only one time fee of \$100. Hannasch said 42 months at \$269 adds up to \$11,298 and they would only get about \$1200 back. Ferrazzano said the options are to pay that or to pay \$125 per month for not operating the machine. Caron said isn't Extra Cash the ones that should be paying \$210 a month. Radke said that is where he doesn't know about the bankruptcy rulings. When he talked to the bankruptcy court they said that is why Credit Card Center went bankrupt in paying out that \$210 fee. Berndt said that is where Extra Cash should honor the contract. Radke said they didn't buy the actual contracts they were just awarded the business by the court.

Hannasch asked if the City doesn't have a machine how do they have a contract. If they get rid of the machine how can they charge \$125 for something the City doesn't have. Nielsen said the \$125 is not a lease payment it is a service fee. Stobb asked if the bankruptcy court could give the City any clarification about the situation. Ferrazzano asked when was the final bankruptcy order. Radke thinks it was sometime before January. Caron felt they should stop using the machine and see what they say. Hannasch asked if Radke had any paperwork from the bankruptcy court and said he didn't see how the court could turn the whole business over and give the City nothing in return. Hannasch added that the catch is Radke signed the new contract with Extra Cash. Radke said the court didn't tell him he had to use Extra Cash, they just recommended them. Ferrazzano asked if the bankruptcy trustee recommended Extra Cash. Radke said the letters he got from bankruptcy court recommended them. Ferrazzano asked Nielsen if he saw that document. Nielsen said he didn't remember seeing it. Fraser said it was his opinion that Nielsen should review everything before deciding anything. Berndt said something doesn't seem right to him. Nielsen said the problem in reviewing all this is that not all the documents are there.

Ferrazzano said his problem is that the Council was not involved when the contract was signed but is called on to rectify the situation after the fact. Hannasch felt they should drop the contract. Caron said they should stop using the machine and see what they do. Berndt said he assumes that Extra Cash will come after the City for fees. Caron said the lease is a buyout, in five years the City would own it. Radke said there is a statement in the lease that at the end of it you can buy it for a dollar. Stobb asked if there was an incentive for early buyout. Radke said it would be the same price as the terms of the contract. Ferrazzano said he would like to see copies of what paperwork is available. Nielsen said what he saw is the contract for the lease of the machine. It was named a contract of adhesion which was designed to do just what we don't want it to do. It pretty much states regardless what everyone else does they still get paid their fee. Radke said Credit Card Center was supposed to send him copies and he tried to get a copy from them and tried to get one from Extra Cash who said they probably wouldn't be able to. Stobb asked how Extra Cash knew what they were getting. Fraser said they were assigned the business by the bankruptcy court and have their own

contract so they don't care what was in Credit Card Center's contract. Nielsen said that is the nice thing about bankruptcy, you get to void your debt as well as contract obligations. Ferrazzano felt they should literally and figuratively pull the plug and let Frank review and prepare the letters the City will send. Nielsen felt that was the only way to go. Caron made a motion to stop using the machine. Hannasch suggested adding to the motion that they inform US Bancorp of the City's intentions. Nielsen asked if the Council wanted to add language similar to that used regarding the Pepsi contract. Ferrazzano said he would like to see that. Radke asked if there should be two letters, one to Extra Cash and one to US Bancorp. Ferrazzano said if Caron amends his motion to include these items he would second. Fraser abstained from voting. Stobb said he would like to get more information before taking action. Caron felt they would find out when they send the letters. Radke said when he was speaking to one gentleman at Q&L he asked what would happen if he pulled the plug and he replied he said he can't say what exactly but he would take appropriate action. All voted in favor of the motion except Fraser who abstained.

Ferrazzano reported about two months ago things seemed fairly optimistic that the City could work something out with school board regarding the joint powers agreement. Now when they get down to how the school wants agreement to read Ferrazzano said he wonders if he attended the same meeting that they attended. There are some differences between what the City submitted for an agreement and what the school sent back plus there was no mention of the money the school is going to contribute to the pool. Ferrazzano said he was under the impression that the school board had already approved the contribution at a prior meeting. Koopman said the City does have a letter from the school superintendent stating they would pay \$2500 in 2002 and the remaining \$7500 would be contingent on the legislation action regarding funding for community education. Ferrazzano asked if the letter was sent after the proposal. Koopman thinks she received it before the proposal. Ferrazzano felt that any proposal that doesn't contain the language regarding the contribution is inadequate. Hannasch said he was concerned that they want the term of agreement for only one year. What they are saying is they don't want to make any commitments for longer than a year. Hannasch thinks if they want to move ahead than they have to make some long term commitments and they also have termination clause in it. Hannasch wondered why they would have that if the proposal is only for a year to begin with. Ferrazzano said why he wanted it on the agenda is he wanted everyone to see what they were dealing with. He didn't feel any more meetings with the school board are going to bear fruit. Based on this he doesn't know if the City can work anything out with them. Stobb asked if the school board has approved the agreement they submitted. Koopman didn't think so. At the last Advisory Board meeting on April 25 they said it was in the lawyer's hands and she didn't think they got the proposed agreement until last week. Hannasch asked if they saw a copy of the City's proposed agreement. Ferrazzano said he and Fraser gave them a copy when they met with them. Ferrazzano said he thought everything was okay except for some changes on the last page regarding who was responsible for what. Fraser said for instance the management committee was not mentioned at all. Ferrazzano said one representative was supposed to be the superintendent and one representative was supposed to be the community ed director and that is fine if they are two different people but at this point this is the same person and they shouldn't get two votes.

Ferrazzano added he thinks this is a minor point compared to donation issue. He thinks it's fundamental to get the funding. The City's agreement says that the school no longer has to do anything with the pool in exchange for a contribution, but if they don't even want to give \$2500 dollars he didn't feel there is anything the City could do short of saying their proposal is inadequate. Caron said if the money is not there the City is giving them everything and they are giving nothing. Stobb said if they don't have an agreement they don't have a community ed program so they have to meet again. Ferrazzano asked if they have an agreement now. Koopman replied until July 1. Ferrazzano said they can try to meet again but his concern is it took forever to get together as a committee the first time and he doesn't want to see those kind of delays. Caron suggested to tell them the contract ends July 1.

Koopman said she thinks this is the lawyer's draft and doesn't think it has been on the school board's agenda. Ferrazzano said the City's proposed agreement is in the agenda and asked the Council if he and Fraser can meet with the committee and say the Council has approved it's proposal and ask the school board if they have approved their proposal. Stobb said it's fine with the Council and when the committee meets each is going to say what they think is wrong with the other's proposal. Ferrazzano said what he at least wants them to say is their proposal has been approved by the school

board and work from there. He asked if the school board hasn't approved this agreement why are they submitting it. Caron said he assumes they have seen it. Hannasch said they may be seeing it at tonight's school board meeting. Caron made a motion to approve the City's proposed agreement and Berndt seconded. All voted in favor of the motion.

Hannasch presented an amended order of abatement for 174 Center Street. Koopman said as a point of information it is amended by incorporating the names of all the owners since the property was contract for deed. It is addressing the occupant as well as the contract holder. Stobb said the order specifies the vehicles but it doesn't specify the garage. Koopman said this is the original order and Kerr plans to present to the court that since the order was made there has been additional accumulation. He felt the court would be willing to accept this. Caron asked why the other stuff wasn't submitted at the time. Koopman replied it wasn't visible at that time. Motion by Stobb, second by Caron, to approve the amended order of abatement. All voted in favor of the motion.

Koopman presented a variance request from Todd Radke, 182 2<sup>nd</sup> Street, to construct an oversized storage building. She said the Planning Commission held a public hearing and there were no objections. The Planning Commission recommended granting the variance. Motion by Stobb, second by Fraser, to accept the Planning Commission's recommendation to grant the variance. All voted in favor of the motion.

Koopman presented a variance request from Kenneth Giles, 701 Randall Street. The Planning Commission voted to recommend that the Council grant the variance. Motion by Stobb, second by Fraser, to accept the Planning Commission's recommendation to grant the variance. All voted in favor of the motion.

Koopman presented a variance request from Michael & Patricia Peterreins, 436 Emory Street. The Planning Commission voted to recommend that the Council grant the variance. Motion by Stobb, second by Caron, to accept the Planning Commission's recommendation to grant the variance. All voted in favor of the motion.

Koopman presented a variance request from Karen Engels, 899 Center Street. The Planning Commission voted to recommend that the Council grant the variance. Motion by Stobb, second by Caron, to accept the Planning Commission's recommendation to grant the variance. All voted in favor of the motion .

The Consent Calendar included the following: Monthly Water and Wastewater Report; Monthly Planning Commission minutes for May 6, 2002; Municipal Accounts Payable; Monthly Financial Report for April; and Downtown Revitalization minutes for December 4, 2001 and January 30, March 13, and April 17, 2002. Motion by Ferrazzano, seconded by Caron, to adopt the above listed items. All voted in favor of the motion.

Polzine reported that the last two or three times Central Park was used for an event there was a lot of garbage left around the park. He made the recommendation that if anyone has a large event in the park they be required to provide a dumpster. Caron said for non-profit fund raiser the garbage service will probably donate the dumpster. Stobb asked what a dumpster would cost. Polzine replied around \$60 to \$70 and like Caron said Ritter's will probably donate their service.

Caron said the other option is they can haul their own garbage out. Stobb said he would hate to discourage use of the park. Polzine said it wouldn't apply to family events only in the case of money making events where food is being served. He said if there is an event where 300-700 people are being served it generates a lot of garbage. Stobb made a motion to require events serving food to large numbers to provide for disposal of garbage and Ferrazzano seconded. All voted in favor of the motion.

Hannasch reported that on June 24 he and Koopman would be in Duluth and proposed holding only one meeting in June on the 10<sup>th</sup>. Stobb asked what if something came up with the joint powers agreement. Hannasch said they can hold a special meeting for that. Ferrazzano said they have had a meeting without Hannasch before and asked if they can meet without Koopman. Koopman replied they certainly can. Caron thought they needed to have two meetings in June.

Ferrazzano asked if they will have an agenda. Koopman replied she would prepare one before she

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leaves.

The regular City Council meeting was closed for the City Administrator performance evaluation.

ATTEST:

\_\_\_\_\_  
City Administrator

\_\_\_\_\_  
Mayor

### June 10, 2002

The regular meeting of the Tracy City Council was called to order at 6:30 p.m., Monday, June 10, 2002 in the Council Chambers of the Municipal Building. The following council members were present: S. Ferrazzano, M. Fraser, C. Hannasch, J. Otto-Arvizu, R. Caron, and R. Stobb. Absent was: D. Berndt. Also present was staff member: A. Koopman.

Hannasch asked for any additions or corrections to the minutes from the May 28, 2002 City Council meeting. Motion by Fraser, second by Caron, to approve said minutes as written. All voted in favor of the motion.

Hannasch asked if there were any additions or deletions to the agenda. He added (6A) a question about trees from Caron; (6B) a water line issue from Deb Bjorkland; and (6C) a police issue. Motion by Stobb, second by Fraser, to approve the agenda as written. All voted in favor of the motion.

Hannasch stated there would be public hearings on nuisance complaints held at 6:45 and moved on to Caron's issue. Caron said he spoke to Koopman about getting some evergreens removed west of his house but he doesn't know who owns the property. Koopman said she checked into it and the State of Minnesota owns the land. Otto-Arvizu asked if the trees were blocking vision to the street. Caron replied the trees were half dead and looking very bad.

Polzine reported that Deb Bjorkland has had a water line that has frozen up for several years if water is not continually run through it. He said Gary Hansen has been out to dig it up and lower it and Bjorkland is asking the City to help pay for it since the line runs under a City street. Bjorkland mentioned something about the road being cut down but Polzine said the road has not been cut down in 30 years since he has been here. He said the main is plenty deep, the service line just loops up from the main a long ways. Polzine said the loop is probably where it was freezing which is only three and one-half or four feet deep. Polzine said the only thing the City has done was in 1980 the street was widened and curb and gutter added. Polzine said that he is aware there has been three or four times than Hansen has been out to dig it up and thaw it out.

Otto-Arvizu asked where it was dug up was it on private property or in the street. Polzine replied it was in the street but the City doesn't have anything to do with a service line which are installed privately by plumbers. Otto-Arvizu asked if Bjorkland's service line should have been lower when it was installed. Polzine replied he thinks it should have been. Otto-Arvizu asked about the water main. Polzine said the water main is five to five and one-half feet deep and has never froze, it's only her service line that's freezing. He said what probably happened is when the street was widened the loop that was under the boulevard before is now under the street.

Otto-Arvizu asked if most water mains are five foot deep. Polzine replied five feet or deeper but there are some that are three feet deep. Ferrazzano asked how much the bill is. Koopman said she hasn't heard. Hannasch asked why the City hasn't heard about it before. He said the only thing is that if the water line was under the boulevard and now under the street there is something to consider. Polzine said it has been over 20 years since that was done so he questioned why after 20 years it would suddenly be the City's responsibility. Hannasch agreed but since the freezing part is under the street they need to consider that. Polzine said if there is any compensation on the City's part maybe they could look at the costs to replace the curb and gutter and to patch the road. He said they had to get the curb and gutter back in today because they are overlaying the street this week. Otto-Arvizu said this was good timing for Bjorkland to dig up the water line with the street repairs going on. Polzine said the street repairs would be \$350 to \$400. Hannasch thought it would be fair if the City would absorb those costs and the plumbing costs were handled by her. Stobb asked if there was any precedence for a case like this. Hannasch replied no but considering the problem is under a City street the City should have been notified and it should have been handled some time back. Fraser asked normally if Bjorkland would be charged for the street repairs. Polzine replied that normally she would be billed. Anytime someone has to dig in the street they have to come in and make a deposit to the City and when repairs are done either the deposit covers it or the person has to pay the balance.

Otto-Arvizu asked if there is a line only three or four feet deep, would the plumber have to trench in deeper and come underneath to properly lay a new line. Polzine replied that is correct. Otto-Arvizu asked if there is anything in the zoning ordinance or building statutes stating how it should be done,

or who would be liable if the job was done today. She said anything that was done back that far there was so little oversight on construction. Polzine said it would not happen today. Any water main put in today get no less than six and one-half feet of cover. Hannasch said the City can't go back and correct everything. Otto-Arvizu said her point is that before the City took over the water system NSP had control and there were many prior problems the City corrected. Polzine said he thinks the responsible person in this case was the plumber that installed the service to the house and put it too shallow. Hannasch said the City will never solve all the problems and just has to solve one at a time. Motion by Stobb, second by Caron, that the City pay for the street and curb repairs and the remainder of the bill be Bjorkland's responsibility. All voted in favor of the motion.

Hannasch reported that the police department is working on acquiring a grant for a bike patrol program for the pool area because the road detour is causing extra traffic and putting children in danger. The patrol person would work a few hours a day and would work with the RSVP volunteer program. Motion by Otto-Arvizu, second by Ferrazzano, to approve the grant application. Stobb asked how long it would take to get a grant. Hillger replied he wasn't sure, his records clerk, Janell Hemish, and Sheila Leonard, the RSVP Director, are doing the legwork. He said the grant entails more than just the bike patrol, there is a couple other things they are adding to the grant application. The application should be submitted within the next couple weeks and they should get an answer within a month. Hillger said it will take some public money to fund the program but they will try to get some local organizations to donate so there is no cost to the City.

Hannasch said this will relate to an incident he was called about that happened at the park that a resident didn't feel the police handled correctly. There was an altercation and a misunderstanding about the events that took place.

Otto-Arvizu said when she heard the word pro-active it reminded her of something brought up to her at a meeting that a lot of children are not respectful of pedestrians or they don't look when crossing the street. She felt a need to get parents involved right away when a child is caught not obeying traffic laws. For example there was an incident with the City Attorney who was hit by a bike and knocked down while leaving his business. Hillger said they don't have all the ideas meshed together but the project will involve more than just a crossing guard but bicycle safety as well. He said the procedure has been if a child is caught officers will discuss the problem with the child and determine how receptive they are. If the child is not receptive a letter is sent to the parents. Otto-Arvizu said as a point of discussion she would like to see parents notified the first time as a good communication tool. Parents may not have a clue that their child is riding recklessly and endangering himself or others. She is concerned about really young children out riding by themselves and feels it is important that parents know about problems. All voted in favor of the motion above.

Hillger reported that he reinspected the properties that were sent public nuisance notices and most were abated. Hannasch asked if the Council could declare the abated nuisances in one motion. Koopman replied they could. Motion by Fraser, second by Caron, to declare those nuisances abated as recommended by Chief Hillger. Otto-Arvizu asked if the nuisances on Hillger's report included the house at 174 Center Street. Hillger said that was handled in a different manner. Koopman said it has been processed through the court system. Koopman said at the last meeting the Council adopted an amended order of abatement which included all the property owners. All voted in favor of the motion above.

Hillger stated at 160 North Street there is a white Mercury sitting in the backyard with expired plates and some old carpet. He was contacted by the landlord who informed Hillger the vehicle belongs to the former tenant. The owner was advised by his attorney to leave the vehicle until his case goes through small claims court. Hillger recommended to postpone taking action until the case is finished in court. Ferrazzano asked when the court date was set. Hillger said he was supposed to have appeared to testify in May but it was postponed until June. Koopman said the Council could still issue an order of abatement because it gives the owner 60 days to comply. Motion by Ferrazzano, second by Caron, to issue an order of abatement. All voted in favor of the motion.

Hillger reported that at 600 Greenwood Avenue #8 an expired pickup was removed but a brown Cadillac, license expired October 1998, was still there. Hannasch asked if the owner had talked to him. Hillger said he hadn't. Hannasch said the owner is trying to get the title for the vehicle. Motion by Caron, second by Fraser, to issue an order of abatement.

Hillger stated there was still a blue Mercury, license expired May of 2000, at 600 Greenwood Avenue #27. He said the owner told him she is having trouble getting the title but Hillger thinks she has owned it for several years. Motion by Stobb, second by Fraser, to issue an order of abatement. All voted in favor of the motion.

Hillger recommended continuing the nuisance at 467 Hollett Street. A Ford pickup filled with old lumber has a license expired April 2000. Motion by Stobb, second by Caron, to issue an order of abatement. All voted in favor of the motion.

Hillger reported at 301 2<sup>nd</sup> Street an old stove had been removed but a red Toyota, license expired July 2001, was still there. Motion by Caron, second by Fraser, to issue an order of abatement. All voted in favor of the motion.

At 58 Morgan Street a black Oldsmobile was removed but a brown Ford van, license expired March 01, remains along with trash. Hillger said a previously expired Isuzu pickup now has Iowa license plates and he recommended continuing with the nuisance process. Motion by Stobb, second by Caron, to issue an order of abatement. All voted in favor of the motion.

Hillger reported at 70 Morgan Street a silver Chevy van and black Chevy have been removed but a white Pontiac remains with a license expired April 2002 although the wheel has been replaced. Also a yellow Ford pickup expired July 2001 and some old tires are still on the property. Motion by Caron, second by Stobb, to issue an order of abatement. All voted in favor of the motion.

At 284 7<sup>th</sup> Street a Ford van and old motorcycle have been removed but other trash is still present and the lawn is over 12 inches high. Hillger believes the property is now vacant and saw a foreclosure notice in the newspaper. Motion by Caron, second by Stobb, to issue an order of abatement. Otto-Arvizu asked if a lawn is over 12 inches high how does it get on the list of City mown properties. Polzine said the weed inspector will need to issue a notice. Otto-Arvizu said she thinks the City needs to pay some attention to this.

Ferrazzano said the committee met last Wednesday about the Joint Powers agreement. He said they talked about the problems the City had with their proposal and some of the issues were addressed. Ferrazzano was glad to see they addressed what he thought was the most important issue, the contribution to the pool. The school's attorney told them to do the contribution as an addendum to the agreement. He said in the copy received on Sunday the addendum wasn't attached but he assumes the addendum they have is still good. Ferrazzano said he thinks there are still some issues that need to be addressed in terms of membership of the advisory council and the management committee, specifically items 1.2 and 1.8. He stated that he is not sure that the wording reflects what the City asked for, particularly if the Superintendent and the Community Ed Director are the same person which would mean that person could have two voting members on the committee. He doesn't know if the wording "In the event that the superintendent serves as the Community Education Director, he/she shall maintain voting member status." If the school means to say there is only one vote if one position has these two positions Ferrazzano would like to see it spelled out that way. He felt it was vague the way it was written.

Fraser said they conceded a couple points, the Management Committee said the Advisory Council Chairperson would get a vote so there would be five votes on the Management Committee rather than four which was originally proposed. Ferrazzano said the other thing is the duration of the agreement, item 6.1. They didn't have the language in the previous proposal that the contract would be automatically renewed. With this proposal the agreement will be automatically renewed unless one of parties takes steps to terminate. Hannasch felt that was a good addition so the school and City did not have to turn around and do the contract every year when it expires.

Fraser said when he talked to Koopman today she had concerns with the allocation of insurance costs and added the committee didn't discuss that portion. Koopman said she first wanted to address the Management Committee part of the agreement which says if the Superintendent serves as the Community Ed Director he/she would maintain voting status. Her concern was item 1.8.c. of the Management Committee responsibilities "To make recommendations concerning the hiring, discharge, and discipline of the Community Education Director and other personnel matter." This

would mean if the Community Ed Director was the Superintendent that person would vote for their own discipline. Koopman said in this case they should not be able to maintain voting status because it would be a direct conflict of interests. Fraser asked if he could name a designee. Koopman said they could do that and added she was sure that was not the school's intent when they wrote the proposal. Fraser said they were thinking of the Community Ed Director as an ex-officio member. Koopman said it would be approving your own work, administering the program and approving it. Fraser suggested changing it to read that if the same person has both positions he should name a designee.

Ferrazzano asked Koopman what she would like to see regarding the insurance. Koopman said the language reads both "parties shall share equally the cost of liability insurance." She said the City providing coverage for the City Council rep and City Administrator would be no problem but where it says any personnel of the Community Education and Recreation programs, she felt that insurance coverage should be an expenditure from the Community Ed budget. Fraser asked if that has always been the case. Koopman replied to her knowledge the City has never provided insurance to any personnel of Community Education. She said each provides a certificate of insurance for the other showing coverage of the facilities but never for personnel. She felt the coverage for personnel would be an appropriate use of Community Ed funds and should be a budgeted line item.

Ferrazzano said it looks like the committee will have to meet again but hopefully it will be a short meeting to finalize the agreement. Hannasch suggested Ferrazzano and Fraser get the insurance information from Koopman before the meeting. Fraser said it would be nice to get the agreement finalized before the current agreement expires. Ferrazzano said the school was pretty receptive to the changes they discussed at the last meeting but asked what to do if they didn't agree with the changes discussed tonight. Hannasch felt it was mostly changes to wording rather than meaning. Ferrazzano said he was just trying to anticipate any problem but did say he was thankful the school had the addendum for the pool contribution.

Hannasch informed the Council that the City Administrator's Performance Evaluation report would need to be signed by each Council member and by himself and asked for any discussion. Fraser asked if they need a motion to approve the report. Koopman replied not if everyone agrees with it and has nothing to add.

Koopman reported after talking with Rick Schaefer that the pool facility should be secure by Tuesday night when the perimeter fencing is complete and they should be able to start filling the pool by Wednesday. She said the drop slide should be arriving with the installation crew but she wasn't sure when they would arrive. Koopman said they should begin training early next week and added they still haven't resolved the issue of the color of the flume slide. She said another issue is that Schaefer indicated he wants to stop liquidated damages when staff training starts so she wanted the Council to discuss that because there are a lot of things that aren't finished yet. Ferrazzano asked why Schaefer wanted to stop liquidated damages. Koopman replied he didn't say. Ferrazzano said that wasn't a good enough reason. She asked when she can tell them it's okay to stop. Ferrazzano stated when the City gets the keys. Polzine said to him done is done, when the City can open the doors to the public it is done. There may still be some landscaping to be finished but when people can swim in the pool it's done. Koopman said she needs some direction from the Council when to say liquidated damages can stop because it will come up at the pool meeting tomorrow. Otto-Arvizu asked how it was worded in the contract. Koopman said it just says at final completion. She added that final completion is defined in the specs so she'll have to look at that. Ferrazzano said that liquidated damages is the only thing the City has to ensure that the contractors keep working and get the pool finished.

Stobb asked what is the last thing that Olympic Pools has to do. Polzine replied there are lots of things to be done by both Olympic and Salonek. Stobb asked if Olympic would be done before training starts. Polzine replied he didn't know. He said Olympic was there one day last week and hasn't been back. There is a four foot hole there with a cover setting over it, they also haven't cleaned out the mechanical room. Polzine said when they talk about training they are referring to training for the operation of pool, not training of the staff. He said his understanding from day one was that staff training was part of the timetable. Koopman said that was correct and staff training was to take place after substantial completion. Polzine said substantial completion is water in the pool which has not happened yet. Otto-Arvizu asked there isn't water in the pool mainly because the fence is not up or are there other reasons. Polzine said the pool is not done. The main pool was not substantially

complete until about two weeks ago when they finished with the plastering .

Koopman said she couldn't find the definition of final completion but the contract states that liquidated damages shall be paid until the date of final completion. Caron said they will probably have to negotiate their final completion date compared to the City's. Otto-Arvizu said it would have to be based on what is in the specs and the City will have to show evidence of that. Fraser asked if Olympic will be at the meeting tomorrow. Koopman replied Olympic and Salonek will both be there and they are the two contractors subject to liquidated damages right now. Ferrazzano said if Koopman is looking for guidance, pending finding a definition of final completion, he thinks they should say when final completion is when keys are received and the pool is opened for business. He thinks liquidated damages should not stop just because Schaefer said they should. Motion by Ferrazzano to that effect, seconded by Caron. All voted in favor of the motion.

The Consent Calendar included the following: Cemetery Commission minutes for May 23, 2002; Police Activity Report; Police Patrol Log; Police maintenance log; Multi-Purpose Center minutes for May 13, 2002; Municipal Accounts Payable; and Fireman's Relief Association minutes for May 13 and June 3, 2002. Motion by Stobb, seconded by Fraser, to adopt the above listed items. All voted in favor of the motion.

There being no further business motion by Caron, seconded by Ferrazzano, to adjourn. All voted in favor of the motion.

ATTEST:

\_\_\_\_\_  
City Administrator

\_\_\_\_\_  
Mayor

**June 24, 2002**

The regular meeting of the Tracy City Council was called to order at 6:30 p.m., Monday, June 24, 2002 in the Council Chambers of the Municipal Building. The following council members were present: S. Ferrazzano, M. Fraser, D. Berndt, J. Otto-Arvizu, R. Caron, and R. Stobb. Absent was: C. Hannasch. Also present was staff member: F. Nielsen.

Stobb asked for any additions or corrections to the minutes from the June 10, 2002 City Council meeting. Motion by Ferrazzano, second by Caron, to approve said minutes as written. All voted in favor of the motion.

Stobb asked if there were any additions or deletions to the agenda. Nielsen had an addition to (4C), a report on a hazardous building at 136 State Street. Motion by Ferrazzano, second by Caron, to approve the agenda as now written. All voted in favor of the motion.

Nielsen stated he had not been requested to review the contracts that Ron Radke was requesting for the Liquor Store but he noticed one thing in regard to first contract for a Mega Touch coin operated game with C & N Sales Co. Inc. Nielsen said he gathers there is a payout involved and would suggest adding a clause stating that no games in violation of state gambling statues shall be allowed in the City of Tracy. Fraser made a motion to approve C & N contract contingent on the addition of that clause and Caron seconded. All voted in favor of the motion.

Stobb said the state lottery contract seems standard. Ferrazzano made a motion to approve the contract and Berndt seconded. All voted in favor of the motion.

Nielsen reported that the City Administrator received a notice from McLeod USA stating that they are intending to sell to enter into an agreement with Prairie Wave Communications to sell their tel-comm division which would include the cable tv services offered in Tracy. They have indicated they hoping for approval from the City for the transfer of control of that franchise. Nielsen said he spoke with Koopman about this and they were not sure what the difference would be between a transfer of control and an actual assignment or transfer of the franchise. They talked about handling this in the same way as the last two or three transfers which would be to forward any materials received about the transfer to Moss & Barnett and have them prepare a report. It would also be the City's understanding that either McLeod or Prairie Wave would incur the costs involved in doing the research for the transfer. Stobb asked if that has been discussed with Prairie Wave. Nielsen replied he has not been in contact with them and is not sure if Koopman talked to them about it. Otto-Arvizu felt it was important that they be informed of the costs. In the past the City has had problems with companies that felt they were not informed that they would incur the attorney fees. Motion by Otto-Arvizu, second by Caron, to contact Moss & Barnett and inform Prairie Wave that they would be responsible for all fees associated with the transfer. All voted in favor of the motion.

Nielsen referred to a memo about the public nuisance at 174 Center Street. He said the last action taken by the Council was to authorize the issuance of an amended order of abatement because of the need to notify additional parties since the property was being sold contract for deed. Nielsen said as of today Chief Hillger has confirmed that a substantial portion of the nuisance is not abated and if there is no change by June 27, 2002 the Council should consider taking the matter to District Court. Otto-Arvizu said the property owner, Sandy Lund contacted her some time back saying that she had just become aware of situation. Lund said she had done some investigation and in order for her to clear the property she has to go through some legalities so she can legally remove items from the property. Otto-Arvizu said she would like an effort made to contact Lund before taking further action since Lund has indicated she wanted to take care of the problem. Lund would end up bearing court costs if the issue goes to court and she indicated to Otto-Arvizu a great willingness to remove the nuisance items.

Fraser asked if Lund was served abatement papers eventually. Nielsen replied he wasn't sure since he is not handling the matter, but she may be the party that was not served the first time. Otto-Arvizu said she spoke to Lund over a month ago and Lund was going to the courthouse to get paperwork started. Otto-Arvizu does not know where she is at or how long it may take Lund to get things in order. Stobb asked if Otto-Arvizu thought it would be okay for the Council to vote to proceed but to

have the Assistant City Attorney contact her first. Otto-Arvizu said she would appreciate that since it was the buyer who brought all the items in. Ferrazzano's suggestion was to table the issue until the next meeting and if Lund doesn't contact the City by then, the City should proceed. Stobb asked if it will cause any problems going past the June 27, 2002 abatement date without taking any action. Nielsen said he couldn't say since he is not handling the matter directly but he guessed it would not be a problem. Stobb asked if there would be a problem with the Council voting to proceed but advising Kerr to contact Lund to see where she is at and letting Kerr use his discretion. Ferrazzano didn't think there would be any difference in waiting until the next Council meeting because if Stobb is concerned with the time frame it would just be a matter of filing the paperwork in court. Otto-Arvizu said if she is not mistaken if it goes to court Lund would be looking at \$1000 or more almost immediately in court costs. Nielsen said it wouldn't be quite that much but there would be significant costs. Motion by Ferrazzano, second by Otto-Arvizu, to table the matter until the next Council meeting. All voted in favor of the motion.

Nielsen reported that there is a hazardous building issue at 136 State Street that the City has dealt with in the past. The property has come to be known as the Jennie Olsen property. Nielsen said Miss Olsen is deceased and he has been dealing with the family. The son has gotten a copy of what was to be served on him and has waived his right to contest. Also the mortgage company has indicated they are bowing out of picture. Motion by Ferrazzano, second by Fraser, to proceed and authorize enforcement. All voted in favor of the motion.

Arl Weirebe informed the Council that he has been helping out with the hospital maintenance department for the last two weeks. He reported that last Monday night the central air unit went out and burned out two windings in the main compressor. The hospital contacted Carlson & Stewart Refrigeration and Sam Sahlstrom and both looked at the unit and confirmed the compressor was burned up. Carlson & Stewart gave a replacement proposal and Sahlstrom started one, he looked at it one day and was going to come back but in the meantime the hospital board met and reviewed Carlson & Stewart's proposal. Carlson's gave three options for replacement:

- Option 1: To install a new compressor unit and leave the heat exchanger, power panels and everything else at a price of \$13,411.
- Option 2: Provides a 50 ton reciprocating compressor chiller module. The module would include two refrigeration circuits so if one goes down there is a backup at a price of \$25,239.50.
- Option 3: Provides for a 50 ton scroll compressor which is a more efficient model. This is also a two circuit unit and provides more cooling capacity.

Weirebe informed the Council that Steve Zens who is on the hospital board is familiar with air conditioning. Option 3 comes at an approximate cost of \$29,200. Weirebe said all three options come with a five year warranty and both he and Zens recommended going with the scroll unit because they can use the existing condenser on the roof so all they have to do is purchase the modular package. Weirebe said there was a one week turnaround so they ordered the unit on Wednesday. He called today and it still hasn't left the factory but it's supposed to leave the factory on Tuesday to arrive Wednesday. The company has come in and has already done work on the condenser unit and are making it a dual manifold instead of a single manifold because they will be running two compressors. This will keep the oil flow running evenly through the unit. Weirebe stated if there are two compressors pushing on one manifold there will be a dead spot where the oil will sit and it won't work to full capacity.

He said Carlson & Stewart couldn't give him a firm price on labor and materials but they figured around \$5,000. Weirebe asked how he could get the price down and they asked him how much he could do. Weirebe said he has been working on it for two days and the old unit is completely out of the basement. The Hospital Board also talked about the air conditioner in the lab. They currently have a one ton unit in the lab and with all the computerized equipment in that small space they can't keep it cool so the equipment keeps overheating and shutting down. The board approved to put a two and one-half ton unit for that location so they are going to take the one ton unit from the lab and move it into surgery so they'll have more cooling capacity for surgery. The unit that was removed was a 1960

model and probably there and the building constructed around it. Weirebe said when the unit was removed you could see the outlines of the tubes from the heat exchanger on the bottom but they were completely corroded all the way through so nothing was left of value.

Weirebe stated he was present to let the Council know the Hospital Board approved these two units and the total cost will be around \$40,000 for both. He said he will try to get the cost down even more by helping to install the new unit when it arrives. Otto-Arvizu said she realizes with air conditioning time is of the essence with temperatures as high as they are, but she remembered if something costs over a certain amount the City is supposed to request sealed bids. Stobb said anything over \$25,000. Weirebe replied since this was an emergency the Hospital Board decided to order the unit immediately. Fraser said he thinks there is a clause if it is deemed an emergency situation that can be disregarded. Weirebe said they have some small modular units that can be plugged in but in only keeps the facility five to ten degrees cooler than outside so it is pretty warm. He stated that Carlson & Stewart said they will have the air conditioner up and running by July 1. Weirebe said if it comes to another day's wait on shipping he has a truck and may drive to LaCrosse Wisconsin to get it himself. He said the longer the unit is down the worse it will be because once a brick building heats up it takes quite a while to cool off. Otto-Arvizu said it appears Weirebe has tried everything to keep costs down and to do as much of the work as he could himself. Stobb said that Dan Reiner recently talked to the Council about the problems with the air conditioning. Weirebe said the worst part is it broke down when it's 90 degrees outside. Nielsen said he doesn't think any action is necessary, this was just a communication to the Council.

Fraser informed the Council that he and Ferrazzano met last Thursday with the committee to review the Joint Powers agreement and he believes they reached an agreement. He passed out the revised copy the he received just before the Council meeting. Fraser said they made the changes regarding the Superintendent's vote stating that if he is also the Community Ed Director that he must designate someone to vote. Fraser said they clarified the insurance issue in that the school and City would each insure their own facility and the school will pick up coverage for the Community Ed Director and the At-Large members of the Advisory Council.

Fraser said they were told that the agreement and addendum for the pool contribution will be signed simultaneously. The committee is now looking for approval from the Council. Fraser added also if any changes are required after the agreement is signed there is a provision to amend the agreement, either the City, school or the Advisory Committee can amend it at a later date. Motion by Caron, second by Berndt, to approve the Joint Powers Agreement. All voted in favor of the motion.

Shorty Engel referred to his memo requesting a decrease in season pass prices for the pool. He said the changes represent about a one-third reduction in price. Engel said those who have already purchased passes will receive a refund by mail. Stobb felt with the late start the fee reduction was fair. Fraser asked if Engel had a proposed opening date. Engel replied he didn't. Caron thought they should maybe cut the pass price in half. Engel said they still have to pay bills but he left it to the Council's decision. Ferrazzano said he thinks half price would be a gesture of good will because they don't know how long patrons will be able to swim. Stobb suggested approving Engel's recommendation and reviewing it at the next meeting. Ferrazzano made a motion to cut season pass prices in half and Caron seconded. All voted in favor of the motion.

Engel said Tom Schaefer, Rick Schaefer and Bill Deneen were present from USAquatics and asked how the Council wanted to proceed. Stobb suggested getting the slide issue out of way first. Bill Deneen, with USAquatics, said it had been brought to his attention there was a problem with the color of the flume slide. He gave the Council a short history of flume slides saying they are an interactive ride and so don't require ADA access to get to the top of the slide. Deneen said two things are important, that the user needs to be able to control their body and they need to be able to see what is coming up. In an enclosed tube slide it is important to be able to see the turns coming up to prevent injury. He very strongly recommended that the City not put up a dark opaque slide for liability reasons. Ferrazzano asked if manufacturers know that then why do they still market a dark blue slide. Deneen replied they don't, the slide has always been available only in aqua blue and brown. Fraser asked if they don't make a dark blue slide at all. Deneen replied there is dark blue available in the open slide but not the enclosed. He said there are manufacturers who do make a dark blue tube slide but it is only dark for the first 20 feet where there is only one turn before it opens up.

Ferrazzano asked if Deneen was saying the City should stick with the slide that was shipped. Deneen replied that is what he was recommending. Stobb said he thinks what the City had in mind was a nice dark blue slide winding around the pool. He said he was rethinking that he probably would not want to get into a dark blue tube without being able to see where he was going and his twelve year old daughter said she wouldn't want to go in it. Deneen said they did a slide like that at one facility and kids were too afraid to go in it. Fraser asked how the City got the idea that we could order a dark blue slide. Rick Schaefer said he put a considerable amount of pressure on Miracle Equipment to get a dark blue slide. They said they would paint the slide pieces but they expressed liability concerns and although he hasn't gotten anything in writing he believes one of the responses he was going to get is some kind of letter saying they signed away any responsibility. Rick said Miracle was also concerned with sanitation because without any light getting into the slide there is the possibility of a slimy buildup. He said they also would probably site some other safety issues. Rick stated that he put a lot of pressure on Miracle about getting a dark blue slide and what they came up with was an increased cost of \$8500 to take the pieces back and re-coat them.

Otto-Arvizu said regarding Ferrazzano's original question, she thought the catalog showed the dark blue slide. Rick apologized for misunderstanding the question and said Miracle sent a computer rendering of the slide that showed it in dark blue. Whoever did the computer rendering selected the color in error for the tube slide. Otto-Arvizu said what Koopman felt was this was a misrepresentation of the product. Ferrazzano said if the City takes the aqua blue slide Miracle will give a \$5,000 discount. Stobb asked if USAquatics would also discount another \$2,833. Rick said that was in discussion but his company has a fee involved with an owner direct purchase such as this. He said it does not represent a profit for his company but is the actual fee for what it takes for them to handle the paperwork and get the product. Rick said he was well beyond his fee on this slide as it is, however he was getting the feeling that the work he was doing wasn't entirely satisfactory so he had discussed a discount with Koopman. Ferrazzano said he didn't think there was much choice and they should go with option three. Stobb said he was of the opinion that not only for safety reasons but because of the availability of Miracle's crew they should put up the slide they have otherwise there probably won't be a slide this year. Ferrazzano said because the City has been forewarned of liability problems and puts up a dark blue slide anyway there is no option.

Caron suggested before negotiating the price of the slide the Council should hear Don Polzine's complaints. Polzine said as long as USAquatics is here he felt they should find out why things aren't getting done because the City is getting a lot of heat. Polzine stated that he and Engel are at the pool seven days a week and nobody else shows up to work when there is a ton of stuff that isn't done. Polzine said kids and mothers are at the pool site daily and he needs some answers. Caron said he thinks that comes back to USAquatics since the City hired them as the engineers. Tom Schaefer replied that USAquatics is the engineer and represents the City. The City holds contracts for the various bid packs of which there are four plus the owner direct purchase package and his company is managing those contracts. Tom said they have leveraged as much as they can to get the contractors on site to work. Tom said according to Rick Schaefer's time cards he is spending more than four hours a day on this project and Tom felt that Rick could get more done at the office on the phone than at the pool site. Tom said they wanted to have as many Council members out to pool sight as possible tonight because USAquatics would like to recommend that the City issue a substantial completion document on at least all but one of the contracts. He thinks patrons could go swimming at this point except Olympic pools does not have the heaters up and running. As far as disinfection levels, water balance and water quality those things are done, it's just that the water is too cold. Tom stated the largest of the two heaters was just purchased last year and part of the contract was that Olympic was required to reinstall that heater and have authorized people on site to start up the heater. Aqualogic was the contractor that installed the heater last year and are factory trained but Olympic chose to use somebody else and they were not able to start it up. Tom said the \$800 a day liquidated damages should be incentive enough for Olympic to get out and get the job done so USAquatics is putting as much pressure on as possible. The rest of the contracts are pretty much complete and said his company is recommending that the Council issue substantial completion for all contracts except Olympic's contract.

Ferrazzano asked if it was Tom's opinion that the City can use the pool now except that the one heater is not working. Tom replied that was correct. The state health inspector was out and said it was ready to go. Polzine said that inspector wouldn't let it go, he asked the day he walked in what he was doing

there. Rick said the state health inspector told him everything short of Miracle's slide was done and that he wouldn't have to come back. Ferrazzano asked Rick when he talked to the inspector. Rick replied last Wednesday. Polzine said the concession stand cannot be used. Rick said that was a different inspector. Polzine replied it is but that is a different contract where Tom was recommending the City sign off on Salonek but these are issues to be considered. Polzine said there are three issues when the health inspector looked at the concession stand plans: the hollow base cabinets, the sink and the floor. Rick said the floor has been taken care of, he is working with state health to fill the hollow bases of the cabinetry with concrete and once that is approved he can get that done. They are also working with Heartland to get a sink that will be large enough. They measured some of the utensils to find a sink that will work and everything is on a rush. Polzine said what he is saying is that the City cannot open the concession stand until those things are done. Tom said this is why they are encouraging a walk through with the Council.

Otto-Arvizu asked why the sink is an issue and if the specs were correct. Rick replied the specs were approved last year by the state health inspector. He said his company has built dozens of concessions stands in Minnesota and has never had a problem and now they don't like anything. Rick said they have always been told these were temporary facilities by previous inspectors.

Nielsen said it wasn't really approved last fall it was just based on previous facilities. Deneen said the plans went through the State Health Department and were approved last fall. Polzine said there was a letter issued in April that said the facility wasn't approved. Rick said he just received a copy of the letter last week. Otto-Arvizu said where was the letter sitting before that. Rick said he wasn't sure but he received a copy from Lesli Kramer, the local inspector. Rick said he could have probably corrected the problems sooner if he had received a copy in April. Tom said approval of plans is always subject to final inspection and it depends on the inspector. He said Bill Deneen could talk about that better because he was with the Health Department for five years and he understands how that department works. In fact Tom said that Deneen was one of the authors of the current pool code. Polzine asked if Tom meant that other inspectors can approve the facility but this one won't. Ferrazzano asked if the City can have some else inspect it. Tom replied no because that inspector is assigned to this area. He said his company will resolve the sink issue and any related costs.

Polzine stated there is supposed to be a three foot fence around the sand area and the umbrellas need fixing which won't take more than a day and it's done. Tom said it's to the point that if Rick puts them on notice then they can hire another contractor and charge the costs back to them. Polzine said the time has come to say we've had enough. Caron asked how long it would take to put them on notice and hire someone else. Tom said since we're into liquidated damages it can be done relatively quickly, usually within 48 hours. Rick said the contractor is given notice that they have until a specified date to give a response or the City will initiate this action. Ferrazzano asked if they could make the response time as short as 24 hours to call the City. Tom said since time is of the essence he thinks the City can give a 24 hour notice. Ferrazzano said if the City needs to hire other contractors then just do it because they can't sit around and wait anymore. Stobb said the public is not happy, the City is not happy and it is costing USAquatics money because of the extra time.

Tom said if substantial completion were issued today that would mean roughly 50 days of liquidated damages at the rate of \$800 per day. However, if they issue a substantial completion notice the contractors have two weeks to get from substantial completion to project closeout. If they don't they have to pick up liquidated damages for those next two weeks and beyond so it's retroactive. This will help prevent the contractor thinking they can slow down because damages aren't being charged anymore. Tom said he was glad legal counsel was present because it was his understanding that liquidated damages cannot be assessed as a penalty they can only be assessed for loss of revenue minus operating expenses and any additionally incurred expenses to get the project done. He said obviously cutting the season ticket rate in half is loss of revenue which the liquidated damages should offset. Tom said they estimated that the lost revenue for the City of Tracy is somewhere around \$500 per day and the other \$300 is to cover the City's additional expenses, one of which is USAquatics' extra time on the job doing construction management from the time of original substantial completion until the actual substantial completion. Tom said they explained that to Koopman and found out they had another misunderstanding in that she didn't realize that anything after the initial substantial completion date was additional services.

Ferrazzano asked Tom from what starting date does the City owe USAquatics \$300 per day. Tom

replied for the 50 days since liquidated damages started being assessed. Caron said he has a problem paying USAquatics \$58,500 for what they have done as far as construction management because the time that has been spent on site has been nothing. He felt that has been part of the problem is that no one has been on site to enforce progress. Caron said that was the City's understanding of construction management. Tom said when he first heard of a misunderstanding about when or how often they were supposed to be on site was at the Council meeting about one month ago. He came out with Rick to one of the inspections approximately six weeks after the job started to make sure USAquatics was meeting everyone's expectations and at that time Koopman said she would like USAquatics to be out representing the City twice a week during heavy construction periods. Tom said at times of more active construction they do that and reminded her just because they are not on site doesn't mean they are not doing their job. They are also doing what they need to manage the contracts from their offices and so USAquatics has been representing the City on this project every day. Caron said going back to the first problem when the City closed the pool a month early and no one showed up for a month and a half to work. He asked where USAquatics was then. Rick said they were on the phone calling contractors to remind them that starting a month late does not get them out of liquidated damages if they finish a month late. Caron said the contractors were sent letters all winter long. Rick said he was on the phone with them reminding them that since the pool closed a month early the City was going to get upset with the contractors.

Nielsen said he thinks the City needs to consider that as part of liquidated damages too that residents of the City gave up their swimming privileges and the pool lost revenue during that period. Ferrazzano said it is a bitter pill to swallow that USAquatics is saying the City has to pay them \$300 per day for the past 50 days. He said he is not denying that USAquatics was working on the project but the bottom line is the pool didn't get done on time, so whatever efforts were made weren't sufficient to get the project done on time and now the City has to pay \$300 per day for 50 days for something that wasn't the City's fault. Ferrazzano said he finds that difficult to take. He doesn't know what USAquatics does every day for the pool, how many phone calls are made or how many times they are on site but Ferrazzano said what he does know is that the pool is not open on time and now USAquatics is saying the City owes more money. Tom said the City is not paying that, the contractor is paying it. Caron said it comes out of the liquidated damages but the Council was assuming the \$800 belonged to the City. Nielsen said he doesn't think the City should discard that assumption without checking into it further. He said that is the whole point of liquidated damages is that it doesn't necessarily bear any relationship to reality. You say at the very beginning that is what damages will be and the City is giving up its right to say it is more or less than that. Nielsen said now this is causing him some concern and some questions in the back of his mind that USAquatics is saying it is liquidated but it may in fact have to be less than that because the City didn't really have that amount of damages. That is not what liquidated damages in his understanding of the term is supposed to be. Nielsen said he wasn't prepared, and he didn't think the Council was either, to blow off a significant part of the \$800 per day in damages because somebody says the City shouldn't get that much because there wasn't that much of a loss.

Ferrazzano asked how they arrived at the liquidated damages amount in the first place. Tom replied it was based on historical data from other projects. Nielsen said the significance is that by issuing substantial completion it is supposed to stop those liquidated damages to some extent. Tom said it is supposed to stop them provided the contractors get to final completion within the next two weeks. If they don't then all those days are also assessed. Nielsen asked what would be the effect of the \$800 per day of issuing substantial completion to some of the contractors but not the others, and asked if the \$800 per day would keep running. Stobb asked how many contractors were getting assessed damages. Tom replied it was being assessed to two contractors. Rick said it is only \$800 charge per day which is assessed to the contractor deemed responsible for the delay. It has gone from Olympic to Salonek and back to Olympic. Tom said they can't assess more than \$800 in one day. Stobb said he thinks Nielsen is right and the City needs to do some research and think about it before taking any action. Rick said by assessing substantial completion it would be only to those who have completed their work. The \$800 per day would continue to be assessed to those who have not.

Caron asked if Olympic Pools was on site yesterday or today. Tom replied they weren't. Caron asked if anyone had talked to them. Tom said he talked to them twice today. He said Olympic has five jobs that are in the same position and they have lost a lot of their crew. Caron asked what Olympic had left to do and if it was something that could be hired done locally. Polzine replied

they have to get the heaters going, one of the automatic valves is leaking and the other doesn't work at all, the guy from Aqualogic said the temperature sensors have to be put in a different location because they won't work in the elbow of the pipe because of the gravitation of the water they have to be in a straight pipe. The guy on site said the heaters temperature sensors should be on the other wall closer to the heaters. Polzine said these are things he doesn't understand but the people who are professionals are telling him that.

Stobb asked if Aqualogic is available to do the job. Tom said they can do the job but he doesn't know if they are available. He also wanted to add that he felt taken aback that USAquatics is being held totally responsible for not bringing the job in on time because their job is to represent the City and manage the contracts. Tom didn't feel they had any control over what the contractors are doing in their own offices. He is on the Board of Directors for the MN Park and Recreation Association and his portfolio is state aquatics. Tom said it is really disheartening that at the last aquatic section meeting when five different people from five different communities are all opening late because of Olympic Pools. It's true Olympic has lost a tremendous amount of their labor force and they are going through tough times so Tracy is not the only ones that are getting caught short. It is just something USAquatics doesn't have any control over and Tom apologized for that. Polzine said other than the fact that they can put the contractors on notice.

Ferrazzano moved that the City install the slide that was delivered with Miracles \$5000 discount and the City will discuss a discount from USAquatics. Caron seconded the motion. Nielsen asked Engel if that was just a visual/aesthetics thing. Engel replied not for him, he was fine with the color. Stobb said for liability and for safety reasons and if the only color choices are aqua or brown he didn't feel there was a choice. All voted in favor of the motion. Engel informed the Council when the crane comes in to put up the slide no one will be able to use the pool. Polzine said if the pool is opened before the slide is up they will have to close it again while the work is done. Otto-Arvizu asked how many days it would take. Tom replied six good days to get the slide up. A lot of the pieces are put together it's just a matter of getting it up.

Ferrazzano made a motion that whatever is not done for whatever reason to put the contractors on notice saying that if they don't get the items done or give a response within 24 hours the City is going to hire independent contractors to do their job and assess the fees to them. Caron seconded the motion. Otto-Arvizu said that is saying there are other contractors available. Ferrazzano said they have to try. Tom said that is what USAquatics will do. Fraser asked how the independent contractors would be paid. Tom replied it would be taken out of the other contracts. Fraser asked if the City was within its legal rights. Tom said under the City's directive they would give notice and issue a change order deducting the amount from contract.

Caron asked about going after the bond company. Tom said the City always has that option, it is a slower option but it essentially does the same thing. It puts the bonding company on notice that they have to hire a contractor to finish their work. Deneen says he has seen bond companies hire the same contractor back. Stobb asked if giving 24 hours notice sounds workable to USAquatics. Tom replied it was great direction and they appreciated it. Rick said he is supposed to be back tomorrow around 10:00 a.m. and will get notices out tomorrow morning that they have to respond within 24 hours. Otto-Arvizu stated that Tom originally said 48 hours notice and now they are changing it to 24 hours so she asked if they were following within law. Deneen said he doesn't know that there is a law. Stobb asked if they were talking about just Olympic being put on notice. Rick replied that Salonek is included because they have some exterior work to do. Polzine said seeding and sodding needs to be done but it is too wet. Salonek needs to get the fence and umbrellas done and the inside work will be done for them. Tom said there are some cleanup issues.

Caron asked if the Council needs to appoint Polzine to make decisions about things that need to be done instead of going back and forth between Koopman. Ferrazzano made that a part of his motion and Caron seconded. Tom said this is a beautiful facility, it just needs to get open. He said as a point of information they did open Slayton's facility before getting the slide installed, they put up orange fencing and had a couple attendants to watch it so no one would get hurt so that is a possibility. All voted in favor to give the contractors 24 hours notice to contact the City or complete the pool project and to give Polzine the authority to make decisions and give directive. Engel asked Council members when they wanted to tour the pool facility. Stobb replied they should finish the meeting by 8:00 p.m.

Nielsen said he was late for another meeting as asked the Council if they would address the resolution authorizing the sale of the Industrial Park lot to Stephen and Janette LaVoy. He informed the Council the need to get into the habit of issuing resolutions for the sale of City owned property. Motion by Caron, second by Ferrazzano, to adopt the resolution. All voted in favor of the motion. (Res. No. 2002-31)

Stobb presented the applicants for Off-Sale Non-Intoxicating Malt Liquor licenses:

Food N Fuel  
Tracy Eagles Club  
Sander's Eastside  
Amoco  
The Pool Hut

Stobb informed the Council that not all applications and fees had been received so they should approve the licenses contingent on receiving the proper documents. Motion by Caron, second by Ferrazzano, to approve off sale licenses contingent on receipt of applications and fees. All voted in favor of the motion.

Stobb presented the following On Sale Non-Intoxicating Malt Liquor applications:

Tracy Eagles Club  
Sander's Eastside  
Tracy Lanes

Motion by Ferrazzano, second by Caron, to approve the licenses contingent on receipt of applications and fees. All voted in favor of the motion.

Stobb presented a request to advertise for two Planning Commission vacancies. Motion by Fraser, second by Ferrazzano, to approve the request. All voted in favor of the motion.

A variance request was received from Don Polzine to build a garage and approved by the Planning Commission. Motion by Ferrazzano, second by Caron, to grant the variance. All voted in favor of the motion.

Stobb said Robert Gervais submitted a list of requests including street closures for the 75<sup>th</sup> Annual Box Car Days. The request included:

Admission of Midwest Rides and Expositions and to waive the license fee  
Use of Central Park for a Concert on September 2  
Use of City parking lot for the Beer Garden August 30 through September 3  
License to sell beer in the Beer Garden and Softball Complex  
Use of City water truck, road grader, bleachers from the pool and softball fields  
Use of Central Park for a Kid's Day on August 31  
Closure of streets for parades, street dance and the midway

Polzine said the bleachers at the softball field do not belong to the City, they belong to the school and there is usually a softball tournament going on. Otto-Arvizu asked if someone would contact Gervais about the bleachers. Polzine replied he would talk to him. Motion by Ferrazzano, second by Berndt to approve Gervais' entire request except for softball complex bleachers. All voted in favor of the motion.

Stobb presented a resolution approving Pay Estimate No. 1 to Central Specialties, Inc. for work completed to date on the 2002 Roadway Improvements project in the amount of \$366,578.35. Motion by Ferrazzano, second by Berndt, to adopt the resolution. Caron asked if the engineer had been talked to about what was or was not being done. Polzine replied there would be a punch list. Caron asked if there is a certain amount held back. Polzine replied five percent. Stobb asked if something was going to be done with the manhole covers. Polzine said that would be on the punch

list along with seeding. All voted in favor of the motion. (Res. No. 2002-32)

Stobb presented a resolution approving Change Order No. 1 for the 2002 Roadway Improvements project. Additional sidewalk, curb replacement and pedestrian ramps were needed at an estimated cost of \$12,411.25 for a total contract equaling \$417,987.43. Motion by Ferrazzano, second by Caron, to adopt the resolution. All voted in favor of the motion. (Res. No. 2002-33)

Stobb presented a resolution approving Change Order No. 2 for the 2002 Roadway Improvements project. Additional milling on streets designed for overlay was required at an estimated cost of \$25,109.17 for a total contract equaling \$436,279.35. Motion by Caron, second by Ferrazzano, to adopt the resolution. All voted in favor of the motion. (Res. No. 2002-34)

Stobb presented a resolution declaring the following property no longer needed for public purpose:

- Pop machine
- Two (2) pop cases/24 bottle
- Thirty (30) folding chairs with wooden seats
- Thirty (30) plastic chairs
- Pool Table - (regulation size)
- Street Signs
- Seven (7) Card tables
- White Cupboard

Motion by Ferrazzano, second by Caron, to adopt the resolution. All voted in favor of the motion. (Res. No. 2002-35)

The Consent Calendar included the following: Monthly Water and Wastewater report for May; Monthly Financial Report for May; Municipal Accounts Payable; and Planning Commission Minutes for June 3, 2002. Motion by Ferrazzano, seconded by Caron, to approve the above listed items. All voted in favor of the motion.

There being no further business motion by Ferrazzano, second by Caron, to adjourn. All voted in favor of the motion.

ATTEST:

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City Administrator

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Mayor

The regular meeting of the Tracy City Council was called to order at 6:30 p.m., Monday, July 8, 2002 in the Council Chambers of the Municipal Building. The following council members were present: S. Ferrazzano, M. Fraser, C. Hannasch, D. Berndt, J. Otto-Arvizu, R. Caron, and R. Stobb. Also present were staff members: A Koopman and F. Nielsen.

Hannasch asked for any additions or corrections to the minutes from the June 24, 2002 City Council meeting. Motion by Fraser, second by Stobb, to approve said minutes as written. All voted in favor of the motion.

Hannasch asked if there were any additions or deletions to the agenda. Otto-Arvizu added (5D) stray animals; Hannasch added (6A1) an aquatic center report, (6A2) a request for payment, and (10A) a report on the hospital conference. Motion by Caron, second by Stobb, to approve the agenda as now written. All voted in favor of the motion.

John Judkins reported on a hazardous building inspection at 800 Rowland Street. He stated that he and Gary Garrels did a second inspection on the house last week. Garrels had previously done an inspection on his own. Judkins said he agreed with everything Garrels wrote on the report although it may be a stretch calling it a fire hazard since there are no live power or gas lines. Judkins said the building is not completely secure and the interior is beyond repair. There are holes in the roof that were put in for venting the fire. He recommended to tear down the house and to take whatever steps were needed to do so. Judkins said the ceiling is gone and you can see up to the holes in the roof, there is nothing salvageable in his opinion. Otto-Arvizu asked if the house is secure. Judkins replied some windows are boarded and there is some plywood up but the basement windows are broken out and not covered up so animals or children could get in. He said most of the bigger areas are boarded up. There is also one side near the roof peak that is not covered but there are holes in the roof already.

Hannasch asked if the Council can give a certain amount of time to demolish. Koopman said a notice can be sent out and the owner given either 60 or 90 days. Judkins said since at this point the trial is over so the City can now take action so he recommended giving 30 days notice. Caron said the house has set there for two years now. Otto-Arvizu said with only 30 days it may be hard to find someone to tear it down that quickly. Koopman said the owner has 30 days to either start repairs, contact the City or contest the order at court. Otto-Arvizu said she thinks the Council needs to be fair about giving the owner time to find someone to demolish it. Caron made a motion to give the owner 30 days to repair or demolish the house and Stobb seconded. Nielsen said at this point the City would issue an actual order and so should give an actual amount of time to complete the repairs or demolish the house. Caron amended his motion to give 60 days and Stobb seconded. All voted in favor of the motion.

Koopman received a memo from Jim Kerr regarding a hazardous building at 472 3<sup>rd</sup> Street stating that property owner John Her was served an order by the Redwood County Sheriff to raise and remove that hazardous building by July 17, 2002. As of this date Her has not taken any action to remove the building nor has he answered the summons. Koopman said the building also contains asbestos so Lyon County and the State of Minnesota have to be contacted prior to the removal. Kerr is asking the Council to approve District Court action contingent on Her taking no action by the deadline of July 17, 2002. Otto-Arvizu says the memo indicated Her did not respond and asked if the City has verification that Her received the notice. Koopman replied yes that Her was served by the Sheriff's Department and the City has a receipt from them. Motion by Otto-Arvizu, second by Caron, to proceed with the issue in District Court contingent on Her taking no action by the deadline. All voted in favor of the motion.

Koopman indicated she put the nuisance at 174 Center Street back on the agenda because no action was taken at the last meeting. Otto-Arvizu asked if Nielsen talked to Sandy Lund. Nielsen replied that Jim Kerr talked to her so he wasn't sure what was said. Otto-Arvizu said Lund contacted her again and she has seen significant improvements. Lund assured her again that everything would be taken care of. Hannasch asked Chief Hillger if he has inspected the property. Hillger replied the cars have been removed and some of the garbage. Koopman suggested the Council set a deadline to abate the nuisance. Hannasch said he didn't want to see the issue drag on and on. Otto-Arvizu asked how long it had been since Lund notified. Koopman replied the original notice was sent to the owner of record in May which was Mike Vogt, but the amended order of abatement to include Lund's notification

came up at the end of May. Otto-Arvizu said she had recommended to Lund to have a plan of action for abating the nuisance and to tell Kerr of her plan. Hannasch suggested giving Lund two more weeks. Otto-Arvizu thought that would be okay and suggested sending word back to Lund. She said she assumes Lund was given a copy of the letter listing the things to take care of. Hannasch said that would have been in the original letter. Otto-Arvizu moved to give Lund two weeks, until July 22, 2002, to abate the nuisance and Fraser seconded. All voted in favor of the motion.

Koopman said she doesn't attend EDA meetings but on behalf of Robert Gervais she presented information regarding the refinancing of the O'Brien Court bonds which would mean a savings of \$63,233.11. She said it doesn't mean a savings for the City because of the lease with Sioux Valley but it would reduce the debt obligation. Otto-Arvizu said the financial officer of the hospital had indicated they would be very appreciative if the refinancing was done. Nielsen asked if there would be a cost to do the refinancing. Otto-Arvizu replied the costs would be part of the refinancing agreement. Nielsen said in that case it wouldn't cost the City anything. Stobb said the letter also talks about the sale of O'Brien Court and asked if it makes sense to refinance if the City is considering a sale. Otto-Arvizu asked if the refinancing is being done because the market is right or the timing is right. Koopman replied call feature is this December so if the City is going to initiate refinancing it has to be done now. As far as the sale Sioux Valley is not ready to commit to purchasing right now with all the renovations going on. Stobb asked if the City did the refinancing and Sioux Valley purchased O'Brien Court if the City would have to refinance again and pay fees twice. Koopman said if Sioux Valley purchased O'Brien the financing would come from another source and that would pay off whatever remains on this bond. Right now it would be good to take advantage of a lesser interest rate. Motion by Ferrazzano, second by Caron, to approve refinancing the O'Brien Court bonds. All voted in favor of the motion.

Jill Houseman introduced herself as the Housing Coordinator from Western Community Action. She was present to explain her request for a letter of support for the MURL program, the Minnesota Urban and Rural Homesteading Loan program. Western Community Action writes a grant to request funding from the Minnesota Housing Finance Agency to acquire and rehabilitate deteriorated houses. Two homes were rehabilitated through this program in Tracy in 1999. Once rehabilitated the homes are sold to low income families at zero percent interest with no money down. Payments are based on 25 percent of their annual household income. Houseman is writing the application as a regional grant with emphasis on Tracy, Windom and Jackson. She is asking the City to provide a letter of support for the program and asking that the City of Tracy and EDA offer maintenance of lawn and snow removal during the acquisition and renovation of the homes which runs from four to six months. She is also asking the City to waive the electric utility fees. Otto-Arvizu asked if Houseman meant to waive the electrical bill because Tracy does not have municipal electricity, only water and sewer. Houseman replied that Western Community Action would pay the natural gas bills but asked the City to pay for the electrical for each home not to exceed \$400. She said the final request would be to get community volunteers to paint the interior of the homes.

Houseman said they are looking at acquiring two homes and has found some good prospects. The last two homes done under the program have been very successful, the families are still there and the houses look very nice. She said they also look at tax forfeited properties and blighted homes to renovate. Houseman said with the City's approval and support they would also look to establish an advisory committee to help select homes for the program. Hannasch asked if they would put a cap on the electricity. Houseman said she has never seen it run over \$400 and if it did Western Community Action would take it over.

Caron said the last time houses were renovated the City didn't pay for utilities, just mowing and snow removal. Houseman said with less funds available they are looking for more assistance from local communities. Koopman asked if utilities could be paid for with public funds because it would be paying for private utilities. Houseman replied the utilities would only be paid during the time the homes were in Western Community Action's name and were being renovated. She said they are looking at acquiring properties sometime in February or March and by July or August they should be rehabilitated. Otto-Arvizu asked if they would use local contractors. Houseman replied there would be an open house and contractors would have the opportunity to bid on the projects. She added the last two houses done in Tracy were done by area contractors.

Hannasch said they would be looking at using EDA money for the project. Houseman said they are going to request \$540,136 from MHFA to purchase and rehabilitate two homes. She said the grant is due on Wednesday so she hoped to get a letter of support today. Nielsen asked if the City would be paying a delinquent electric bill or paying while Western community Action owns it.

Houseman replied the City would pay for the time Western Community Action owns the homes because they need to have electricity to do the renovations and to keep pipes from freezing. Ferrazzano felt they could talk about the utilities after the fact, the letter of support doesn't list anything about the utilities. Otto-Arvizu said she didn't think Western Community Action would want to go without a commitment from the City. Ferrazzano said if the only obstacle is \$400 he doesn't want to see that preventing the renovation of houses in Tracy. Houseman said if the project is agreed upon she would amend the letter to include a commitment to pay utilities. Ferrazzano made a motion to adopt the letter with the change regarding utilities and Fraser seconded. Otto-Arvizu asked if the Council was going to authorize Robert Gervais to sign the letter. Ferrazzano amended his motion to include a maximum of \$400 for electricity payments for each house and Fraser seconded. Caron felt they should have a copy of the revised letter sent and approved by Koopman since Gervais was not present. All voted in favor of the motion.

Koopman reported that Kent Pella had submitted an application for a Planning Commission vacancy. Motion by Stobb, second by Ferrazzano, to approve Pella's appointment. All voted in favor of the motion.

Koopman reported the Planning Commission was recommending approval of a three-way stop sign at 10<sup>th</sup> and Rowland Streets and a four-way stop at 9<sup>th</sup> and Rowland Streets. The request for the stop signs had come because of a higher number of children in the area and with 10<sup>th</sup> Street being paved there is a lot more traffic traveling at higher speeds. Caron said the problem is there is no sidewalk on either side so people walk on the street. Stobb added that the request included a petition from about a dozen residents. Motion by Fraser, second by Stobb, to approve the additional stop signs. Ferrazzano asked if the City could determine stop sign placement or if a request has to be made to the State. Koopman said if it is for a City street the City can determine the signs. All voted in favor of the motion above.

Otto-Arvizu said she wanted to discuss stray animals as she has occasionally been housing stray dogs for the City. She felt they needed some direction to establish a temporary solution for housing strays until something could be set up with Lyon County. Koopman said Mike Johnson, Marshall's City Administrator has been on vacation quite a bit but has indicated the Marshall facility is interested in contracting with other communities in Lyon County but hasn't put anything together yet. Koopman felt a contract would an assessment for each City in Lyon reflecting the bas cost of operation and a charge per animal. Otto-Arvizu said she has a kennel in her backyard which she offered to house strays because her dogs don't use it but her concern is there have been some pretty big dogs in the kennel and if it got ruined she wouldn't have the money to replace it. She also said she provides cleaning and food but can only accommodate one animal at a time because she doesn't know if you can mix dogs legally.

Ferrazzano asked what other communities are doing about their stray animals. Koopman said they are all doing different things. In Garvin they don't have anyone to collect animals so they are working with the county sheriff's department if an animal is dangerous. Koopman said other communities are trying to find owners. Ferrazzano asked if Marshall would take animals from other cities. Koopman said they wouldn't until contracted but they are planning to work on a contract next week and then it shouldn't take long to draw one up. Ferrazzano thought the City should contract with someone in Tracy or the surrounding area. Otto-Arvizu said she doesn't want anything long term but she has been getting calls about dogs at large. Koopman asked how much the City was paying for stray animals before. Chief Hillger said they were paying \$110 for five days. Koopman suggested paying Otto-Arvizu that much until the City gets a contract with Marshall. Otto-Arvizu suggested advertising for others willing to house animals. Koopman said then the owner will have to pay the \$110 to get their animal back. Otto-Arvizu said some owners may not claim their animal if they know it will cost that much. Koopman replied the City will then have to pay to euthanize the animal. Otto-Arvizu suggested putting an article in the paper about keeping dogs in a humane way and keeping them at home.

Ferrazzano asked how long it had been since the City ran its own facility. Koopman replied it had

been many years and was required to close it by the Department of Health. Ferrazzano made a motion to advertise for people to temporarily house animals at a fee of \$22 dollars per day per animal until a contract could be entered into with Marshall. Otto-Arvizu asked if someone bought tags for their animal if the police have been tracking the owners. Hillger replied that is what officers have been doing and he has been contemplating what to do about those who repeatedly let their animals run loose. He said it is one thing if a dog is dragging a chain that broke but it is another if they are just running loose. Ferrazzano asked what is the fine for not having tags on pets. Hillger said he believes the ordinance says its a misdemeanor and didn't think there was a fine amount attached to it. Ferrazzano felt if the City attaches a fine it will be easier to enforce. Caron seconded the motion above and all voted in favor.

Shorty Engel reported 5:00 p.m. the pool has had about 1000 people attend the facility. They started the early swim session this morning and first session lessons are underway. They will also have the first private party rental this week. Engel said the first three days have gone better than he hoped and they sold about 175 passes over the weekend. Don Polzine said there are two things he needed addressed. The storage closet in the concession stand houses the air blowers that blow into the zero depth pool which makes it very hot inside and the door has to be kept shut because of the noise. Ventilation needs to be cut into the closet, a vent in one side and fresh air intake on the other side. The other request Polzine had was there is not enough storage at the aquatic center, with the umbrellas, lane markers, chairs, etc. the current storage shed is full, the storage area in the bathhouse is full and there are things setting outside and more items coming.

Ferrazzano said it shouldn't cost too much to put in vents. Polzine said they will have to power exhaust the venting but in the morning it is about 130-140 degrees in the concession stand closet and with the concessions freezer in there it will burn it out fast in those temperatures. Ferrazzano made a motion to authorize the closet venting and to purchase a storage shed and to give Polzine the discretion to pick the shed. Polzine thought the Council should set a price for the shed. Ferrazzano amended his motion to include a \$2500 maximum on the shed and Caron second the motion. All voted in favor of the motion.

Koopman reported that she received a fax late this afternoon from Olympic Pools saying they had submitted a payment request to USAquatics in May for \$50,868.00 and requested the issue be put on the agenda. Hannasch said they have the issue of liquidated damages to be resolved before any payments are made. Koopman said plus the Council never approves payments until USAquatics recommends it and according to the punchlist there are several items not finished. She asked if Olympic had been working at the pool today. Polzine replied that he spoke to someone from Olympic on the phone who said he was going to pick up some stuff tomorrow and would see us next fall. Caron asked if the final payments figure in anything that the City has done. Polzine said he doesn't think payments should be made to anyone unless recommended by Rick Schaefer.

Otto-Arvizu asked if Olympic seems to imply that Schaefer is not submitting pay requests in a timely manner. Koopman replied she thinks Schaefer has not recommended payments because the requested payment does not equal the work that has been done. Caron made a motion to deny any payments until all work has been completed. Stobb said Olympic may say that their work is done but the problem is someone else did a lot of it. He felt the City should not act on this because USAquatics has not approved it.

Otto-Arvizu asked if the City is going to have to sit down with the key players from USAquatics and the contractors to sort this out. Polzine stated what happened as of last Friday is USAquatics issued substantial completion notices so the contractors have two weeks to complete their work. If they don't complete their work USAquatics will hire other contractors and charge the fees back to the original contractors plus liquidated damages will start up again retroactive to the date the notices were issued. Koopman said in answer to Caron's question, Polzine is keeping track of all the hours put in by City employees and will submit that for payment or reimbursement. Stobb made a motion to notify Olympic that the City cannot pay anything without USAquatics approval. Ferrazzano seconded the motion and all voted in favor.

Hannasch presented a resolution approving an increase in pledged securities at Minnwest Bank South in Tracy. Motion by Ferrazzano, second by Caron, to adopt the resolution. All voted in favor of the motion. (Res. No. 2002-36)

Hannasch presented a resolution approving payment to Schmidt Construction for work completed to date on the sewer separation/Circle Drive bypass in the amount of \$59,852.61. Motion by Ferrazzano, second by Stobb, to adopt the resolution. All voted in favor of the motion. (Res. No. 2002-37)

The Consent Calendar included the following: Monthly Police Maintenance log; Monthly Police Activity Report; Fireman's Relief Association minutes for July 1, 2002; Multi-Purpose Center minutes for June 10, 2002; Municipal Accounts Payable; Cemetery Commission minutes for June 20, 2002; and Planning Commission Minutes for July 1, 2002. Motion by Stobb, seconded by Fraser, to adopt the above listed items. All voted in favor of the motion.

Koopman reported that the Council needed to take action and approve the expenditure from the Hospital Improvement Fund for the new air conditioner that was discussed at the last Council meeting. Koopman talked to Stacy Barstad who said they are now looking at a cost not to exceed \$45,000 for the air conditioner replacement. Dan Reiner had previously indicated the cost would be between \$30-35,000. Motion by Stobb, second by Ferrazzano to approve the expenditure. Stobb asked if the air conditioning was up and running. Koopman replied it was. All voted in favor of the motion.

Koopman put the Joint Powers agreement on the agenda last Wednesday because of a concern that the School Board minutes in the newspaper indicated the agreement had been amended by the School Board and therefore there would not actually be an agreement in place. Since then she had a conversation with Eric Nelson who assured her that they did not amend the agreement they just discussed that they can amend it in the future. Koopman said in the course of their conversation it did come up that it is intention of the School Board to abolish the existing Advisory Board and that a new board would be appointed by the Management Committee consisting of herself, the school Superintendent, a City Council representative and a School Board representative. Koopman questioned Nelson why they wanted to do that and he replied given the atmosphere the School Board wanted to start from scratch. She wanted the Council to be made aware of this and to decide if this action was acceptable.

Ferrazzano said they talked about this issue in the Joint Powers Committee meetings and he and Fraser thought it was alright to start from scratch. Fraser said current Advisory Board members can reapply. Stobb asked if the Management Committee would then choose which applicants are appointed. Koopman replied yes. Hannasch said that's like choosing their own bosses. Koopman felt they could replace members by attrition, when a term expires then they can advertise for the position. Fraser said the agreement does state that for in the future. But Koopman said to replace the current board the Management Committee would have to choose. Ferrazzano said someone will have choose the initial board members. Koopman replied unless they keep the current Advisory Board. Ferrazzano felt it wasn't a big deal and didn't want to have to renegotiate because of it. Stobb said it involves personality issues and his thought is it's not a matter of trying to solve a problem it's trying to escape a problem.

Hannasch felt it was a more viable way to go if members were replaced as their terms expired rather than starting over completely. Stobb said there are people on the Advisory Board with a lot of history. Koopman said the Chairman of the Advisory Board is also supposed to be on the Management Committee but if you abolish the board there can't be a chairman. That leaves four people deciding on the Advisory Board members and what happens if there is a tie vote. Ferrazzano said he anticipates the committee agreeing. Caron said if the Council is going to give them everything they will agree, that's the problem. Ferrazzano said in their defense it wasn't just the School Board members discussing this, he and Fraser discussed starting fresh in the Joint Powers Committee meetings. Ferrazzano felt it would be okay to start with a new Advisory Board since they have a new agreement. Fraser said it was their intention that current board members will reapply and they would be contacted. Koopman said in her opinion it doesn't make sense to abolish and reappoint the same people. The point is when the City was originally put on notice that the School Board was terminating the Joint Powers Agreement it was because they wanted to get out of the swimming pool business, since then not only has the entire Joint Powers Agreement been rewritten, they now want to restructure the entire board. Ferrazzano said when he and Fraser were negotiating the agreement they felt it was okay to abolish the board but if the Council doesn't then they can tell him and Fraser to go back and renegotiate. Caron made a motion to leave the existing board as is and Berndt seconded. Hannasch said he appreciates all the work Ferrazzano and Fraser have done negotiating the

agreement. Upon roll call the following vote was recorded. Voting in favor were: Fraser, Hannasch, Berndt, Otto-Arvizu, Caron and Stobb. Voting against was: Ferrazzano. The motion carried..

Hannasch reported that Koopman, Gervais and he attended a Rural Hospital and EDA Conference in Duluth, MN. They attended meetings regarding what is facing rural hospitals in the next 10 years and the economic impact rural hospitals have on communities. Hannasch said they didn't hear a lot of new things and a lot of the issues that presenters said rural Minnesota needs to look at are things Tracy is already doing. He said sometimes he thinks the City is moving too fast on certain issues at the hospital but he found out these are things being recommended for rural hospitals. Hannasch felt the conference was well worth attending and everyone attended different meetings at different times to encompass the whole conference. Koopman said she thinks the conference was very informative and gave her a lot of information about what other area hospitals are doing.

There being no further business motion by Caron, second by Stobb, to adjourn. All voted in favor of the motion.

ATTEST:

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City Administrator

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Mayor

The regular meeting of the Tracy City Council was called to order at 6:30 p.m., Monday, July 22, 2002 in the Council Chambers of the Municipal Building. The following council members were present: S. Ferrazzano, M. Fraser, C. Hannasch, J. Otto-Arvizu, R. Caron, and R. Stobb. Absent was: D. Berndt. Also present were staff members: A Koopman and F. Nielsen.

Hannasch asked for any additions or corrections to the minutes from the July 8, 2002 City Council meeting. Motion by Stobb, second by Caron, to approve said minutes as written. All voted in favor of the motion.

Hannasch asked if there were any additions or deletions to the agenda. He added (4C) a nuisance complaint at 301 6<sup>th</sup> Street and under Mayor/Council Communications notice of a pool party the first part of August. Caron added stray animals under unfinished business. Motion by Fraser, second by Stobb, to approve the agenda as now written. All voted in favor of the motion.

Hannasch reported a memo was received from Chief Hillger indicating the nuisance at 174 Center Street has still not been abated. There are still car seats and other types of bench seats behind the deck and the garage is full of trash and 15-20 tires. A vehicle with expired registration is in the garage and there is a blue tarp still serving as a garage door. Koopman stated the next step is to file the nuisance in court. Motion by Stobb, second by Caron, to proceed. Otto-Arvizu asked what is the rule on having a tarp for a door on the garage since the garbage is not out in public. Hannasch asked if the garage would be classified as secured with only a tarp. Stobb thought by its location that the garage can be considered out in public. Otto-Arvizu asked then if all garages have to have secured doors. Hannasch felt the Council has tried to work with the owner and it was time to proceed. Otto-Arvizu asked how long they have been dealing with the owner of this property. Koopman replied the amended order was approved at the May 28, 2002 meeting and delivered by the sheriff's department immediately following that meeting. Otto-Arvizu said Lund has had one month notice. Fraser said Lund did contact Otto-Arvizu in May. Hannasch said at the last Council meeting Lund was given two weeks to abate the nuisance.

Stobb said if the garage is full of trash that is a health issue because animals can reside in it. He asked since the car is inside even though it's not registered if they do anything with it. Hillger said his concern is if the City allows people to clean up their yards and throw everything into a building if that is accomplishing anything. He said he appreciates the effort made by Lund but there is still the matter of 15-20 tires and bags of garbage in the garage and he said he didn't pull the tarp all the way back so see what else might be inside. Otto-Arvizu said her feeling is if the nuisance ordinance is based on law they should investigate if a building has to have a door. Nielsen said it wouldn't matter if the garage had the best door in town, it is full of trash which is a public health issue. He added the tarp just has a visual impact. Otto-Arvizu asked if the City is inspecting everyone's garages in town. Nielsen said the City is dealing with this property right now not others. Caron thought the Council had given enough time for abatement. Upon roll call the following vote was recorded. Voting in favor were: Fraser, Hannasch, Berndt, Ferrazzano, Caron and Stobb. Voting against was: Otto-Arvizu.

Nielsen stated that because of time constraints he hasn't had much time to investigate Olympic Pools request for payment. He also said he hasn't had time to verify the recommendation made by USAquatics in their memo of July 17, 2002. Nielsen said he doesn't know how they calculated what to withhold. He said the logic that Olympic Pools' letter from their attorney is relying on is that supposedly a pay request was sent back on May 25, 2002 and should have been acted upon by USAquatics within 10 days and in turn the City should have acted within the next 10 days. Nielsen stated the City did not even get the information until the last Council meeting. If what Olympic is claiming is fact the City should go back to USAquatics and ask them to explain why they didn't act on the pay request.

Hannasch asked how much Olympic was asking to be paid. Nielsen replied \$50,868.00. Hannasch stated that would be everything coming on the contract minus the 5% withheld. Koopman said there would be a balance of \$48, 648 if the City paid the requested amount. Hannasch said the problem is there is about \$79,000 in liquidated damages. Koopman stated it is now closer to \$80,000 because another bill was received from Aqua Logic. Caron asked when that bill was received. Koopman replied it was faxed to her last Wednesday. In addition Fraser said Olympic is asking for interest to be paid. Koopman said the contract states the City doesn't pay unless USAquatics approves payment

first.

Otto-Arvizu asked if USAquatics is saying they did not receive the pay request. Koopman replied they did receive it but the issue now is that Olympic is saying because USA did not take action on the request we are in violation. Ferrazzano asked if the fax from USAquatics is in response to the letter from Olympic. Koopman replied one more letter came before this fax stating that the City should consider damage amounts for \$5,895.00 for hiring another contractor to do slide footings which Olympic was supposed to do plus \$38,400 for liquidated damages. At this point there was also a delay in heater related issues that Aqua Logic was hired to take care of which was an unknown amount. In a later conversation Koopman had with Tom Schaefer she asked him how they were to react to this without knowing the full dollar amount. At that point USAquatics must have talked to Aqua Logic and came up with the \$2,155.00 figure for their services. Koopman said she had an actual invoice from Aqua Logic for \$1,855.00 but Tom Schaefer was unavailable so she was not sure where the other \$300 came from. Plus there is an additional \$600 due to Heartland Mechanical who did some of Olympic's work. This reduces the pay request to \$111.00. Koopman said Rick Schaefer was unable to verify Tom's figures but she felt it was important the Council address this because she doesn't want the City to be held liable for lack of payment.

Stobb stated the best thing to do would be to stick with being consistent which is to only pay what USAquatics has recommended. Stobb made a motion to pay Olympic Pools what USAquatics has recommended, a total of \$111.00. Caron seconded the motion. Ferrazzano asked Nielsen if he would like to review the issue before payment is made. Nielsen replied he would only recalculate what USAquatics recommended for withholding. Ferrazzano said he was talking about the letter received from Moss & Barnett. Nielsen said he wasn't sure if the City was in compliance with their claim but thought the Council was acting in the most reasonable fashion they could. He said the City just got the payment recommendation but if the Council acts in good faith and it turns out there is a violation with time delays it won't be the fault of the City. All voted in favor of the motion above.

Hannasch reported a nuisance complaint had been filed on 301 6<sup>th</sup> Street. According to Hillger's memo it could be considered a hazardous building but did not qualify as a nuisance and suggested to proceed with a hazardous building inspection. Hillger stated the house has been vacant for six to eight years and said he could see where the roof is starting to sag. Stobb asked if the City knows who owns the property. Hannasch replied the owners live in California. He felt it would be to the owners' benefit to tear down the house and sell the lot and even though the lot is kept mown it is not very attractive. Koopman said the City would need to get permission from the owners to enter the house and inspect it. Stobb made a motion to contact the owners and request an inspection and Caron seconded. Stobb suggested if the house is deemed okay they could hire someone to trim the shrubs and trees and charge it back to the owners. All voted in favor of the motion.

Koopman reported normally the City establishes official depositories at the start of the year but some of the Fireman's Relief Association funds have already been transferred to State Farm Bank because of the good interest rates. Motion by Ferrazzano, second by Stobb, to designate State Farm Bank as an official depository. All voted in favor of the motion.

Robert Gervais informed the Council at the last EDA meeting the Board voted to recommend pursuing a sale of the former Korner Kraft building and to place a notice of public hearing to be held at the next EDA meeting. A former Tracy resident, Marcia Goff, and Glenda Johnson want to purchase the building to establish a couple businesses. Gervais stated the EDA has been pursuing a possible call center to put into that building and has been in contact with a company in Virginia. Goff has also spoken with them and is willing to work out something for building space. Hannasch felt it would be a winning situation for all parties. The EDA would get its money out of the building and there is the potential for several businesses in one building.

Hannasch said they will have to work out who pays the closing costs. Nielsen asked if the City, as opposed to the EDA, has any liens involved with the building. Gervais replied not that he was aware. Nielsen said he doesn't think the City specifically has to approve the sale but because of past history it was good to inform the Council of plans to sell. He said the EDA will need to have terms of sale have them already hammered out before the public hearing so anyone can view the terms and they need to have a purchase agreement for the public to see. Gervais said in that case a public hearing at

the August 16 meeting would work or a special meeting could be held. Nielsen stated the good thing about having the terms in writing is that there are special conditions that have to be included with a sale from the EDA.

Hannasch asked what the closing costs would amount to. Nielsen replied it was hard to say since "closing costs" is a very general term. Gervais said another issue is there will be another City assessment with the recent street improvements. Nielsen said the EDA will have to make that determination with the terms of the sale. Hannasch suggested the EDA may be able to handle the closing costs but assessments will have to go to buyer. Otto-Arvizu asked how close the City was to determining assessment amount. Koopman replied she hasn't done anything at all and all they can do is inform the buyer there are pending assessments. Nielsen said a typical purchase agreement has clause about pending assessments; the buyer is put on notice about this and the burden is put on them to find out about assessment costs. Hannasch said the potential buyers were notified of these assessments. He asked if it would be possible to poll the EDA Board or hold a special meeting prior so they could hold the public hearing on August 2. Nielsen replied August 2 is not viable because the paper will be published this Thursday already. Hannasch said they could possibly look at August 6 or 7. Nielsen replied the paperwork would have to be completed by tomorrow in order to publish this week so they would be looking at the week of August 12.

Hannasch presented a resolution approving an increase in pledged securities at Minnwest Bank South in Tracy. Motion by Fraser, second by Stobb, to adopt the resolution. All voted in favor of the motion. (Res. No. 2002-38)

Hannasch presented a resolution approving Pay Estimate No. 2 to Central Specialties, Inc. for work completed to date on the 2002 Roadway Improvements in the amount of \$41,250.55. Motion by Stobb, second by Fraser, to adopt the resolution. Caron asked when Central Specialties would be coming back to finish. Polzine replied they had informed him next week. All voted in favor of the motion. (Res. No. 2002-39)

The Consent Calendar included the following: Monthly Water & Wastewater Report; Municipal Accounts Payable; Monthly Financial Report; and Cemetery Commission minutes for July 17, 2002. Motion by Ferrazzano, seconded by Caron, to adopt the above listed items. All voted in favor of the motion.

Caron stated at the last Council meeting they decided how much to pay people for housing stray animals. He said Otto-Arvizu had housed two dogs before the Council approved paying and asked if she could be paid for those dogs. Otto-Arvizu said the Council never talked about when they advertised but she assumes Hillger will want to check out each facility to make sure there are proper accommodations. Fraser asked if there were any responses to the ad. Koopman replied there were about eight. Caron felt Otto-Arvizu should be paid for last two dogs she housed. Hannasch said she would just need to submit a bill. Motion by Fraser, second by Ferrazzano, to authorize payment to Otto-Arvizu for housing two stray dogs after she submits a bill. All voted in favor of the motion and Otto-Arvizu abstained.

Hannasch informed the Council there was a pool party scheduled for August 3 with free swimming from 1-9:00 p.m. and free root beer floats. He asked that members of the City Council and pool committee be on hand to do the serving. Hannasch stated the grand opening will be held next spring with a tentative date of June 15, 2003. He said there is so much to get done yet the pool committee decided to go this route

There being no further business motion by Ferrazzano, second by Caron, to adjourn. All voted in favor of the motion.

ATTEST:

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City Administrator

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Mayor

**August 12, 2002**

The regular meeting of the Tracy City Council was called to order at 6:30 p.m., Monday, August 12, 2002 in the Council Chambers of the Municipal Building. The following council members were present: M. Fraser, C. Hannasch, D. Berndt, J. Otto-Arvizu, R. Caron, and R. Stobb. Absent was: S. Ferrazzano Also present were staff members: A Koopman and F. Nielsen.

Hannasch asked for any additions or corrections to the minutes from the July 22, 2002 City Council meeting. Motion by Caron, second by Fraser, to approve said minutes as written. All voted in favor of the motion.

Hannasch asked if there were any additions or deletions to the agenda. Hannasch added (10B) mosquito control. Motion by Stobb, second by Fraser, to approve the agenda as now written. All voted in favor of the motion.

Attorney Jim Kerr presented a time-line of the Kramer-Vogt public nuisance issue at 174 Center Street saying he as well as Chief Bryan Hillger have put in a lot of time into this nuisance. The first notice of a public nuisance violation and hearing date was issued on February 4, 2002. Kerr passed around the photos first taken of the property during an inspection to Council members. The City has a certified mail receipt dated February 5, 2002 and signed by Michael Vogt proving that he received the notice. The nuisance was to be abated by February 18, 2002 and Vogt did not attend the public hearing.

Kerr stated the original order of abatement was dated February 26, 2002 and only addressed to Michael Vogt as his name was the only one listed on the tax rolls. Jill Galbraith was also discovered to be a contract for deed vendee. Hillger posted notice on March 1, 2002 in lieu of personal service because by this time the house was abandoned. During an inspection on April 26, 2002 Hillger took photos and Kerr passed these to the Council. Kerr surmised that Vogt left the vehicles, miscellaneous personal property and rubbish when he abandoned the house so there were additional items to the original nuisance.

When the City gets to the point of enforcing a public nuisance the state hazardous building statute is used. The statute requires that the owner and any lien holders be served an order of abatement and Kerr learned from past experience to look at the county records to find all names tied to a property. He discovered Vogt and Galbraith were listed as the contract for deed vendees, Sandra Kramer was listed as the owner and Minnesota Valley Bank held a lien on the property. At that time Kerr suggested the Council issue an amended order of abatement which was done on May 28, 2002. The amended orders served on June 5 and 6, 2002 gave 20 days for abatement. Otto-Arvizu asked what specifically Kerr had communicated to Kramer. Kerr asked if he could continue relating the events of the nuisance and he would cover what was sent to Kramer.

Another inspection was done by Hillger on June 24, 2002 and Kerr also took some photos on that day and had Hillger verify them. He passed the pictures on to the Council which showed the rubbish and personal property that remained. Kerr said his concern throughout this nuisance is that the playing field has continually changed. A brown Olds was now gone which wasn't on the property at the time of the original nuisance notice. On July 8, 2002 the Council voted to extend the abatement date to July 22, 2002 and on July 9 Kerr sent a certified, return receipt letter notifying Kramer of the July 22, 2002 deadline. On July 22, 2002 Hillger inspected the property and came back with a report saying a vehicle with expired license, junk and tires were still in garage and two car seats remained behind the deck. That same day the Council directed enforcement in District Court.

Kerr filed an Order and proofs of service in District Court on July 26, 2002. The County Recorder's office shows a Notice of Lis Pendens. On July 31, 2002 Kerr said he took additional photos of Kramer's property and passed these on to the Council. Kerr stated that Kramer was served nothing other than the amended order of abatement and later the change of the abatement deadline. He referred back to his comment about changing the playing field in regard to different items showing up on the property or being moved to different locations. Kerr said during a previous nuisance case the presiding judge had added something onto the order of abatement that if the City finds an ongoing nuisance, copies will be sent to court and the owner is notified and will have seven days to contest

in court and if not contested the owner has 14 days to correct the ongoing nuisance. If not corrected within 14 days the City is allowed to enter the premises and correct the nuisance. Kerr said he has used this language in other cases and will use it when the 174 Center Street nuisance goes to court and he will say it looks like cars are gone but there are still other items which violate the ordinance.

Kerr sent around one more set of pictures taken today which show what was most recently done with garage. Two sheets of plywood were nailed up over the doorway. He also spoke to Gary Garrels who is of the opinion that the garage is hazardous. Koopman said there was also a complaint that the sewer is not functioning properly in the house.

Kerr said one more issue is cost, between the filing fees and attorney's fees the total paid by the City is currently at \$911.44. Hannasch felt that the owner and vendees are thumbing their noses at the city. When he saw two pieces of plywood over the garage he felt they were doing everything they could to avoid cleaning up the property. Otto-Arvizu said her concern was she assumed a detailed list would be included in the order of abatement. She later found out all Kramer received was a letter listing the three vehicles on the original order. Otto-Arvizu said she was concerned with how the City is communicating with people. As for the language regarding a previous ongoing nuisance that case had been to court twice before it was implemented. Kramer has not been to court at all. Kerr replied the Council directed that the order of abatement be enforced and in addition to the unlicensed vehicles there were now additional nuisance items such as an old couch. The City couldn't have changed the order at that time to say there was a couch there now, they would have had to start all over with the process. Kerr added that the previous nuisance case he referred to had only been in court one time. Since then the District Court Judge has granted a similar order three times. Otto-Arvizu said Kerr is planning to use the ongoing nuisance approach but Kramer has never been in court about the nuisance and Otto-Arvizu didn't think it was fair since Kramer has never been notified specifically what she needs to clean up. Otto-Arvizu said she looked at the letters Kramer received and they state only the three unlicensed vehicles.

Otto-Arvizu said Kramer asked for a specific list of the items to be cleaned up. Kerr replied in all due regard Kramer cleaned up some stuff and threw the rest in the garage then slapped plywood over it. He suggested that another issue to investigate is the condition of the garage which Gary Garrels said may be a hazardous building. Hannasch said the issue with Kramer started on June 5, 2002 and went all the way to July 22, 2002 and it is still not resolved. He felt Kramer put up the plywood to hide the rubbish rather than clean it up. Otto-Arvizu thought Kramer put the plywood up to try and secure the garage because it doesn't have a door, not to hide anything.

She said the fact the garage does not have a door is not a nuisance. Hannasch asked if they should proceed with getting the garage declared a hazardous building because it's leaning and in poor shape. Kerr said they would have to ask Kramer for permission to enter the house and garage. Otto-Arvizu asked if the neighbors have complained about the plumbing. Hannasch replied Vogt is the one who complained about the sewer. He thought the Council should continue with the hazardous building inspection or the problem will stay out there. Stobb asked if they do that if it will get the property cleaned up. Kerr replied only if they continue with the public nuisance.

Caron stated that Kramer has cleaned out garage. Kerr asked if the tires had also been removed. Caron replied yes on Friday. Kerr asked if anyone has been in garage to inspect it and see if all the rubbish had been removed. Caron said everything around the outside of the buildings is gone and he thought the garage had been cleaned out too. Kerr said that is important because vermin can get into the garage since there are holes in the structure. Otto-Arvizu said she doesn't see that the garage is a public nuisance. Kerr replied the ordinance says property must be stored inside a lawfully erected building which this garage is not in Garrels' estimation. Hannasch said the City should get an order to inspect the building or continue with public nuisance. Stobb moved and Fraser seconded to begin the hazardous building procedure and request authorization to enter both the garage and the house.

Otto-Arvizu asked where they were at with the nuisance in taking Kramer to court. Kerr replied there has never been a court date set but everyone was notified of the deadline. Stobb asked if they find the nuisance has been abated if they would still go to court. Caron said they would go to court basically to determine who pays fees because outside house is cleaned up.

Otto-Arvizu said she agrees that the property is unsightly but her concern is if the City is going to give

people grief based on what is unsightly they are opening a can of worms. Fraser suggested determining if the house and garage are hazardous and if they aren't and the nuisance is abated that is all the farther it goes. Hannasch said the City is spending a lot of time with a person who has delayed remedying the situation until to very last minute. He feels it's time to get this issue completed and over with. Kerr stated this is not unique situation and the City has had to go to court in previous nuisance cases where an owner would not cooperate or has delayed abatement. Upon roll call the following Council members voted in favor of the motion to proceed with a hazardous building inspection: M. Fraser, C. Hannasch, D. Berndt, R. Caron, and R. Stobb. Voting against was: J. Otto-Arvizu. Koopman asked if the Council wanted to discuss the legal fees involved in this nuisance or wait. Hannasch said they would wait on the matter.

Nielsen stated that several months ago Robert Gervais had contacted him about non-payment on a home loan issued to Adam Hall through the EDA. Nielsen said since then Hall's mother had called and arranged to make payments to satisfy the debt. The way these loans have been handled in the past is the debt is paid and served through the EDA but the mortgage is in the City's name and has to be released by the Council. In Hall's case the debt is paid but the lien on the property needs to be released. Motion by Stobb, second by Caron to release the mortgage on the Adam Hall property. All voted in favor of the motion.

Hannasch presented a request to establish a crosswalk running from the north end of the Prairie View Health Care Center driveway over to the handicapped access at the curb in front of the hospital. Motion by Stobb, second by Fraser, to approve the request. Nielsen asked if the angle of the crosswalk would be a problem. Koopman said the angle is very slight and not angled as the sketch indicates. All voted in favor of the motion.

Koopman reported that the flex benefit plan provided for City employees is currently capped at \$1200 for medical expenses. Employees have requested the cap be increased to \$2000 and added there would be no cost to City for the change since the flex amount is taken directly out of an employee's paycheck. Stobb asked if the increase would take effect midway through the year. Koopman replied it would be effective on January 1, 2003. Motion by Stobb, second by Fraser, to approve the increase. All voted in favor of the motion.

Koopman presented a plumbing license request from Christianson Plumbing, Heating & Air Conditioning, Inc. She stated that Christianson had provided the application and necessary bond information and would make payment when he came to Tracy tomorrow. Motion by Caron, second by Stobb, to grant said license. All voted in favor of the motion.

Koopman reported the Planning Commission and Revitalization Committee had met and put together guidelines for Downtown Revitalization projects. Koopman said she wanted to add one thing that was decided which is to have a provision to allow for a variance which should be incorporated as item #11. Otto-Arvizu asked if this is like a covenant type situation and if it would be advisable to hold a public hearing. Koopman replied that notices were sent out to all downtown business owners regarding the joint meeting with the Planning Commission and Revitalization Committee. She said in reality the only way to really enforce these guidelines is if the City gets the block grant and then they would hold a public hearing at that time. The resolution would serve as a guideline to business owners and would let them know this is what the City recommends as part of the revitalization program. Hannasch felt the committee did a very good job developing the guidelines and added that cost was something they were concerned with in making the guidelines reasonable.

Koopman said several business owners did attend the meeting and were in agreement with the guidelines discussed. Caron asked what the \$25 fee was for. Koopman said it would be for an improvement permit whereby the City Building Inspector and the Review Committee would review a business owner's plans for improvements and the Building Inspector would follow up to make sure the owner is following the plans as presented. Caron asked if the owner would have to get a building permit anyway. Koopman replied not if they weren't changing the structure of the building. Otto-Arvizu asked if the fee would be in addition to a building permit fee. Koopman replied no, there would only be one permit collected.

Otto-Arvizu asked when the guidelines would take effect. Koopman replied immediately with the

adoption of the resolution. Motion by Caron, second by Stobb, to adopt the resolution establishing the Downtown Revitalization guidelines. Hannasch said the resolution says one Council member will be appointed immediately to the Review Committee and asked if the Council wanted to establish a member. Caron suggested that since Ferrazzano has been involved with the Revitalization Committee they wait until he gets back. All voted in favor of the above motion. (Res. No. 2002-40)

Hillger reported that seven or eight people have expressed an interest in housing stray animals for the City. He added that Steve Larson has offered to build kennels to the City's specs on his property on South Street which seems the most viable and is away from residences. Larson would then be paid \$22 per day impound fees. Hillger and Larson discussed building two kennel runs with either dog houses or some type of shelter for animals. Hannasch said it would be nice to see some plans and it sounds like this would be a permanent solution for the City. Hillger said he and Koopman were looking at this as a permanent solution. Otto-Arvizu said having a kennel locally would save the police the time of having to run to Marshall. Koopman said it would also be more economical. Stobb asked if two runs would be sufficient for the City's needs. Hillger replied that when Marshall was taking in animals they often had to double them up. He added that an animal would only be there for five days and would either be shipped to the humane society, adopted or destroyed.

Koopman said during the interim there needs to be some guidance for officers in regard to stray animals. Officers have been instructed that an owner has to pay impound fees before an animal is released. Otto-Arvizu said she would assume Larson would be looking for some kind of contract because he would be putting his own money into a kennel. Koopman said tonight they are just looking for approval of confinement procedures. Motion by Stobb, second by Caron, to adopt a resolution defining stray animal procedures. All voted in favor of the motion. (Res. No. 2002-41)

Koopman informed the Council that the resolution authorizing the sale of an industrial park lot to Stephen and Janette LaVoy listed a corrected sale price. Motion by Stobb, second by Fraser, to adopt the amended resolution. (Res. No. 2002-42)

Hannasch presented a resolution approving payment to Heartland Mechanical, Inc. for work completed to date on the Aquatic Center in the amount of \$775.20. Motion by Caron, second by Stobb, to adopt said resolution. All voted in favor of the motion. (Res. No. 2002-43)

Hannasch presented a resolution approving payment to Salonek Concrete & Construction, Inc. for work completed to date on the Aquatic Center in the amount of \$34,973.14. Motion by Fraser, second by Stobb, to adopt said resolution. All voted in favor of the motion. (Res. No. 2002-44)

Hannasch presented a resolution approving payment to Salonek Concrete & Construction, Inc. for work completed to date on the Aquatic Center in the amount of \$31,816.50. Motion by Caron, second by Berndt, to adopt said resolution. All voted in favor of the motion. (Res. No. 2002-45)

The Consent Calendar included the following: Election Judges Slate; Fireman's Relief Association minutes for July 18 and August 5, 2002; Economic Development minutes for April 19, May 3, May 17, May 24, June 7 and June 21, 2002; Multi-Purpose Center minutes for July 15, 2002; Monthly Police Maintenance log; Monthly Police Activity Report; and Municipal Accounts Payable. Motion by Fraser, seconded by Caron, to adopt the above listed items. All voted in favor of the motion.

Koopman presented the preliminary budget for 2003. Under Mayor and Council there is a sizeable difference under Subscriptions, Memberships & Contributions because in 2002 there was \$5000 added to purchase fireworks for the 75<sup>th</sup> Box Car Days Celebration. Hannasch said he was approached by the Tracy Community Band which is planning to go to Washington D.C. next year. He said although the City can't directly donate anything to the band he would like to see the \$5000 put back into the budget to see if they can't find a way support the band. The band is playing in Washington D.C. and three other places. Stobb said he knows the band is planning a fund-raiser in November. Caron said his concern is using taxpayer money for the Tracy Community Band when they will be out asking for donations. Then the public is getting hit twice.

There are no elections planned for 2003 so no budget additions. Orlin Bruss has requested a three percent increase for serving as City Assessor. Legal fees were also increased three percent for both

monthly payments and the hourly rate for extraordinary services.

Robert Gervais stated the EDA was requesting \$50,000 for the economic development fund. He said they will be down to approximately \$20,000 in the revolving loan fund and need to replenish it. Gervais said they will have money from the Minnesota Community Capital Fund to work with and the EDA currently gets \$3000 back per month from loan payments. Gervais said Eastview and Fifth Street apartments budgets show an increase in Maintenance & Repair for the buildings because they are getting to be six and seven years old. He said Other Contractual Services is increased for the contract with Keith Luebben for snow removal and summer lawn care.

Gervais said he included \$10,000 in the Economic Development Reserve budget for TNT membership. They switched from a 12 to 18 month commitment and at the end of 18 months they will review to see if Tracy is ready to be self supporting. Otto-Arvizu how much the EDA had paid TNT so far. Gervais replied \$20,000 in two years.

Hillger asked for an increase in overtime for a total of \$9000. He anticipates working a few drug cases harder. He also asked for an increase Standby Wages because they have already expended over half the budgeted amount in the first six months of 2002. Hillger said they could possibly cut Motor Fuels & Lubricants but not by too much.

Keith Engesser requested an increase in Maintenance & Repair for Equipment due to the equipment getting older. The big item for building maintenance is the furnaces which were installed in 1978. Engesser would like to start replacing one every two years with more energy efficient models. The utilities for the old ambulance garage, which is shared with the food shelf, have been coming out of the fire department budget so Engesser budgeted more for utilities in 2003. Fireman must have physicals every two years and are due in 2003 so they were budgeted for. Engesser reported they are starting a committee for a new fire truck and currently have \$200,000 put away now.

Caron asked why the old ambulance garage utilities were taken out of the fire department budget. Koopman replied it was a matter of accounting and at the end of the year they would decide how to balance out the utilities.

Polzine said when he was working on the Street and Parks budget he accidentally skipped Overtime Wages which should be \$9000. He said Motor Fuels can be reduced by \$2500 to \$3000. Polzine said \$40,000 in Equipment & Improvements was transferred in for the wood mulch under playground equipment and for the bike trail next year. Otto-Arvizu asked if anything was going to be done with the poor condition of East 4<sup>th</sup> Street by the hospital. Polzine replied it would probably be the year after next before an overlay is done but they will be patching this fall.

Koopman said there were some changes to the Library budget but she hasn't met with Vicki Olson about them. She will meet with Olson before the next meeting. Caron asked if all department heads had been asked to attend the Council meeting. Koopman replied that she did but there were some conflicts. Otto-Arvizu asked if the Council could have something in writing if a department head was not able to attend.

Koopman stated that she needed some direction in regard to the Community Ed & Rec budget. In the past the City budgeted based on 50 percent of the operating costs of the pool. Otto-Arvizu said the school levies for the Community Ed program. Koopman said since the City has taken over the pool she no longer has a means to determine the amount contributed to Community Ed. Otto-Arvizu said the money contributed was for the pool which the City now runs. Koopman replied the money wasn't necessarily used for the pool, they just based the City's contribution on half of the pool's operating costs. Hannasch said since the City supplies the Prairie Pavilion, grounds and the pool was it necessary to budget any additional money for Community Ed. Stobb asked if Community Ed is charged for the use of the Pavilion. Koopman replied no. Otto-Arvizu said the school has committed to paying \$2500 per year for swimming lessons but that is only for four years. Stobb asked if they could use the money budgeted for Community Ed for improvements on something else. He suggested leaving it in the budget and giving it some thought.

Koopman reported a \$1000 increase in maintenance and repair of the Senior Center. Caron asked if

they have talked about carpet replacement. Koopman replied they have but there are some other improvements they would like to do first. She added \$1500 would not be enough to cover the carpet. Otto-Arvizu asked if they could do the carpeting and painting all in one year. Koopman said she didn't ask but the Senior Center Board put together a five year plan for improvements. Otto-Arvizu said when she did a walk through of the building there was a lot of mildew, particularly in the pool room. She is concerned about the shape of the building and didn't want to see the condition get worse. Koopman said seniors are doing a lot of work on a volunteer basis.

Polzine reported that he increase the Shade Tree Disease Program budget by \$1000. The balance in the account is getting low and it owes the general fund from way back. When trees are removed the City pays 50 percent of the cost for boulevard trees and 20 percent of the cost for trees on private property. Polzine said the City may have to levy for tree removal or quit the program. There are about 20 trees that need to be removed this fall.

Koopman said there were no sidewalk improvements in 2002 so the budgeted amount was carried over. Caron asked if there is money budgeted and the City Crew is not available to work on sidewalks if someone else could be hired to get them done. Koopman said they could but the City only assesses 25 percent of material costs so they wouldn't get much done for the money. The City Crew didn't have time for sidewalks with the pool, street and Central Park bathroom projects this summer.

Polzine said he wanted to increase Equipment & Improvements to \$11,500 to be used to clean and inspect the water tower which must be done every few years. Otto-Arvizu said the City has levied for the water tower in the past. Polzine replied this will not be levied, the money is already there.

Koopman informed the Council that she used the amounts budgeted for 2002 in calculating the aquatic center budget for 2003 but she will have better numbers when the swimming season is complete and before the budget is finalized.

Koopman said she left the Code Enforcement budget the same as in the past but wondered if it would be enough. A hearing on the Jennie Olson and Jon Her houses was coming up and it will cost \$5000 to \$6000 per house for demolition. In addition there are public nuisance and hazardous building expenses. Caron suggested \$15,000 be budgeted. Koopman said they have already spent \$7000 this year and haven't demolished any homes. She suggested budgeting \$20,000 and seeing how the budget plays out.

It will be difficult to budget this year Koopman said because they don't know what the legislator will do and there are 211 seats open for election. At the next Council meeting Koopman will submit a balanced budget and make her recommendations. After presenting the budget at the next meeting there will only be only one meeting before the preliminary approval. She suggested the Council may want to hold a special meeting to further discuss the budget.

Hannasch wanted to bring up mosquito control due to the West Nile virus and asked what the policy is for spraying now. Polzine said it is dependent on temperatures and rainfall. A mosquito brood will hatch in 14-17 days after a significant rainfall and today is the 14<sup>th</sup> day since a three inch rain fell. Polzine said it has to be 70 degrees and less than 10 mph wind speed to spray and added it costs \$750 every time they spray. He said Tracy is one of only 10% of towns that do spray for mosquitos. Marshall no longer sprays so Tom Greenfield sprayed for the rodeo held at the Lyon County fairgrounds. Hannasch said at least the public has now been notified about the procedure.

There being no further business motion by Caron, second by Fraser, to adjourn. All voted in favor of the motion.

ATTEST:

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City Administrator

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Mayor

**August 26, 2002**

The regular meeting of the Tracy City Council was called to order at 6:30 p.m., Monday, August 26, 2002 in the Council Chambers of the Municipal Building. The following council members were present: M. Fraser, C. Hannasch, J. Otto-Arvizu, R. Caron, and R. Stobb. Absent were: S. Ferrazzano and D. Berndt. Also present were staff members: A Koopman and F. Nielsen.

Hannasch asked for any additions or corrections to the minutes from the August 12, 2002 City Council meeting. Motion by Fraser, second by Caron, to approve said minutes as written. All voted in favor of the motion.

Hannasch asked if there were any additions or deletions to the agenda. Hannasch added (7A) an additional resolution authorizing a transfer of funds. Motion by Caron, second by Stobb, to approve the agenda as now written. All voted in favor of the motion.

Kerr referred to the memo he issued regarding the McLeod cable television franchise transfer to PrairieWave Communications. He said previously the Council had authorized retaining Moss & Barnett to review the qualifications of PrairieWave. Moss & Barnett now contend that they have a conflict of interests due to their representation of Olympic Pools. Kerr said that Nielsen happened to be out of the office when Brian Grogen with Moss & Barnett sent a fax stating he was unable to get a waiver to represent the City in this matter.

Through the course of conversation it was found that the cities of Windom, Pipestone, Marshall and others in the area have already taken action regarding the proposed transfer and Grogen was able to provide documents drawn up for Marshall regarding the qualifications of PrairieWave. The documents did provide the legal, technical and financial information required for the City's review. By federal law the City has 120 days to review the matter and make a decision about the transfer and that time will expire soon. Kerr found through Grogen's report that PrairieWave meets the necessary legal, technical and financial qualifications. He prepared a resolution for Council's review approving the change of control of the franchise from McLeod to PrairieWave. Kerr also attached an acceptance agreement for PrairieWave to sign regarding the City's requirements.

Patrick Mastel, attorney representing McLeod, stated they just discovered last week on Thursday that Moss & Barnett were not going to represent the City of Tracy. But since the sale is taking place this Friday some action needed to be taken. Mastel said everything is proceeding well and it will be virtually the same company, the only things changing are the paper the bills are printed on and the name on the trucks. People have asked if the rates will change and he doesn't anticipate that they will. Mastel has been asked if service will change and he said they plan to add channels. There will be no personnel changes but they plan on hiring additional personnel to cover the area.

Hannasch said he felt comfortable with the franchise transfer which will be going back to the original management company before McLeod took over. Mastel said he worked for DTG before it became McLeod and felt comfortable under their management. Otto-Arvizu asked if the transfer was just for the cable TV portion. Mastel replied it was for phone, internet and cable. Motion by Caron, second by Fraser, to adopt a resolution approving the franchise transfer from McLeod to PrairieWave. Kerr stated that Mastel would like a signed copy of the resolution to take with him. All voted in favor of the motion. (Res. No. 2002-46)

Ron Radke referred to the letter he received from U.S. Bancorp regarding the cash machine agreement with the Tracy Municipal Liquor Store. The letter indicates that the agreement cannot be canceled and demanded payment in full. Radke asked if he was on his own or if the City was going to back him up. Hannasch replied he believes as an employee of the City if mistakes were made the City needs to back Radke. Koopman added that Tom Rignell was notified that there is a potential claim. Radke stated that he had a conversation with Brad Piehl, U.S. Bancorp, who seemed to indicate that they could negotiate. Hannasch thought they should go back and work on negotiating. He added this type of situation is what the City carries insurance for and it was not done intentionally. Radke asked what needed to be done next. Nielsen replied there was nothing else to do. The insurance company will get an attorney to look into the matter. Koopman said at this time no claim has been filed with the insurance company. Nielsen replied only a letter has been sent, no legal action has taken place.

Hannasch said he understands Radke's concern, the letter indicated he is going to be held personally responsible for the balance of the account. Otto-Arvizu asked what insurance would cover this situation. Koopman replied Tom Rignell is the agent and it would be the Errors and Omissions policy. Hannasch asked Koopman to check with the insurance company insurance company about what to do. Koopman replied she would and said she thinks U.S. Bancorp will have to serve Radke before any action is taken. No further action was taken.

Koopman said Kerr, Gary Garrels and she were in court recently regarding the Jenny Olson and John Her hazardous building cases. The City won both cases and both houses were declared as hazardous and the demolition was ordered. She stated both during court and after that John Her would like to give his property to the City. Koopman said after thinking about it that it would be better in the long run if the City did take possession. It would save time throughout the process. Otto-Arvizu said if the City doesn't take possession the demolition bill would be assessed against the property and it would end up tax forfeited with all the back taxes against the lot. Stobb made a motion to advertise for bids for demolition of the Jenny Olson and John Her buildings. Fraser seconded and all voted in favor.

Caron made a motion to accept Her's offer to give his property to the City and Fraser seconded the motion. Stobb asked if there would be costs involved. Koopman replied there would be closing costs but that could be a condition that Her pay them. Stobb suggested they could negotiate the matter. All voted in favor of the motion.

Hillger stated that last week he checked on the eight public nuisances that had continued, six of them are abated as of August 20, 2002:

160 North Street  
 600 Greenwood Avenue #8  
 600 Greenwood Avenue #27  
 467 Hollett Street  
 301 2<sup>nd</sup> Street  
 58 Morgan Street

Motion by Stobb, second by Caron, to declare these nuisances abated. All voted in favor of the motion.

Hillger reported that the nuisance at 70 Morgan Street had been cleaned up with the exception of the yellow Ford pickup with plated expired July 2001 and the box is still full of trash. Kerr stated the next step is a motion for district court enforcement. Motion by Fraser, second by Stobb, to proceed. All voted in favor of the motion.

Hillger stated that the property at 284 7<sup>th</sup> Street was subject to foreclosure and no one is living there so he doesn't know who the City can go after. Kerr said they would need to ascertain who the owner of the property is and serve them notice of the nuisance before action is taken. He said he can search at the County Recorder's office. Motion by Caron, second by Fraser to serve the owner notice. All voted in favor of the motion.

Rick Nordahl presented a list of capital improvement requests for the Tracy Area Medical Center. He stated the Hospital Board recommended that the City Council approve the following purchases. The first item is the patient/nurse call system. After research the best price they found was \$84,600 for an Executone system which is the same type of system as they currently have.

The hospital also needs a new phone system, the old system was purchased from the Canby hospital when they updated. Nordahl said he is currently working with two vendors on acquiring a digital phone system. He added when the Sioux Valley lease is up if they choose not to renew the phone system would stay in the building.

Nordahl said the Hospital Board was requesting to install handicapped accessible door openers at both the clinic and hospital entrances at a cost of about \$15,000. The doors themselves are 36 inches wide and wheelchair accessible so they don't need replacing. He said the hospital would also like to replace the tile in ten patient rooms at a cost of \$9,540.50 which includes the abatement of the old asbestos

tile and laying of new tile. The total for all the requested improvements would be \$174,140.50. If they work out an amended lease to allow Sioux Valley to gift the City grant money that they go out and solicit they could then deduct the grant money from the \$174,140.50. In order to do this they like to amend the lease because as it stands now if Sioux Valley gifts \$50,000 in grant money over the ten year period of the lease they would still be paying that \$50,000 back. Stobb asked if it was a grant through Sioux Valley. Nordahl replied it would be through the State of Minnesota and added the funds have been acquired for the hospital at this time. Sioux Valley could the grant money for moveable equipment within the hospital but they would like to give it to the City for improvements. Hannasch said he thought there has been some discussion with Jim Kerr about amending the lease. Kerr said he has had a brief discussion about it but stated it would be premature for him to recommend amending the lease. Koopman said she requested that the hospital provide a request in writing and then they can discuss it further.

Kerr asked if Nordahl was seeking approval at tonight's meeting because he was concerned with the bidding process and thought they needed to look at bid requirements. As the City Attorney, he and Nielsen need time in order to advise the Council properly. Caron asked who determines what is the City's property. Koopman replied anything that is attached to the facility. She added they have an original inventory list from when Sioux Valley took over.

Otto-Arvizu asked if they have replaced the phone system prior to this. Koopman replied no. Otto-Arvizu felt the handicapped door openers were very important because she has had to try and run wheelchairs through the doors and there are many residents from the nursing homes that she has seen struggle to get through the doors. She added that she assumes the room improvements will be an ongoing project. Koopman asked if they decided not to cost out the floors. Nordahl said they can't cost those out because they are a permanent fixture but they are still looking into the windows. Koopman asked who that ruling came from. Nordahl replied from CMS who is the funding agent and from the auditor. He said along with that they will expense a lot of things through critical access, such as toilets and sinks. He said the hospital also received six more new electric beds. Nordahl said they are constantly looking at bringing the facility up to date.

Otto-Arvizu asked if this capital request was for 2003. Nordahl replied it would be for 2002 and said Dan Reiner has three facilities to run so he is behind on the capital improvement fund. Hannasch suggested checking into the bidding process and talking with Jim Kerr about the lease to bring it back to the Council at the next meeting.

Stobb asked if the phone system would go into patient rooms. Nordahl replied it would. Stobb then asked if there was any way to combine the patient/nurse call system with the phone system. Nordahl replied there has to be two separate hard wires, the call system can't go through the phone system and has to be dedicated to the nurse lines and the technology is not available at this point. Hannasch said they hospital is looking into two different companies for the phone system but only one company currently for the call system. Nordahl said after checking into several companies based on the wiring requirements of the Executone call system they can use a lot of what is in place without having to tear up the walls as much. Otto-Arvizu asked if that gets into the area of having to open the project up for bids. Kerr said there are certain things that his office would have to check into before making a recommendation. Nordahl said based on what they looked at the Executone system would be the most cost effective. Hannasch said they also looked at several options for the handicapped door openers to determine the least expensive route. Nordahl said based on what they have researched the phone system will not exceed \$65,000. He said they solicited quotes and had an independent consultant narrow down their search. Kerr said maybe Nordahl is not familiar with State statutes requiring advertisement of bids.

Stobb said the Council can't approve the call system and phone system at this meeting because the cost is over \$25,000 but they could make a motion to advertise for bids. Fraser asked if they would want to check and make sure they have to get bids. Kerr said he would like to come back to the Council with an informed opinion. Otto-Arvizu stated the capital improvement money is there, it is not money that is levied. Nordahl said all four requests are very immediate needs. Otto-Arvizu asked if the money is available what is the reason for doing the projects in portions. Nordahl replied they don't want to spend all of the money at one time, the balance is sitting at \$215,000 currently. Koopman stated they borrowed from the capital improvement fund for the pool. Nordahl said one

thing to keep in mind is that all capital improvements will come back to the City through Sioux Valley lease payments. He said where the question comes in is if Sioux Valley gives \$50,000 up front for improvements they shouldn't have to pay that amount back through the lease.

Nordahl respectfully requested that the Council approve the capital improvement expenditures based on the hospital following the proper bidding process. Hannasch suggested if the Council approves the requests contingent on the bid process they can proceed more quickly with the improvements. Stobb asked who would accept the bids. Koopman replied the hospital would. Nordahl said if Sioux Valley is cutting the check for the improvements they may not need to go through the bidding process.

Otto-Arvizu asked how soon Kerr could have an opinion. Kerr replied by the next Council meeting and added he doesn't understand the immediacy because that is only two weeks away. Otto-Arvizu said the two concerns are if the billing goes through Sioux Valley does the hospital need to go through the bidding process and what would be the minimum cost before requiring bids.

Fraser asked what they needed to do about amending the lease. Koopman suggested not acting on that until the City Attorney could look into it. Stobb made a motion to table the hospital's capital improvements request and let the attorneys look into the matter. Caron seconded and all voted in favor of the motion.

Hannasch presented an application by Kenneth Giles to fill a Multi-Purpose Center Board vacancy. Motion by Stobb, second by Fraser, to approve the appointment. All voted in favor of the motion.

Hannasch presented a petition from area residents in protest of Steve Larson building a dog pound on his property at the corner of Front and Randall Streets. He also presented a response from Chief Hillger. Hannasch commended Hillger for the work he has done on this project and recommended the Council vote to proceed with the impoundment center. Otto-Arvizu said she did some homework and one of the petition concerns was escaping animals. On her own kennel if the door is opened she has to slide in to keep a dog from getting out. She said Caron's kennel has an alleyway so with two doors there is double protection from a dog getting out. Hillger said he talked to Larson last Friday and he talked about putting the kennel inside one of his existing buildings instead of a kennel outside. Otto-Arvizu asked if summer heat would be a problem. Hillger replied they should be able to vent it out.

Otto-Arvizu said the other petition concern was barking but if the dogs are inside that won't be as big a concern. She added there is a device available when a dog barks it will emit an annoying noise only dogs can hear. Stobb asked Otto-Arvizu if she has had any complaints of dogs barking when she has housed them. Otto-Arvizu said most of the animals have been claimed within a day but she hasn't had any complaints.

Motion by Caron, second by Otto-Arvizu, to proceed with Larson's plan for a dog pound. Stobb asked what they could do if a resident calls and complains about dogs barking in the kennel. Otto-Arvizu suggested the device she had mentioned costs only about \$15. Stobb asked if the motion included entering into a contract. Koopman replied the motion would be to proceed with entering into an agreement with Larson. Stobb suggested the motion be to draft a contract. Caron and Otto-Arvizu amended their motion as such and all voted in favor.

Koopman referred to a letter she received from Bill Deneen in regard to the State Health Department's requirement to fill the space under the concession stand cabinets at the pool. She said Polzine, Engel and Caron were under the impression that USAquatics was going to pay for the fill. Now the letter from Deneen says the City is responsible to pay for it. Otto-Arvizu asked if the concession stand plans were submitted to the Department of Health and approved. Koopman said USAquatics' argument is the drawings were approved and similar plans have been approved for other facilities, it was just that the inspector for this area did not approve the cabinets. Koopman said her argument is it was USAquatic's obligation to come up with plans that would be approved without question and follow health code guidelines. It is not the City's fault these cabinets didn't follow code.

Otto-Arvizu asked if the Department of Health approved the plans why would they not approve the cabinets. Koopman said the drawings don't specify the six inch cavity below the cabinets. Otto-

Arvizu asked how much the fill was. Caron replied \$3200 and asked if there is any way to get a list of all things that have not been completed. Polzine said one of the problems now is that Olympic Pools will not work for the City of Tracy until they get paid. Otto-Arvizu asked how many things were left to be done. Polzine replied a lot including the heaters and filters. Caron said the Council last talked about hiring subcontractors to finish everything.

Koopman said she has talked to Rick Schaefer and asked him to get a list of all the work left to be done which she has not received. She said if the City does owe Olympic Pools some money they should be paid. Koopman also asked Schaefer to get a bid from AquaLogic to get the remaining items fixed. She added the water level controllers have not worked from the beginning when they were installed. Another concern is the pool is going to be closing in a week. Polzine said the problem now is not with Olympic Pools, it is with Rick Schaefer. Koopman said there are a number of issues that need to be addressed and they to have in writing from USAquatics. She thought it was their obligation to check with the Department of Health, not the City's. Caron made a motion stating that the cost of the fill should be USAquatics' expense and Fraser seconded. All voted in favor of the motion.

Koopman said she would call Rick Schaefer tomorrow. Caron said they should call Tom Schaefer and tell him the City isn't working with Rick any more because we aren't getting any action. Motion by Caron to notify USAquatics that the City would like to work directly with Tom Schaefer or Bill Deneen. Koopman suggested adding to the motion that they attend next Council meeting. Stobb seconded the motion and asked if water could be left in the pool after it closes so some of the items can be fixed. Polzine said there are also items that need to be done after the pool is drained. Koopman said there are also some things that need to get done before the next swimming season. Kerr suggested looking at the contract with USAquatics. Koopman said the contract is very vague and not an A.I.A. contract. All voted in favor of the motion that Bill Deneen and Tom Schaefer attend the next Council meeting and the City work directly with them.

Hannasch presented a resolution approving a budgeted transfer in the amount of \$10,000 from the General Fund to Code Enforcement. Motion by Stobb, second by Fraser, to adopt the resolution. All voted in favor of the motion. (Res. No. 2002-47)

Hannasch presented a resolution approving a budgeted transfer in the amount of \$14,993 from the Street Reconstruction Fund to the 2002 Bond Fund. Motion by Caron, second by Fraser, to adopt the resolution. All voted in favor of the motion. (Res. No. 2002-48)

Hannasch presented a resolution prepared by Ehler's and Associates authorizing the refunding of the general obligation bonds for O'Brien Court. Motion by Stobb, second by Caron, to adopt the resolution. All voted in favor of the motion. (Res. No. 2002-49)

Motion by Stobb, second by Caron, to adopt a resolution authorizing the Mediterranean Club to dispense intoxicating liquor at a wedding reception to be held on September 28, 2002 at the Prairie Pavilion. All voted in favor of the motion. (Res. No. 2002-50)

The Consent Calendar included the following: Multi-Purpose Center minutes for July 29, August 2 and August 12, 2002; Monthly Water and Wastewater Report; Monthly Financial Report for July; Municipal Accounts Payable; Planning Commission minutes for August 5, 2002; Cemetery Commission minutes for August 15, 2002; Downtown Revitalization Committee minutes; and Park Committee minutes. Motion by Fraser, seconded by Stobb, to adopt the above listed items. All voted in favor of the motion.

Kerr referred to his memo regarding the City providing monetary support for the Tracy Community Band to travel to Washington D.C. to defray expenses. By State statute the City can provide funds to support artistic organizations and the Tracy Community Band could fall into that category. Another state statute allows the City to hire musical entertainment for public entertainment at a maximum cost of \$3500. Hannasch thought it would be proper if the City provided the \$3500 and a good way to advertise the City of Tracy. The Tracy Community Band does put on presentations in Central Park throughout the year. Kerr said he envisions having a written contract for this.

Caron asked where are they going to draw the line when other organizations come to the City for

money. Stobb felt the statute has drawn the line by saying the maximum amount is \$3500 the City can give. Kerr said that particular statute specifies musical entertainment. The other statute that indicates artistic organizations can encompass most any group. Fraser asked if there was a cost limit on that statute. Kerr replied there isn't.

Hannasch said the band has to give something in return for the \$3500. Kerr stated they would have to look at free musical entertainment and that is what the City is providing its citizens.

Caron said the karate classes put on a demonstration three or four times a year and he felt the Council just has to watch what they do. He asked if they have to make a decision right now. Koopman replied that it needs to be in the budget if they are going to give the money and by the next council meeting she will have a resolution prepared for the preliminary budget. The City will have to submit the maximum budget amount by September 15, 2002.

Koopman stated what the League of Minnesota Cities is suggesting for cities to plan for a 10% reduction in State Aids which would be \$94,000. She came up with a few options to compensate for this cut, one of which would be to levy for the \$94,000. This amount would remain in reserve and be used only if there is a reduction in State Aids. If there isn't, this amount could then be used to reduce the levy in 2004. A benefit of this option is being prepared in case State Aid is cut, on the other hand legislators are more likely to make cuts if cities have this money available. Another option would be to designate the \$99,000 refund the City received from Principal Financial last year to cover loss of funding. The problem is that the State would not reinstate the loss of State Aid and the City would be forced to levy for this shortage for the year 2004. Koopman added they could consider levying for half of the \$94,000 so it wouldn't be as large an increase.

The third option would be to cut staff. Koopman said she spent a considerable amount of time analyzing the budget of each department and there is no padding. The only alternative if funding is not available would be to reduce staff. She estimated to save the \$94,000 would result in the lost of two and one-half employees.

Koopman's proposed budget would reflect a 7.8 percent increase in the General Fund, not including the funding for the Tracy Community Band. She reviewed her recommended cuts for the various departments.

Koopman stated the good news is the Debt Service levy for 2003 is \$13,881 less than in 2002. But if the Council decides to levy \$94,000 in anticipation of loss State Aids there would be an overall increase of 16.5 percent. The problem is it's just a guessing game at this point since no one knows what the legislation will do. Hannasch said there would be an approximate eight percent increase if the City levies half of the \$94,000. Caron asked if the State cuts would be just a one time thing. Koopman replied if they reduce State Aids it will be a permanent cut. Fraser asked if they levy the \$94,000 if the City would just hold it in case it was needed. Stobb said he doesn't have a good feeling about asking taxpayers to pay ahead of time. Koopman said they are more than likely going to need the money. Stobb said if they use the \$99,000 this year the Council is just delaying the inevitable a year. He said he would like to use a majority of \$99,000 from Principal in 2003. Fraser asked if there was anything else it would be used for. Koopman said the only thing they discussed using it for was the aquatic center because they borrowed \$355,000 for the amenities. Koopman said they hope to break even on the operations of the pool. Stobb said he doesn't think the Council ever talked about using all of the \$99,000 for the pool. Koopman said they are trying to use fund raisers for the money but if they don't come up with it they are going to have to levy for it. Fraser asked when they would have to start paying back the \$355,000. Koopman replied it will be paid over a four year period so the first payment will be this year yet.

Otto-Arvizu said she thinks middle ground would be better by levying \$47,000. Fraser asked if they would hold the \$99,000 Principal refund or use it for the pool. Stobb suggested holding the \$99,000 until the legislation decides what they are doing and use the \$47,000 they would levy. He asked how the LMC came up with the recommended ten percent cut. Koopman replied that is what all State agencies are being asked to cut and it could be more. She added there is no guarantee that the City is going to receive all the funding for 2002 yet. She noted if the November budget forecast is negative, there is a very real possibility that our December State Aid payment could be impacted.

Koopman said the preliminary levy is the maximum amount the City can levy. The Council could project \$94,000 in the preliminary figures and change it by the final levy in December so they have time to think about it. Hannasch felt if the public is aware that this is what the City is planning to do they won't be alarmed by the levy amount. Caron made a motion to levy for the \$94,000 in the preliminary budget and Fraser seconded. Stobb asked if that would be a 16.5 percent increase. Koopman replied it would be a little less because she had factored in \$5000 for the Tracy Community Band and now they were looking at \$3500. All voted in favor of the motion above.

Caron asked if last year they budgeted for a replacement for Don Polzine who is due to retire. Koopman said she included it again but she hasn't talked to Polzine yet about his final date. Caron felt it was something they should include. Koopman said assuming Polzine will retire January 1 she included enough for his severance pay and enough to cover wages for hiring someone in October.

Caron asked what \$20,000 was for Cemetery Equipment and Improvements. Koopman replied much of that amount was from donations received and they are using it for new fencing. Caron asked about the money budgeted for fuel since the Superintendent is a private contractor. Koopman replied the fuel is for the City pickup to haul water for the flower beds at the cemetery. Caron asked if all private contractors are the same because the Cemetery Superintendent is a private contractor and the City is paying for the fuel. Koopman replied the Superintendent is not required to water the flower beds, he does it voluntarily. Caron asked if the Council got copies of the City Gardener's contract. Koopman said she would include it in the next agenda packet.

Koopman said at the next meeting she will have prepared resolutions for the preliminary levy. The budget will be on the agenda from now until the Truth in Taxation hearing.

There being no further business motion by Caron, second by Stobb, to adjourn. All voted in favor of the motion.

ATTEST:

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City Administrator

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Mayor

### September 9, 2002

The regular meeting of the Tracy City Council was called to order at 6:30 p.m., Monday, September 9, 2002 in the Council Chambers of the Municipal Building. The following council members were present: M. Fraser, C. Hannasch, J. Otto-Arvizu, S. Ferrazzano, D. Berndt, R. Caron, and R. Stobb. Also present was staff member: A Koopman.

Hannasch asked for any additions or corrections to the minutes from the August 26, 2002 City Council meeting. Motion by Fraser, second by Caron, to approve said minutes as written. All voted in favor of the motion.

Hannasch asked if there were any additions or deletions to the agenda. Hannasch added (6A) a shade tree report, (7C) a resolution approving payment to Fulda Electric, (7D) a resolution approving payment to Salonek Construction, and (7E) a resolution approving payment to Duinink Bros., Inc. Motion by Caron, second by Stobb, to approve the agenda as now written. All voted in favor of the motion.

Hannasch indicated that Tom Schaefer was present to answer a list of questions regarding aquatic center issues. Schaefer stated he would review each item with the Council and explain what needs to be done.

1.) Sail replacement on the zero depth pool play amenity. The Aquatic Recreation Company (ARC) has indicated they have replacement sails on order. Stobb asked if the sails were covered by warranty. Schaefer replied they were.

2.) Schaefer stated the caulking was to have been done by Olympic Pools on the deck between the stainless steel gutter and where the deck is poured up to the stainless steel. Olympic chose to come back and do the caulking in the fall rather than delay opening the facility any further. Schaefer said either Olympic will come back to do the caulking or the City will have to hire someone else to do it. Schaefer will be getting a quote from AquaLogic for the work. Otto-Arvizu asked if Schaefer knows when Olympic will come back to do the remaining work and asked if the City can give a deadline by which it has to be done. Ferrazzano asked how long it will take to caulk. Schaefer replied two days. Caron suggested going through whole list and then deciding on a course of action.

3.) Schaefer stated the corners of the zero depth area referred to corners of the metal grating that surrounds the pool which broke apart shortly after the pool opened. He felt it was best to install stainless steel wedges at the corners to correct the problem which would fall under Olympic's duties. He added AquaLogic will send a quote out for this too.

4.) ARC determined that the gaskets are leaking under the play features and is coming back to replace them. Schaefer said he also noticed the paint on the skirts around the bottom of play amenities is coming off. He said these are warranty items and would be corrected by the manufacturer.

5.) The air flow switch has gone bad on the heater for the large pool. Schaefer got a price from AquaLogic to replace it for \$400. He said item # 11 is also related to this problem. The cover for the electrical box is open because that is where the wires are pulled from for the air flow switch. Schaefer said Fulda Electric will take care of the box once the switch is replaced. Unfortunately the air switch is the City's's cost liability because the heater on the big lap pool was already a year old and no longer covered by warranty. Kerr asked what Schaefer meant that a year was gone on the heater. Caron replied that the heater is two years old and had been installed in the old pool. Koopman asked if the other heater is working. Schaefer replied that Engel and Polzine have said that every two or three days they have had to push the reset button. According to the mechanical engineer it is probably because of a fluctuation in gas pressure which is on the incoming side of the gas valve. Caron asked if they would have to talk to the gas company about the problem. Schaefer replied they would.

6.) The water level controllers are not working. Schaefer said the zero depth level control never worked and the control for the large pool worked only for a short time. Both Olympic and AquaLogic tried to fix them but were unable to. It has to do with a small circuit board. Schaefer thinks the remedy

is to have them removed and replaced with new water level controllers of a different brand. The price to replace is \$5,990 and it would be Olympic's responsibility. Otto-Arvizu asked if Olympic refuses to replace them can the City put these costs against the performance bond. Schaefer said the City's cost liability is nothing, the costs would be deducted from the contract amount if someone else has to install replacement controllers. He recommended getting the replacements in this fall and said they may have to make some adjustments in the spring when the pool is filled.

Koopman asked if they would have problems doing some of the work if the water is drained. She also asked when the warranty periods start. Schaefer replied the warranty period as stated in the project specifications are good for one year from date of substantial completion. He said as of this date the notice of substantial completion has not been issued for Olympic Pools. Koopman asked if Schaefer knows when they plan to issue a substantial completion date. Schaefer replied he doesn't but thinks that will have to go along with the letter that will be issued to Olympic.

7.) In regard to the filters leaking Schaefer explained that each filter has a two inch drain plug that you take out and behind the drain plug is a screen so that the sand doesn't run out. There are actually two plugs, one is hollow with a screen and the other seals it up. It is just a matter of tightening up that seal. This is another warranty issue for Olympic.

8.) Schaefer said in regard to the zero depth pool leaking they could not hear any water leaking in equipment room. He said the splash pool has gone down at a rate of two to three inches more than the rate of lap pool but from their experience they believe it is evaporation. The surface area compared to volume is much greater in the splash pool than in the lap pool and there were a lot of hot days this summer. Schaefer said they tested for water loss as the pool was drained and didn't observe any leaks at any level. Stobb asked if the loss of water was observed all summer long. Schaefer replied they did and added with the spray toys there is much more evaporation and the water level controllers didn't work so they had to manually fill the pool frequently. Stobb asked about the loss of water overnight. Schaefer attributed the loss to the volume ratio between the two pools.

9.) As for the liners for the crock pots, Schaefer said they didn't know the lids and liners had to be ordered separately. He said USAquatics would take care of them.

10.) Schaefer said a lot of the stains in the pools were there in between the time of doing the diamond bright finish and filling the pool. He recommended that next spring the pools should be thoroughly acid washed and felt since the stains were there before filling Olympic should come do that next spring. He also suggested getting another quote in case Olympic doesn't do it. Schaefer thought a lot of the stains were from organic materials.

11.) The electrical box was covered with item number 5.

12.) The filter basket in the lap pool was defective so the manufacturer will replace it. Schaefer said they also found out that the hair and lint strainers have split open and all three will be replaced.

13.) Yellow touch up paint for the slide will be supplied by Miracle. It was a new color for Miracle so didn't include it with the slide but will be sending it.

14.) The office door locks issue was resolved.

15.) Schaefer said the request of a payment of \$2833 from USAquatics for the flume slide is related to the color issue. Schaefer said when his office produced an invoice for \$39,200 for the installation of the amenities, all of the hours he personally spent working on the slide were billed in and he wasn't contractually obligated to do that work. Schaefer said by taking out his hours the invoice was reduced by \$6200 and he believes he personally gave \$6200 of his time and made the extra effort to help. He asked the Council to consider taking his donated time in place of the \$2833. Hannasch said he was there when Schaefer was working and felt that without him and the City crew working the pool wouldn't have opened when it did. He didn't see a problem exchanging those hours.

Koopman stated the reason she brought this issue back is because the owner direct purchase had an estimate of installation costs on each of the individual items. Then with USAquatics' billing every

single one of them was higher than the estimate. Koopman considered these separate issues, not that she doesn't appreciate Schaefer's efforts. She said during her previous conversation with Jeff Weber from Miracle and Rick Schaefer regarding the aqua colored slide it was agreed before she hung up that Miracle would discount the slide by \$5,000. Rick had said \$2833 would represent one-third of the cost of a royal blue slide, and so one-third would be covered by Miracle, one-third by USAquatics and one-third by the City. Rick called Koopman back after they had hung up from the conference call and said that USAquatics would pay the \$2833 to be applied to discounting the slide if the City would choose the aqua slide versus the royal blue. That is what was communicated to the City Council and Koopman thinks it was their understanding that slide would be discounted a total of \$7833. Stobb said they talked about this issue at the Council meeting when Koopman and Hannasch were absent. Stobb said he mentioned having USAquatics reimburse the City for the slide error and Rick Schaefer indicated at that time they would need to discuss it further. Koopman said in the conversation she had with Rick Schaefer it was a done deal.

Caron thought they had a contract for a specific dollar amount for the completed project with USAquatics. Tom Schaefer replied they didn't and wished he could offer that. USAquatics represents the City and the contract was with the four contractors. They have to remain separate or it would constitute a conflict of interest. Schaefer said USAquatics is strictly a consulting engineer and has nothing to do with the contractors other than to represent the City. Kerr said today he was provided with a proposal of services from USAquatics dated July 31, 2000 which was signed by Tom Schaefer, Koopman and Hannasch. In the proposal is the contractual fee for USAquatics' services based on a percentage amount of the construction contract amount. Schaefer replied they used it only for post bid services. Kerr said that is what they are talking about. He said Schaefer has said he did \$6200 worth of work but didn't provide any documentation of that. Kerr asked if at some point they reached a capped amount. Koopman said the construction manager fee was \$58,500. Schaefer replied that the \$6200 is not related to construction management, it was for the installation of owner direct purchases. Kerr asked if it was USAquatics job to get the project completed. Hannasch asked if that means they have to do the work or that they have to hire other people to do the work. Kerr said that would be a voluntary thing on Schaefer's part and asked where does he have to contractual right to \$6200. Kerr said he didn't understand how that was going to be a credit against a totally separate item. Caron asked if it was because they bought the equipment direct from the manufacturer. He suggested going through the rest of items and then negotiate how to handle them.

Koopman referred to a letter from USAquatics which states the total difference between to original bill to the final installation is \$38,062.50. Schaefer replied in the letter all Rick is doing is trying to point out that if they look at the original bid tabulation sheet and add up the prices of the owner direct purchases that were bid by the contractors the City saved \$38,062.50 by buying direct.

16.) Hannasch said the letter from Moss & Barnett and payment to Olympic was going to be the big issue. Schaefer referred to a letter he sent dated July 17, 2002 itemizing the reasons \$79,950 was withheld from Olympic's payment request, leaving a payment of \$411. Caron said they also received a fax stating a bill for AquaLogic was additional \$300 which left a payment of \$111 to Olympic. He said the City needs to know what to pay to Olympic now. Kerr thought it would be wise to take the three sections of Moss & Barnett's letter and respond to each. Attorney Curtis Smith made a demand of \$42,500, then in turn addressed the withholding of \$80,250 from Olympic.

Kerr said item number (2) refers to a memo from Olympic Pools dated August 1, 2002 which contests the \$25,500 withheld for incomplete work, and claims that actual incomplete work was valued at \$3800 according to a punch list dated July 3, 2002. Kerr asked for Schaefer's response to that. Schaefer said first of all the contractor does not determine the amount of money to be held back for incomplete items, the engineer does. It also says in the specifications that the engineer shall hold back at a rate of 300 percent what he thinks the value of it is to be as an incentive to get the contractor to complete those items. Kerr said Smith talks about a memo from Olympic which valued the complete work at \$3800 and referred to a punch list dated July 3, 2002. He asked how that compared to USAquatic's punch list. Schaefer replied that he didn't have a copy with him to compare them. He just received a copy of Smith's memo today. Koopman said the memo was faxed to USAquatics on September 3.

Ferrazzano asked if the City decided to enter into binding arbitration with Olympic if USAquatics

would represent Tracy. Schaefer replied that they represent the City as engineers, not as legal consultants. Hannasch asked if Olympic gave a time frame. Koopman said there is an amount the City owes Olympic. If the City would take the total amount due, minus the work to be done, retainage and liquidated damages that would clear the books and allow the City to justify why Olympic hasn't been paid the remainder. Schaefer said he could get that amount once they get estimates from AquaLogic on the incomplete items. Koopman said she asked Rick Schaefer for that figure three or four weeks ago and added that may pacify Olympic Pools since they haven't received payment since May except for the \$111. Hannasch asked how much money is remaining on their total contract. Schaefer replied \$80,250. Hannasch asked how much in liquidated damages \$38,400. Schaefer replied that amount was assessed earlier, however Olympic did not come back and achieve substantial completion. USAquatics recommended the City assess them another ten days of liquidated damages. The \$38,400 represents 48 days and with the other ten days they were recommending would bring it to 58 days.

Hannasch said they also have some unfinished work but Schaefer said he would get quotes this week. Schaefer said he would get quotes on caulking, water level controllers, acid washing, and filter leaks. Koopman said they could cut a check as soon as they get the totals.

Schaefer said he made some wrong assumptions and thought they were looking at adding additional days of liquidated damages. The City could still be assessing damages if they chose to. Hannasch said he thought liquidated damages ended with the pool opening. Schaefer said he thinks that would be a proper day to cut them off. He asked if the City wants USAquatics to hold back 300 percent for the unfinished work and items that aren't working properly. Caron thought they should hold back 300 percent because the warranty will be up shortly after the next pool season starts. Schaefer said a one year warranty will be up around July 6, 2003. Ferrazzano said the Council shouldn't be cringing just because they got a letter from Moss & Barnett on Olympic's behalf. He felt Olympic is completely in the wrong and for them to try and turn the tables on the City is completely ridiculous. Ferrazzano suggested they withhold the 300 percent because the specs say.

Kerr said he doesn't know why they are rushing to establish a date of substantial completion because there is also a partial utilization provision. He said he doesn't know why they aren't using that provision and arbitrarily saying substantial completion was on the date the pool opened because it wasn't substantially complete. Kerr said he would like to ask Schaefer if he was going to be using the general conditions provision regarding defective work or is he just going to say its under warranty. Kerr suggested giving notice under defective work and then the warranty isn't triggered. Schaefer replied some issues are warranty and some are defective work issues. Kerr said he doesn't know why Schaefer is recommending to the Council to establish the date of substantial completion as the date the pool opened. Schaefer replied using the full facility is different than if they were only able to use part of it. Hannasch said he thinks the City will have an awfully hard time collecting liquidated damages after the pool opened.

Kerr asked if USAquatics had some correspondence with Olympic saying the City needs to use the facility now and did Olympic agree to that. Schaefer replied they didn't. Kerr said in that case they could proceed with the defective work provision. He said he was just trying to get at why are we triggering warranties on things that never did work. Stobb said the liquidated damages is strictly for lost revenue.

Polzine said previously the City had asked what substantially complete means and it was stated as soon as the doors open. Ferrazzano said they need to hold 300 percent of the cost for work Olympic is not going to complete, add that to what has been withheld for liquidated damages and subtract that from the contract price and give them the difference. Schaefer said there are a couple more items they want to add to the list of unfinished business and that includes winterization and operation and maintenance manuals plus schematics of the filter system and how to do backwash, drain and other functions. He handed Engel what Olympic gave for operation manuals and they are not complete. Schaefer said it is going to take some time and effort to hire someone else to complete the work. Hannasch stated they should have all this done by October 1, 2002 giving three weeks time, and they should know by September 16 if Olympic is going to complete their work. Schaefer said someone had suggested giving Olympic one week to respond. Ferrazzano made a motion to give Olympic one week to respond and notify them they have until September 16, 2002 to complete the work remaining and Caron seconded. Ferrazzano thought the Council should be informed by Olympic by Monday,

September 16 the costs of the unfinished work and if Olympic is going to agree to do the work.

Stobb asked if they have the documentation needed to prove that the City can collect an additional \$8000 in liquidated damages. Hannasch asked if the additional ten days was prior to the pool opening. Schaefer replied it was. Fraser said Olympic is disputing that they received a fax regarding the additional liquidated damages. Schaefer said his company would provide the necessary documents. Otto-Arvizu asked if giving a deadline of September 16 to respond and by October 1 to finish was going to allow enough time if Olympic says they are going to do the work and then don't do it to get someone else. Schaefer said they should be able to get a letter out within two days. Kerr asked if there is a distinction between work that needs to be completed, warranty work and defective work or are they all being lumped together. He asked if they need to give separate types of notices. Schaefer replied they should be able to put it all into one letter.

Hannasch stated everything but the acid wash would need to be done by October 1, 2002. He asked if Olympic doesn't get it done how long would it take to get someone else. Schaefer replied ten days to two weeks. Hannasch thinks everything should be done by October 15, 2002 in case they have another contractor finish the work. Ferrazzano asked if they could have AquaLogic at the ready in case Olympic doesn't do what they say. Schaefer said he could contact them about the situation. Stobb asked if Schaefer's letter will also explain the City's payment to Olympic. Schaefer replied everything will be in one letter which will also deal with cost issues and what USAquatic's recommendation will be for payment. Koopman asked if they will do a normal certificate of payment or at least something explaining the recommendation from USAquatics for payment. Schaefer replied he would provide something in writing. All voted in favor of the motion to require a response from Olympic by September 16, 2002 and all pool work to be completed by October 1, 2002.

17.) Schaefer said in regard to the cost of the fill under the concession stand cabinets Bill Deneen responded to that item around July 21. Koopman said the letter from Deneen was dated August 16, 2002 and read the letter to the Council. She said at the last meeting the Council passed a motion saying USAquatics was responsible for the fill under the cabinets at a cost of approximately \$3200. Hannasch said the City bought a completed project and it should be complete. Caron said at the last meeting USAquatics attended Schaefer said the sinks and the fill would be taken care of by them. Schaefer said regarding the sink issue USAquatics was the lead consultant and they had two sub-consultants, one was an architect and one was a mechanical engineer. The architect assumed the three compartment sink was going to be self-supporting and the mechanical engineer thought it was going to be a drop in. That was a mistake and USAquatics paid for the difference between the two sinks. Then the issue came up that the sink wasn't large enough to wash the largest utensil in the concession stand so USAquatics paid for smaller crock pots to fit in the sink rather than trying to replace the sink itself. That is what they committed to do.

Ferrazzano asked what Deneen meant by saying the owner has to pay for the facility once. Schaefer said if the Health Department had reviewed plans and said the space had to be filled in the costs would have been figured into the bid from the start. Ferrazzano said the cost of the fill was close to the refund they were requesting for the slide and asked if Schaefer wanted to pick one of the two to pay for in order to compromise. Caron said between the two the total comes to about \$7000 and asked if USAQUATICS wanted to split the cost. Schaefer said he has enjoyed working with Tracy over the past two years and is very proud of the facility that was built. He thinks a lot of problems have occurred because of Olympic Pools and his company has tried to resolve everything they can. He said in order to end things on a good note he would be willing to pay for the slide. Ferrazzano made a motion that USAquatics pay \$2833 for the flume slide and the City pay for the fill under the cabinets. Caron seconded the motion and all voted in favor.

18.) Schaefer stated that after the warranty expires on the bathroom fixtures the City would be responsible for any repairs and maintenance. Hannasch asked why the stools and showers aren't working properly. Schaefer replied when the bids came in since the project was over budget, at the direction of the City, USAquatics asked the contractors to bid on value engineering to reduce costs. One of these items is the flush valves offered by Heartland Mechanical which saved \$1100. Hannasch said he doesn't understand why it is so hard to get stools to flush. Schaefer said he had the mechanical engineer look at them and he said they should work almost as well as those originally specified. Hannasch asked if the flush valves are in the wall or on the stools. Schaefer replied on the stools.

Hannasch asked why are they plugging up every three or four days. Schaefer replied that Heartland comes out and takes the valves apart and cleans them up and they work fine for a few days. There seems to be a mineral buildup causing the problem and one suggestion was to install a water softener. Koopman said with as often as Heartland has been out to clean the valves what is going to happen when the warranty is up or five years from now.

Koopman asked if Heartland has explained why there is a problem. Engel said Heartland told him there would be a problem before they were installed. Schaefer suggested they ask the contractor why it's happening and why they suggested these valves in the first place

Ferrazzano asked what the other things that were not on the list but needed to be addressed with Olympic. Schaefer replied the winterization instructions, operation maintenance manuals and as built drawings. All these were part of the contract. Kerr asked Schaefer if he believes in light of what the attorney has written if he thinks Olympic is going to respond positively. Schaefer replied no and that is what makes this a hard situation.

Rick Nordahl stated that late last week he received a letter from Jim Kerr's office regarding the requirement to implement a bidding process for a new patient/nurse call system and a new phone system for the hospital. He wanted to request authorization to post notices in the newspaper for bids. Secondly he wanted to go ahead and get the recommended two quotes on the handicapped door openers and quotes for floor replacement in ten patient rooms. Kerr asked if Nordahl has specs prepared that can be reviewed by any bidder because they have to be very careful that they are general enough to be used by anyone. Nordahl said the specs were general but he wasn't sure if everyone can compete because of plans to utilize some of the equipment already present in the hospital. Kerr asked previously if they looked at more than one source for the patient/nurse call system. Nordahl replied they did but dropped down to one vendor when they found they could use some of the wiring already present.

Caron asked how much was in the capital improvements fund. Koopman replied there is currently \$250,000 and the City owes that account around \$98,000 for an aquatic center payment this year. Kerr asked what about his second point of sales tax exemption. He said it should be part of the motion to advertise that the facility is sales tax exempt. Hannasch said the sales tax exemption doesn't apply to everything. Kerr thought sales tax exemption would apply because Sioux Valley is non-profit organization. He said it needs to be part of the advertising and added when they did remodeling they advertised for separate bids on labor and materials that way they can then get the tax exemption. Stobb made a motion to advertise for bids for materials and for labor on a new patient/nurse call system and a new phone system. Ferrazzano seconded and all voted in favor.

Stobb made a motion to authorize Nordahl to obtain two quotes for patient room floors and handicapped door openers and Fraser seconded. Nordahl asked if he needed to bring quotes back to the Council or if he could act on the lowest quote. Hannasch asked him to bring the quotes back to the Council. Stobb asked if he can amend his motion to authorize Nordahl to accept and act on the lowest quote. Caron thought the bids should be brought back to the Council in case something is different. Stobb amended his motion to have Nordahl bring the obtained quotes to the next Council meeting and Ferrazzano seconded. All voted in favor of the motion.

Polzine reported that he has marked 26 diseased trees and currently has only \$3000 budgeted for replacement. He got a price from Denny Campbell of \$11,000 for removing the trees. Polzine added that all are elms and six are located in bad spots and will have to be cut down in pieces. He said the City will get reimbursed 80% for trees on private property and 50% for trees on boulevards.

Hannasch presented a resolution approving payment to Schmidt Construction for work completed to date on the sewer separation/Circle Drive bypass project in the amount of \$129,006.18. Motion by Ferrazzano, second by Caron, to adopt the resolution. All voted in favor of the motion. (Res. No. 2002-51)

Hannasch presented a resolution approving payment to AquaLogic, Inc. for work completed to date on the Aquatic Center in the amount of \$2,211.15. Motion by Ferrazzano, second by Caron, to adopt the resolution. All voted in favor of the motion. (Res. No. 2002-52)

Hannasch presented a resolution approving payment to Fulda Electrical Service, Inc. for work completed to date on the Aquatic Center in the amount of \$7,873.22. Motion by Ferrazzano, second by Caron, to adopt the resolution. All voted in favor of the motion. (Res. No. 2002-53)

Hannasch presented a resolution approving payment to Salonek Concrete & Construction, Inc. for work completed to date on the Aquatic Center in the amount of \$7,351.05. Motion by Ferrazzano, second by Stobb, to adopt the resolution. All voted in favor of the motion. (Res. No. 2002-54)

Hannasch presented a resolution approving payment to Duininck Bros., Inc. for work completed to date on the Airport Overlay Project in the amount of \$11,516.25. Motion by Ferrazzano, second by Caron, to adopt the resolution. All voted in favor of the motion. (Res. No. 2002-55)

The Consent Calendar included the following: Monthly Police Maintenance log and Municipal Accounts Payable. Motion by Ferrazzano, seconded by Fraser, to adopt the above listed items. All voted in favor of the motion.

Hannasch presented a resolution to adopt the preliminary tax levy for 2002, collectible in 2003:

Debt Service	\$369,749
Permanent Improvement	10,000
General Fund	<u>281,784</u>
Total Levy	\$661,533

Hannasch said the levy, including \$3500 for the Tracy Community Band and a \$94,000 to cover the anticipated cut in State Aids. The overall preliminary levy increase equals 17.1%. Hannasch said he looked at this and determined it would mean approximately a .1% increase in property taxes to home owners. Otto-Arvizu said for example a home assessed at \$50,000 would see an increase of approximately \$50.

Stobb said he would rather not ask the tax payer to pay extra until the City needs it, he would like to know for sure before levying. Koopman said if the resolution is adopted tonight this would be the maximum amount levied but they will have more information by November about what the legislation might do. She said the Governor may still enact hi unallotment powers and the City may not get all its funding for this year so they may need to use some of the \$99,000 refund from Principal. Caron asked if the Council committed to giving \$3500 top the Tracy Community Band. Koopman replied yes, she included it in the budget.

Motion by Fraser, second by Otto-Arvizu to adopt the resolution approving the 2003 preliminary tax levy. Hannasch reminded the Council that they can't increase the levy after filing the preliminary but they can always decrease it by the December deadline. All voted in favor of the motion. (Res. No. 2002-56).

Koopman said she forgot to include in the agenda that they needed to establish the date of the Truth in Taxation hearing which will be set for 6:30 p.m. on Monday, December 2, 2002.

Hannasch reminded the public that the deadline for filing for Mayor and City Council is Tuesday, September 10 at 5:00 p.m.

Hannasch reported that two bids were received for the demolition of two hazardous buildings at

Cooreman Contracting, Inc. Tracy, MN	\$6,000
D&G Excavating, Inc. Marshall, MN	\$9,500

Koopman stated the bids do not include asbestos removal. She indicated Dennis Larson from Montevideo will conduct a study to determine if there is asbestos present so they won't know the cost until Larson is finished. Motion by Ferrazzano, second by Stobb to approve Cooreman Contracting's

bid. All voted in favor of the motion.

There being no further business motion by Caron, second by Fraser, to adjourn. All voted in favor of the motion.

ATTEST:

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City Administrator

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Mayor

**September 19, 2002**

A emergency meeting of the Tracy City Council was called to order t 6:30 p.m., Thursday, September 19, 2002 in the Council Chambers. The following Council members were present: C. Hannasch, S. Ferrazzano, M. Fraser, J. Otto-Arvizu, R. Caron and R. Stobb. Also present: A. Koopman and Assistant City Attorney J. Kerr.

This meeting was closed to the public to discuss pending litigation

Dave Berndt arrived at 7:00 p.m.

The meeting adjourned at 7:42 p.m.

ATTEST:

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City Administrator

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Mayor

**September 23, 2002**

The regular meeting of the Tracy City Council was called to order at 6:30 p.m., Monday, September 9, 2002 in the Council Chambers of the Municipal Building. The following council members were present: M. Fraser, C. Hannasch, J. Otto-Arvizu, S. Ferrazzano, D. Berndt, R. Caron, and R. Stobb. Also present was staff member: A Koopman.

Hannasch asked for any additions or corrections to the minutes from the September 9, 2002 City Council meeting. Motion by Ferrazzano, second by Caron, to approve said minutes as written. All voted in favor of the motion.

Hannasch asked if there were any additions or deletions to the agenda. He added (4B) a quote presentation by Rick Nordahl and (6A) advertising for a replacement for the Public Works Director. Motion by Caron, second by Stobb, to approve the agenda as now written. All voted in favor of the motion.

Koopman stated the existing ambulance agreement expires December 31, 2002. She said the amount per capita which is set at \$5.88 remains the same however the existing agreement includes a credit for providing the former ambulance garage and utilities. The new agreement contribution is \$13,336 based on 2268 population. This amount was included in the preliminary levy. There are no other changes except the existing agreement recognized a loan from the City which has been repaid. Motion by Caron, second by Otto-Arvizu, to approve the new ambulance agreement. All voted in favor of the motion.

Rick Nordahl provided the quotes he obtained for the flooring replacement in ten patient rooms and handicapped accessible door openers for the hospital. He said two quotes were received for the flooring:

Grams Floor Covering	\$454.50 per room
Randy's Floor Coverings	\$396.75 per room

Nordahl informed the Council that floor preparation was not included in Randy's quote and would be an additional cost of \$25 per hour with no set amount. Grams' quote included prep work because

they have replaced floors at the hospital before. Otto-Arvizu asked if Nordahl had been satisfied with Gram's previous work. Nordahl replied he was very satisfied. Fraser asked if Grams included tearing out the old tile because Randy's included that. Nordahl replied Randy's will tear it out for \$25 per hour.

Nordahl said he has since found out that the asbestos tile may possibly be taken out by hospital staff but needs to verify that. His understanding is that if the tile can be taken out by hand and not pulverized the hospital can do it. Nordahl just wants to make sure before proceeding. Koopman asked if the tile has to be removed or if they can go over the top of it. Nordahl replied it has to be removed because they would have to buff it down to remove all the wax layers and then rough up the surface which would create the asbestos dust. Fraser asked if the companies bidding the floor can remove the tile. Nordahl replied it would have to be done by a company licensed to remove asbestos. He does have a couple sources if needed, Quad States Asbestos Removal or MAAC both out of Montevideo. MAAC would charge \$3.00 per square foot and Quad States would charge \$2.33 per square foot.

Nordahl stated if they went with Grams bid of \$454.50 ten floors would cost \$4545.00. If they went with Randy's the flooring cost would be \$3967.50 plus an additional \$25 per hour for prep work. Nordahl said if they have to hire someone to remove the tile it will cost approximately the same per floor as the new flooring will. Hannasch suggested accepting Grams' quote since they provided a total cost. Stobb asked if they had any time frame as to when the hospital wanted the floors completed. Nordahl replied they would like to have them done by the end of December and he felt Grams could do that. He added they can't do all the floors at one time with the patient load and felt that Grams would be easy to work with doing a couple rooms at a time. Stobb asked if the ceramic quote on Grams' estimate was regarding the floor. Nordahl replied the ceramic is for the walls in the bathrooms which can be run through operations.

Ferrazzano made a motion to accept Grams' quote and Stobb seconded. Stobb asked if the quote was actually cheaper than the figures the Council first saw. Nordahl replied he included the tile removal in the original figures so if the hospital can remove the tile it will be considerably less to replace the floors. All voted in favor of accepting Grams' quote.

Nordahl stated that he obtained two quotes for door openers:

Southwest Glass	\$4118 per door
Taylor Industries, Inc.	\$3000 per door

He said Taylor would reduce their quote by \$150 if the hospital buys three doors for a total of \$8850. Nordahl recommended going with all three doors because if they ever do some remodeling they can always move the stands and the operators, they are re-mountable. Initially the hospital asked for two door openers but the two are going to cost more than three. Nordahl said it will be \$8850 plus some minor costs for electrical work. Ferrazzano made a motion to accept the Taylor quote and Fraser seconded. All voted in favor of the motion.

Hannasch directed the Council to the letter of resignation from Public Works Director Don Polzine, effective January 3, 2003. He thought they should get advertisements out as soon as possible and suggested putting ads in the LMC bulletin, the Headlight Herald and in the Marshall Paper. There is a job description regarding what the position would entail. They also need to set up a time frame for interviews. Hannasch suggested a October 15, 2002 deadline for applications and suggested they set up a Review Committee. They could hope to have someone in place by December 1 to work with Polzine at least a month. Caron asked where they got the job description. Koopman replied the City worked with a firm several years ago to draw up the job descriptions for all positions.

Hannasch tabled the discussion to open a public hearing regarding public nuisances. Hillger stated there were five new nuisances that were reported in August. He said at 410 Madison Street there was a pile of yard waste, branches and debris and old pick-up topper. When Hillger reinspected on September 20 there was no change. He recommended proceeding and added this was a citizen signed complaint regarding the public nuisance. Stobb asked if all were citizen complaints. Hillger replied they were. Motion by Ferrazzano, second by Caron, to issue an Order of Abatement. All voted in favor of the motion.

Hillger said there was a complaint about 200 State Street that there are trees growing up around foundation of house and a dead tree in the yard which the neighbor is concerned will fall on her property. No one is currently living in the house. Hannasch asked the condition of the house. Hillger replied it's hard to say but he thinks it's all right, it looks like it's salvageable and he didn't think it could be viewed as a hazardous building. Hannasch asked if there was any response from the property owner. Hillger replied there wasn't. Motion by Ferrazzano, second by Stobb, to continue with the abatement process. Koopman said she spoke to Jim Kerr about the fact the City has been giving 60 days to abate nuisances but according to State statute they City would be allowed to give a minimum of 20 days. Considering winter is approaching that may be a better option. Ferrazzano amended his motion to give 20 days notice and all voted in favor of the motion.

Hillger said the complaint about 200 East Morgan Street was there was a dumpster located in the front yard for several weeks and old appliances and debris in the back yard. After reinspection on September 20 the dumpster and everything in back had been removed. Motion by Stobb, second by Ferrazzano, to declare the nuisance abated. All voted in favor of the motion.

Hillger stated the Adeline Johnson property on Highway 14 was where Dale Johnson Jr. had previously sold cars. There were several vehicles and about 20 barrels, a couple with oil in them. All of these have been removed and Hillger recommended abating the nuisance. Motion by Fraser, second by Stobb, to declare the nuisance abated. All voted in favor of the motion.

Hillger stated Bernie Holm owns the property behind Tracy Floral and the plastic had blown off a greenhouse in back, the weeds had grown very high weeds and a lot of junk was visible. Hillger said he talked to Holm last week and again today. Holm had sprayed the weeds and most of the debris was gone but he indicated he wanted to keep some of it. He is planning to cover the greenhouse with plastic again which is on order. Hillger recommended an extension of time for Holm. Hannasch suggested giving Holm a 20 day extension and if it would not be enough time Holm can come to the Council for an additional extension. Motion by Stobb, second by Fraser, to give Holm a 20 day extension. All voted in favor of the motion.

There being no further testimony Hannasch closed the public hearing.

Hannasch returned to discussion regarding a replacement for the Public Works Director. He suggested since they were looking for a person to be head of the Street Department and involved in a lot of engineering and street work it would be nice to include on the review committee a couple Council members and two people from either Lyon County or the State with some expertise in engineering to give some guidance. There would be a five person committee.

Stobb made a motion to accept Polzine's letter of resignation with thanks for the 26 plus years of service Polzine gave to the City. Otto-Arvizu seconded the motion and added that she learned a lot from Polzine and thanked him for all his help and education. Ferrazzano said he also appreciated that Polzine has attended every Council meeting to answer questions and provide information. All voted in favor of the motion.

Otto-Arvizu asked if the LMC bulletin is different than the magazine. Koopman replied it is different and added the bulletin is on-line and anyone can subscribe. Stobb thought it would be beneficial to advertise in the Minneapolis Star-Tribune and the Sioux Falls Argus Leader. He said the school had good results advertising in those papers. Hannasch suggested advertising through October 9. Koopman said they usually advertise in the Sunday edition of the Tribune so it reaches rural areas. Hannasch said that would give them September 29, October 6 and October 13. He asked if they would advertise once a week in the Marshall newspaper. Koopman thought that should be sufficient with all the other newspapers. Hannasch said they would then advertise September 25, October 2 and October 9 in the Headlight Herald. Motion by Ferrazzano, second by Stobb, to advertise as specified. All voted in favor of the motion.

Fraser asked Polzine if he would object to being on the review committee. Polzine said he would consider being on the committee but not as a voting member, he would not want to be part of making a recommendation to the Council. Koopman said if the Council wanted people from the County or State on the committee she would need some time to contact them. Otto-Arvizu suggested the County

would be more accessible. Koopman said she was thinking of Anita Benson or maybe Steve Johnson from Lyon County Engineering or Tom Beem from MnDOT. Hannasch said they could decide on the two Council members at the next meeting.

Koopman stated at the last Council meeting they accepted the Cooreman Contracting bid for demolition of the houses at 3<sup>rd</sup> Street and State Street, but the bid did not include asbestos removal. She received two quotes for the removal of asbestos siding :

Cooreman Contracting	\$5500
MAAC, Inc.	\$4620

because siding is not regulated it can be removed by a contractor not specially licensed for asbestos removal. Since MAAC is the lower of the two Koopman recommended accepting their quote. Otto-Arvizu asked if MAAC is certified to remove asbestos. Koopman replied they are. Ferrazzano made a motion to accept MAAC's quote and Otto-Arvizu seconded. Stobb asked if the quote was just for one house. Koopman replied both houses were inspected but they only found asbestos in one. The quote they are voting on is for the removal of asbestos siding on the 3<sup>rd</sup> Street house. There was no asbestos found in the Sate Street house. Koopman added in the end they would have more money put into asbestos removal than into the actual demolition of both houses. Fraser asked if they have money left in the fund to do this. Koopman replied they only have \$4766 in the Code Enforcement fund and so will have to transfer some money from the General Fund Reserve. All voted in favor of motion to accept MAAC's quote.

Koopman said she received only one quote from MAAC for removal of pipe lagging, which is the asbestos covering around the pipes, for \$5800. The pipes require a licensed asbestos remover. Ferrazzano asked if there is any way to remove piping without disturbing the asbestos, like cutting entire sections of pipe out. Stobb thought any time asbestos was disturbed a licensed operator has to remove it. Ferrazzano said there may be sections of pipe without asbestos around them that can be cut through and the entire section removed.

Stobb asked if anything has happened with the John Her lot because at one point he offered to give it to the City. Koopman replied that she never heard more about it. Otto-Arvizu asked whatever happened with regard to the insurance money to be held by the City. Koopman replied the fire happened to this house prior to the City adopting the resolution about withholding insurance money. Stobb asked if the City qualifies for any County help. Koopman replied unfortunately not because the properties are not tax-forfeited. Stobb asked if paying for the demolition makes the City's claim to this property any stronger. Koopman replied they will assess the cost of demolition and asbestos removal against the property and so it makes it more unlikely anyone will purchase the property with those assessments against it. Motion by Stobb, second by Caron, to accept MAAC's bid for \$5800 for asbestos pipe removal. All voted in favor of the motion.

Hannasch presented a resolution calling for a hearing on proposed assessments for street improvements to be held October 14, 2002 at 6:45 p.m. Motion by Berndt, second by Fraser, to adopt the resolution. All voted in favor of the motion. (Res. No. 2002-57)

Hannasch presented a resolution approving an increase in pledged securities at State Farm Bank in the amount of 220,000. Motion by Caron, second by Ferrazzano, to adopt the resolution. All voted in favor of the motion. (Res. No. 2002-58)

Hannasch presented a resolution approving a budgeted transfer in the amount of \$9,000 from the General Fund to the Shade Tree Disease Fund. Motion by Ferrazzano, second by Stobb, to adopt said resolution. All voted in favor of the motion. (Res. No. 2002-59)

The Consent Calendar included the following: Police Activity Report; Fireman's Relief Association minutes for September 3, 2002; Municipal Accounts Payable; Monthly Financial Report; and the Election Judges Slate. Motion by Caron, seconded by Stobb, to approve the above listed items. All voted in favor of the motion.

Koopman reported there was nothing new for the 2003 budget.

Hannasch informed the Council that the Regional League of Minnesota Cities meeting would be held on October 22, 2002 starting at 1:30 p.m. in Worthington. If anyone is interested they should contact Koopman to make reservations. Hannasch said he has attended all of them since becoming Mayor and always receives very good information.

There being no further business motion by Caron, second by Ferrazzano, to adjourn. All voted in favor of the motion.

ATTEST:

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City Administrator

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Mayor

### October 14, 2002

The regular meeting of the Tracy City Council was called to order at 6:30 p.m., Monday, October 14, 2002 in the Council Chambers of the Municipal Building. The following council members were present: M. Fraser, C. Hannasch, J. Otto-Arvizu, S. Ferrazzano, D. Berndt, R. Caron, and R. Stobb. Also present was staff member: A Koopman and Assistant City Attorney Jim Kerr..

Hannasch asked for any additions or corrections to the minutes from the September 23, 2002 City Council meeting. Motion by Caron, second by Berndt, to approve said minutes as written. All voted in favor of the motion.

Hannasch asked if there were any additions or deletions to the agenda. He deleted (6A) a request for a cigarette license and added (10A.2) mayor appointment to the public works review committee. Motion by Berndt, second by Fraser, to approve the agenda as now written. All voted in favor of the motion.

Hannasch opened the public hearing regarding the Small Cities Community Development Block Grant application. Rick Goodeman, the grant writer, referred to a budget spreadsheet he distributed and explained the categories, project costs and sources of funding. The breakdown is as follows:

Commercial Rehabilitation	\$ 491,400	18 Businesses
Rental Rehabilitation	334,800	18 Units
Owner Occupied Rehabilitation	574,560	26 Homes
Assistance to Homebuyers	483,280	8 Acquisitions
Lead Hazard Assessment/Abatement	3,750	5 Contractor certifications
General Administration	<u>35,000</u>	
TOTAL PROJECT COST	<u>\$1,922,790</u>	

Funding will come from the following sources:

- Small Cities Development Program
- City Funds
- Economic Development Authority Funds
- Greater Minnesota Housing Fund/Southwest Minnesota Housing Partnership
- Community Revitalization Fund
- Community Fix-Up Fund
- Federal Home Loan Bank - Affordable Housing Program
- Southwest Minnesota Housing Partnership/Rural Development Mortgages
- Private Funds

The activities involved in the project were developed through a survey, inspections and interview process. Goodeman explained in detail each area of activity, the total costs and where the funds for each activity would come from. Generally 67% to 100% of each activity will be funded by grants, 0% deferred loans or 3% low interest loans. Goodeman explained the Lead Hazard Assistance and Abatement involves assistance to contractors to become certified in lead abatement. Hannasch asked what action the Council would have to take to proceed. Goodeman replied there are two resolutions and a list of compliances to approve. The first resolution is to identify slum and blight conditions in the downtown area, the second is a local government resolution establishing the City of Tracy as the legal sponsor for the project and the third item to approve is the acceptance of federal compliances in regard to the project.

Stobb said Goodeman mentioned lead abatement and the said the Council has been discussing asbestos abatement. Stobb wondered if there was anything addressing asbestos abatement. Goodeman replied it would be covered by the block grant funding. Kerr asked if they were targeting local contractors for lead abatement certification. Goodeman replied they were and that the grant would cover the costs of training. He added they don't currently have enough contractors in the area trained in lead abatement with the new federal regulations.

Motion by Fraser, second by Stobb, to adopt the resolution identifying slum and blight conditions in the Central Business District. All voted in favor of the motion. (Res. No. 2002-60)

Motion by Stobb, second by Fraser, to adopt the local government resolution for the Small Cities Development Program application. All voted in favor of the motion. (Res. No. 2002-61)

Motion by Stobb, second by Fraser, to agree to all federal compliances in regard to the development grant program. All voted in favor of the motion.

There being no further discussion Hannasch closed the public hearing.

Hannasch opened the public hearing regarding the 2002 Street Improvement Project assessments and asked Koopman and Don Polzine to answer any questions they could. Objections were received by David Anderson, Deann Carter and MnDot. Hannasch referred to a letter of appeal received from the State of Minnesota and asked Jim Kerr to address it. Kerr stated that Koopman brought the letter to his attention earlier today and he did some checking into it. James Stoutland who wrote the letter cited Minnesota Statute 435.19 which states “a governmental unit benefitted by an improvement may be assessed to the same extent as if such property was privately owned, but no such assessments, except for storm sewers and drain systems, shall be levied against a governmental unit for properties used, or to be used, for highway right-of-way. Kerr thought Stoutland may have cited the wrong subdivision of this statute. Kerr said Subdivision 2 is more relevant to a State owned property. In the case of a property owned by the State or any instrumentality thereof the governing body of a city or town may determine the amount that would have to be assessed if the land were privately owned. Kerr said the kicker to this subdivision is that no instrumentality, department or agency shall be bound by the determination of the governing body and may pay from available funds or recommend payment in such lesser amount as it determines is the measure of the benefit received by the land from the improvement. Kerr stated what this says is the City gets the final say overall and he felt Stoutland basis of argument was unfounded. Hannasch suggested getting back to Stoutland about his appeal. Koopman asked the Council if they wanted Kerr to contact Stoutland and all agreed.

Dave Anderson addressed the Council stating he owns a property on Front Street which is used for agricultural purposes only. He added the property went from a commercial to farm non-homestead status and stated he believes it was the City’s intention to never have an access to the property from Front Street when the City put up a fence in 1982. All access to property in last 20 years has been by South 4<sup>th</sup> Street.

Anderson said he and is not going to receive any benefit from the street improvements on Front Street. By comparison he said others like Steve Larson are paying \$840 and the church is the next highest with \$944. The City is asking Anderson to pay \$3700 which is 13 times greater than anyone else and he thinks that is an excessive amount. Anderson said he would also like to mention over the past six or seven years the City dumped snow on his property and he has never received any compensation for that. Hannasch said the assessments are all based on footage along street and added there is nothing stopping Anderson from installing a driveway on Front Street.

Anderson reiterated that he believes it was the City’s intention that there would be no access when they put up a fence along his property. Caron asked if the City owns the whole fence. Anderson asked if the fence was put on his or the City’s property. Polzine said the City bought property from Anderson Livestock for a right-of-way, the original fence was in the right-of-way and so was taken out and a new fence put back in a different location. Anderson said the fence adds no value to his property. Caron said Anderson could put a driveway in at any time. Anderson replied then the City would pay a lot more if they started hauling grain on Front Street.

Hannasch said only if it’s legal to haul depending on weight restrictions. Anderson said there is no tonnage posted, it just says no trucks. Caron said farm equipment was stopped last year from going over it.

Otto-Arvizu asked if the City maintains the grass. Polzine replied the City maintains the grass on all agricultural properties as they aren’t required to maintain it. Anderson asked how his property is zoned. Koopman replied as a I-1 or Industrial property. Anderson said in that case they couldn’t re-plat it for homes. Stobb said they could if it were re-zoned. Otto-Arvizu asked with the City owning the right-of-way if it was technically the City’s land. Polzine said Kerr would have to answer that but

the City bought the right-of-way and it's the same as any boulevard in front of any house.

Gary Brown with RLK stated his knowledge of right-of-way just means the City has access to cross that land with above or below the ground improvements. The City can't own it. If the land is sold the right-of-way has to be transferred with it. Brown added the only way to dispense with a right-of-way is to have a vacation hearing. Everyone within so many feet of that property is invited and they go through the process to vacate the right-of-way. The boulevard is not owned by the City, the home owner actually owns the property out to the center of the street but the City has the right to maintain streets and utilities within the right-of-way. Anderson said he doesn't think he is getting fair market value for what he's being assessed for.

Oliver Groff, from 921 Greenwood Avenue, said his tax assessment is \$130 but before discussing that he wanted to congratulate the Council on the good job they have been doing. Groff said he feels the assessment is out of line. He and his wife purchased their home in 1983 and little did he know that the taxes were going to double or better. Groff said he understands the need to take care of streets and sidewalks but down on Greenwood Avenue there are no sidewalks and he felt he shouldn't pay taxes on something he doesn't have. Groff said he is living on less than \$500 a month Social Security and on his income he can't handle a tax increase. He asked what to do if he can't handle the tax and asked what the City could do to help people in his situation. Hannasch said one solution is to amortize the tax over a period of 10 years. Koopman said there is also a senior citizen deferment that would be available until such time that the house is sold or he loses homestead status. Groff asked why he has to pay taxes on something he doesn't own.

Koopman asked Groff if he owns 50 feet of property along Greenwood and told him the assessment was for the overlay done on Greenwood.

Deann Carter stated she was speaking on behalf of her husband and herself regarding a 150 foot lot they recently purchased from Lawrence Thoma on Roosevelt Street. She felt the street improvements were no benefit to that property because they don't plan to build on it. There are no utilities being used on the property and no housing going up. Carter said she had no involvement in the decision to pave Roosevelt and they purchased the lot when the street project was just starting. She said they own the largest area on Roosevelt Street and she doesn't think it's an appropriate fee for a lot with no buildings on it. Hannasch asked her if when she bought the property she was told of the project. Carter replied she wasn't. Koopman said the public hearing was in January 14, 2002 and Thoma had an obligation to notify her of any pending assessments.

Carter asked if there was any kind of help in paying the assessment. She didn't feel a lot she was going to use for a gardening area should be assessed so high and didn't feel the street improvements did anything to benefit her lot. Hannasch replied it did if she ever wanted to sell the lot.

Otto-Arvizu asked Carter what the property is valued at. Carter replied they haven't paid any taxes yet so she wasn't sure. Otto-Arvizu said she thought there were statutes saying assessments can't exceed the value of a property. Stobb said the lot size is about the same as the Eastview lots. Kerr said what he was prepared to tell the Council and those questioning their assessments is how to approach the questions. Based on a similar case that took place in 1993 a municipality may levy an assessment if the following conditions are satisfied:

- A. Land must receive a special benefit from the improvement being constructed
- B. The assessment must be uniform for the same class of property
- C. The assessment may not exceed the special benefit

Special benefit is measured by an increase in market value of the land and an increase in market value is the difference between what a willing buyer would pay a willing seller for the property before the improvement then after the municipality completes the improvement. That is case law, not a statute. Otto-Arvizu asked if a lot was purchased for \$2000 if it would have to be sold for \$9000. Kerr replied an appraiser would have to determine the value. He said if the Council approves the assessments and receives an appeal it would be decided in District Court. Kerr added it is not practical for the city to hire an appraiser when there are multiple projects and areas. He said you have to look at the fact that Roosevelt was not previously paved and there is nothing on record at the present time to say what the property is now valued at. Kerr said property owners may find it difficult as a basis for an appeal

when property owners are only paying 25% of total costs. If a street would be vacated the right-of-way would revert back to the property owner. Kerr said as he recalls Front Street was once a gravel road and a bad one, it was then paved and four catch basins put in which is a benefit as it improves drainage. When a street is seal coated it improves the road and also helps with drainage.

Kerr said in a Eagan appeal case the property was assessed a huge amount of money but didn't front the road assessed. The court determined it was still a benefit to the property. Kerr said in Anderson's situation the fence was not put up as a permanent barrier, it was part of the deal for the street improvement and the City had to put up the fence because of livestock. Hannasch suggested it would be proper for the Council to take steps to approve the assessments and then handle any appeals after. Otto-Arvizu said she finds it hard to believe that an bare lot even with an improved road would sell for much in Tracy. The City has sold several lots for minimal costs. Koopman replied many of them were tax forfeited properties and the Council agreed to sell in order to get them back on the tax rolls. Otto-Arvizu stated the City had lots around swimming pool that sold for very low costs. Koopman said the difference is they are looking at a public property sale as opposed to City owned property. Stobb said there are several lots that sold for a much higher price in the past year and a half. Hannasch felt they would be setting a terrible precedence in reducing an assessment amount.

Fraser said the problem is how could the City determine how to lower an assessment. They would be picking figures out of the air. Koopman said it cost the City a certain amount to improve the street and that has to be paid. Ferrazzano asked Carter if she came with a figure in mind she would be willing to pay. Carter replied she spoke to Thoma when she was looking at the property she was under assumption that we would be paying the lower of the two figures for the assessment Thoma showed her. Thoma's property it turns out was the lower assessment but his has a house on it. Ferrazzano asked Carter how much she was willing to pay. Carter replied what would be fair is to pay an average of what the other people around her are paying. Stobb said the City is fair in charging every resident on Roosevelt the same amount per foot. The residents on Roosevelt requested the improvement over a year ago by petition. He said it is an expensive garden site but if Carter ever wanted to sell it as a buildable lot it would be beneficial.

Carter replied they would never be able to get \$9000 for this lot unless they put a house on it themselves. Hannasch said a 150 foot lot should sell fairly well if someone wanted to build.

Stobb asked how deep the lot runs. Carter said she was not sure because they are in the middle of purchasing it. Hannasch thought the assessment had been misrepresented to Carter. Stobb said he recalls at the public hearing all the assessment rates were given. Koopman added all costs came in lower than originally stated. Carter said her understanding was that of the people on Roosevelt only two people approved of it. Koopman replied four out of six residents signed the petition and one was deceased with a tax forfeited property. Those who signed included Dawn Benson, Elaine Bicek, Lois Lau and Dallas Norstegard. Carter asked if those four people own over 35% of the property on Roosevelt. Polzine replied they own one whole side and 100 feet on the other side.

Otto-Arvizu stated the City has had situations where property has been assessed for such a high amount the owners lets it go as tax forfeit. The City ends up absorbing that assessment and turning around and selling it in most cases for a minimal amount.

Gary Brown said someone made a good point in what would the City assess. The City is bound to assess 25% of the improvement by law. A city needs to assess a certain portion in order to sell bonds. There are no other source of funds other than the bonds the City sells. Some cities assess for substantially more than the 25% but the City of Tracy is choosing to assess the very least. Kerr said Brown was incorrect in regard to Carter's property since it is new construction which is assessed at 100%.

Carter said she was just asking that she pay an average of what everyone else is paying. Hannasch said if someone disagrees with the ruling of the Council they will have to take it to court. Kerr said he wanted to caution the Council in taking anything other than what was determined as the cost of the improvement, it would be picking a figure out of the air. He said Anderson has wisely submitted a written objection and anyone else with any objection should do the same. Ferrazzano asked by when did they have to receive a letter of objection. Koopman replied at tonight's meeting and added the public hearing notice stated a written objection must be submitted at tonight's meeting. Hannasch

stated those present may have a very valid argument but doesn't think it's the Council's responsibility tonight to change an assessment amount.

Anderson said it would be nice if the City checked all the footages. He said Polzine was with him and they determined one side of his property was longer than the others and Anderson said it would be nice to have something accurate. Koopman said there are some platted streets and alleys that come off there. Hannasch said that is something Anderson should bring with to an appeal. Otto-Arvizu said she was concerned that the Council told people at the original hearing to bring any concerns to the final assessment hearing and now they are saying to bring it to court. Carter asked if the Council can vote to have the City pay more of the improvement costs. Koopman replied no because new construction is 100% paid by property owners. Stobb said that Carter mentioned she was paying more than anyone else but Thoma is paying the same as is Lois Lau. Carter replied Thoma showed her two assessment notices he received and she thought she would be paying the lower of the two. Koopman said Thoma should have received three notices but the amount per foot is consistent. If he sold 150 feet and kept 150 feet the assessments should be the same.

Kerr asked for the legal description of Carter's property. Carter replied it is the Moses 3<sup>rd</sup> Addition, Block 3, the North ½ of Lots 7 through 12. Kerr said that is assessed at \$7614 and Thoma's has the North 100 feet of Lots 5 and 6 assessed at \$5076 and the North 50 feet of Lots 1 through 4 assessed at \$2538. The total comes out the same. Hannasch said the assessments are charged at \$50.76 per foot. There being no further discussion Hannasch closed public hearing. Motion by Caron, second by Stobb, to adopt resolution establishing the assessment roll for the 2002 Street Improvement Project. Otto-Arvizu said the basis for the Council to make the decision is that the assessments are equal in that everyone is paying the same amount per foot and it boils down to that somebody has to pay the bill. Kerr said the Council is acting under policy stated in the ordinance. Koopman added it is a ordinance issue as well as a bond issue. All voted in favor of the motion above. (Res. No. 2002- 62)

Hannasch opened a public hearing to discuss a nuisance complaint at 600 Greenwood Avenue #27. Chief Hillger said a complaint had been signed by the caretaker of the trailer court who has been after the owner to clean up the property. Hillger first investigated the complaint on September 20, 2002 and upon rechecking on October 10 there was no real improvement. He distributed two photographs which show a household appliance on the steps, an old car battery, trash and other debris. Hannasch said the only thing that had been moved were the bicycles. Caron asked if it should be up to the owners of the trailer court to handle the matter. Hannasch said they aren't allowed to move personal property so they have to go through the nuisance process. Hillger recommended to continue the abatement process. Motion by Stobb, second by Fraser, to continue the nuisance. Hannasch stated he would abstain from the vote and voting in favor were Fraser, Otto-Arvizu, Ferrazzano, Berndt, Caron, and Stobb. The motion carried.

Rick Nordahl presented a recap of bids received for the nurse/patient call system and the telephone system. He said they only received one bid in the amount of \$83,523 for the nurse/patient call system from IdeaCom Mid-America. Nordahl added Amiret Electric picked up the specs but never submitted a bid. IdeaCom Mid-America is a newly formed company of Dialnet. They both sell Executone but it will be serviced by IdeaCom rather than Dialnet. He recommended the Council move on the bid for the nurse/patient call system from Idea-Com Mid-America. Kerr asked Nordahl to state for the record who Idea-com Mid-America is and their track record. Nordahl stated they are an offshoot of Dialnet who has serviced the hospital's equipment for last 20 years. Motion by Stobb, second by Fraser, to accept Idea-Com Mid-America's bid for a nurse/patient call system. Stobb asked if someone else had bid on the system if they would supply the same components and quality. Nordahl replied they could, it wouldn't be Executone, it would be another brand but it would meet specifications. Kerr added it is not a sole source bid. All voted in favor of the motion.

Nordahl informed the Council he received three bids for a PBX phone system:

Dialnet	\$43,271.00
Northwestern Communications	\$42,548.72
Frontier Communications	\$49,826.00

He said they had an outside company take a look at the specs and all bids received cover the required specifications. Nordahl also had staff members look at the options and they agreed to eliminate the Dialnet bid because of that company's lack of experience in phone systems. Their phone hardware meets specifications but the other systems can be upgraded as needed and should last for at least 20 years. Nordahl said Northwestern Communications is out of Sioux Falls and Frontier Communications is out of Worthington and staff members felt a local company was advantageous in terms of response time and also wanted to look at supporting local business. Slayton already has a Frontier system and as they look at integrating the Westbrook, Slayton and Tracy hospitals it may prove beneficial to have a Frontier system is all the hospitals.

Nordahl said in looking at hardware and installation differences the biggest reason he wants to go with Frontier is knowing they can service the hospitals. He called two facilities for references that have installed Frontier systems. The first in Belle Plaine is a nursing home with a ten year old system who said when they added 10 beds all Frontier had to do was install a new card. Likewise Fairmont added a clinic/hospital combo that had separate phone systems and it worked very smoothly to combine them under a Frontier system. Nordahl felt going with Frontier would be worth the investment. Otto-Arvizu said she also understood the hospital could save \$150 per month going with Frontier because they would be considered local service. Nordahl replied yes in a matter of five years they would make up the difference in original cost. Kerr asked if this phone system was for both the hospital and the clinic. Nordahl replied it was. Motion by Ferrazzano, second by Caron, to accept the Frontier bid. All voted in favor of the motion.

Hannasch stated that USbancorp has made a counter-offer of \$2000 plus cost of shipping to terminate the ATM contract with the Municipal Liquor Store. Stobb said the original intention was to get the matter settled so he move to accept the counteroffer and Caron seconded. Stobb asked if they could choose how to ship the ATM. Otto-Arvizu felt the fact that it was put in writing makes it concrete. Ferrazzano asked if there was any indication as to why they didn't accept the City's offer of \$1000. Ron Radke said when he talked to Brad Piehl from USbancorp he said other offers were going higher. Hannasch said in other words there have been a lot of these settled in this manner. Fraser abstained from voting and Hannasch, Otto-Arvizu, Ferrazzano, Berndt, Caron, and Stobb voted in favor of the motion. The motion carried.

Hillger said he was contacted by the Women's Rural Advocacy Program (WRAP) about five or six ago with an offer to give the police department a digital camera and printer. No money would change hands but the agreement will tighten up the working relationship with WRAP and they will have more say in domestic abuse policy. There will also be some reporting requirements. Hillger said WRAP was encouraged by Eric Johnson, Chief of Minneota, to apply for this grant so every law enforcement department in Lyon County will be getting same equipment. Stobb asked if they would be free to use the camera for other issues. Hillger replied the WRAP coordinator said by all means to use it for everything. Motion by Stobb, second by Fraser, to approve the agreement with WRAP. All voted in favor of the motion.

Koopman informed the Council that the City received a nuisance complaint regarding 324 South Street but there are no visible external concerns. She suggested it be treated as a hazardous building because it has a hole in the roof and windows are knocked out. They would want to first ask for permission from the owner to enter and inspect the building. Motion by Stobb, second by Caron, to begin the hazardous building process. All voted in favor of the motion.

Otto-Arvizu asked to bring up the dog impoundment center which is not listed on the agenda. She said at the attorney meeting they discussed a contract for the dog impoundment center and asked where they were at with it. Kerr replied they were not going to go with a contract but rather go with a lease because Steve Larson checked into insurance and it was prohibitive to enter into a contract. It was suggested to Larson that he be hired as a part-time City employee and the City will lease the facility. Otto-Arvizu said the only reason she is bringing it up is because she had three dogs brought to her house over the weekend and she only has one kennel. Kerr said she doesn't know where Larson is at with the construction. Kerr asked if Larson has contacted Koopman about the situation and recommended Larson apply for part-time employment with the City. Ferrazzano suggested putting the issue on the agenda for the next meeting and if nothing was set up by then to look at other options.

Hannasch presented a resolution approving an increase in pledged securities at Minnwest Bank South in the amount of \$2,500,000. Motion by Fraser, second by Stobb, to adopt the resolution. All voted in favor of the motion. (Res. No. 2002-63)

Hannasch presented a resolution approving payment to Salonek Concrete & Construction, Inc. for work completed to date on the Aquatic Center in the amount of \$20,815.69. Hannasch asked if all their work had been completed. Koopman replied the City is still withholding money for liquidated damages plus \$500. Motion by Ferrazzano, second by Caron, to adopt the resolution. All voted in favor of the motion. (Res. No. 2002-64)

Hannasch presented a resolution approving payment to Fulda Electrical Service, Inc. for work completed to date on the Aquatic Center in the amount of \$2,936.60. Motion by Stobb, second by Caron, to adopt the resolution. All voted in favor of the motion. (Res. No. 2002-65)

Hannasch presented a resolution approving payment to Heartland Mechanical, Inc. for work completed to date on the Aquatic Center in the amount of \$627.00. Motion by Stobb, second by Fraser, to adopt the resolution. All voted in favor of the motion. (Res. No. 2002-66)

Hannasch presented a resolution approving a temporary loan to O'Brien Court in an amount not to exceed \$37,000 for carpet replacement. Motion by Ferrazzano, second by Caron, to adopt the resolution. Otto-Arvizu said O'Brien Court didn't have money built up in a depreciation fund and asked who was going to do research how everything would come out in the end. Because of the age of the building they are at a point where they will need to start doing some major renovations. Koopman replied an increase in capital improvements will increase the depreciation fund and that will be reflected in the lease payment. All in favor All voted in favor of the motion. (Res. No. 2002-67)

The Consent Calendar included the following: Multi-Purpose Center minutes for September 9, 2002; Monthly Water and Wastewater report for August; Cemetery Commission minutes for September 9, 2002; Monthly maintenance log; Police Activity Report; and Municipal Accounts Payable. Motion by Berndt, seconded by Fraser, to adopt the above listed items. All voted in favor of the motion. Stobb mentioned it had been a while since the Council had seen an EDA report. Hannasch said he will talk to Gervais about getting the minutes.

Hannasch asked if anyone was attending the Regional LMC Meeting on October 22. He stated that Koopman and he would be attending

Hannasch informed the Council that he has asked Stobb and Caron to serve on the interview committee for the public works director position. Hannasch added they have only received two applications and hope to set up interviews for next week. Caron asked to add another member of the Council to that committee. He understands they would go through the review process with a Lyon County representative and Polzine but then they would have three Council members to review and bring a recommendation to the rest of the Council. Hannasch had no objections. Stobb said they originally discussed a member committee and asked if the others were going to be voting members. Hannasch replied they wouldn't, the Council would just asking for their input and expertise to help make a recommendation. Ferrazzano volunteered to serve on the committee.

Koopman said she assumes the Council members would want to review the applications themselves before setting up interviews. Otto-Arvizu said if they only get two applications she wants to suggest re-advertising for applicants. All agreed to re-advertise if necessary. Caron asked if they could set up a meeting right now to review applications. Committee members agreed to meet Tuesday at 5:15.

Caron asked when the Council was going to get a report on the pool. Koopman replied that we have a report summary but needed a detailed report to determine profit and loss. They should have a report by the next Council meeting.

There being no further business motion by Caron, second by Ferrazzano, to adjourn. All voted in favor of the motion.

ATTEST:

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City Administrator

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Mayor

**October 28, 2002**

The regular meeting of the Tracy City Council was called to order at 6:30 p.m., Monday, October 28, 2002 in the Council Chambers of the Municipal Building. The following council members were present: M. Fraser, C. Hannasch, J. Otto-Arvizu, S. Ferrazzano, D. Berndt, R. Caron, and R. Stobb. Also present was staff member: A Koopman.

Hannasch asked to deviate from the normal agenda and take a few moments of silent reflection in memory of Kenny Anderson.

On behalf of the Chamber of Commerce, Robert Gervais presented a Proclamation from the City of Tracy, California to Tracy, Minnesota, a key to their city and an afghan showing their city's historical sites. Gervais said they also invited citizens of Tracy to their Dry Bean Festival next August. Hannasch said Tracy, California is located one hour east of San Francisco. Otto-Arvizu asked what the City is going to send back. Hannasch replied they would work on some ideas.

Hannasch asked for any additions or corrections to the minutes from the October 14, 2002 City Council meeting. Motion by Ferrazzano, second by Fraser, to approve said minutes as written. All voted in favor of the motion.

Hannasch asked if there were any additions or deletions to the agenda. He added (7A) a resolution approving payment to Heartland Mechanical. Motion by Stobb, second by Caron, to approve the agenda as now written. All voted in favor of the motion.

Frank Cesario attended the meeting to present the Strategic Technology Plan for Tracy. He stated Tracy has been part of the TNT program for two years and as result is involved in several projects. The purpose of TNT is to ensure that Southwest Minnesota can compete in today's economy through advances in technology. Cesario said they are currently in phase three of the program which is designed to assist communities, businesses and residents in implementing technology and communications development through strategic planning. The goal is to spur economic growth through technological innovations.

Cesario explained the strategic plan and the six year timeline that was developed by a committee composed of representatives from the City offices, EDA and department heads. The plan includes goals, a proposed budget for each year, training needs, and lists requirements for hardware and software. A mission statement and vision were also developed by the committee. Some key goals include installation of conduit for future cabling and fiber optics, upgrade to a local area network (LAN) system for the City offices, implement federal and state crime reporting and data access and incorporate online utility billing. Budgeting for the various projects is estimated at about \$16,000 per year.

Cesario stated it was a goal to become and stay technologically viable prior to being mandated by the state and federal government to incorporate more on-line data. He said it will be very beneficial to Tracy to do this gradually year by year so there won't be a scramble to comply when the time comes. Otto-Arvizu asked about the goals for 2002 since the year is almost gone. Cesario replied the City may want to adjust the calendar accordingly. Gervais said there is a network installed in the City offices now and they can access files between offices so that goal has been met. Otto-Arvizu was also concerned that there was nothing in the budget for 2003 for this program. She asked if there is someone who will be following through on the project schedule. Cesario replied he was here to present the plan to the Council in the hopes that the Council will adopt the plan for a technology upgrade. The next step is to assign responsibilities for each step. He said they may want to give City staff some of the responsibility and some to the EDA. Otto-Arvizu asked if there would be someone in charge overall. Cesario replied the EDA will be the group to monitor the plan. He added these are all attainable goals and this is the City of Tracy's plan but it doesn't mean the City has to finance these goals carte blanche. The City will need to budget yearly for goals but may need to make cuts and additions here and there. Each year the City will need to discuss and debate the technological upgrades and adjust the plan and schedule accordingly.

Hannasch said one of the things mentioned is grants and asked if the City is going to be informed of

grant availability and receive assistance in applying. Cesario replied there will be grants available but there will be a lot of competition for them so they won't be able to rely on them solely. Another thing that had been discussed is working with local providers and requesting discounts for City projects. The general levy can be a funding source and some cities choose to implement a sales tax to finance these types of projects. Bonding is also another source of funding.

Hannasch said in most cases this is probably the first information the public has gotten about this program and it is definitely important to the future of Tracy. He said 2002 is probably a little soon for the City to do anything with the plan but they can look at doing more in 2003. Cesario replied Gervais has an electronic copy of the plan and the dates can be changed as needed. Koopman said it appears that Cesario is recommending the City hire an individual to oversee the plan. Cesario replied not for overseeing the plan but to administer the technology, the City will need someone with expertise to maintain and upgrade the technology as needed. He said most communities have appointed someone who has some knowledge in the use of computer systems but not someone who is trained in information technology.

Stobb said his impression of this plan is that it was put together with public input and that makes it different from other communities, this is truly Tracy's plan. Cesario replied the plan was drafted based on Tracy's particular needs and goals. Stobb asked how the City has funded what has been done already. Gervais said the TNT membership was paid through the EDA. Koopman added the network was budgeted under administration costs but they don't have the \$16,000 recommended in the plan budgeted for 2003. Cesario said as Hannasch recommended they can look into grants and other ways to fund the project. Hannasch said the budgeting aspect can be worked on and some factors of the plan may have to be changed but if they don't have a plan in place the City won't go anywhere.

Stobb said one of the items budgeted in 2002 was \$3000 for grants and asked if that was a grant amount available. Cesario replied that \$3000 would go towards hiring someone to assist in the grant application process. Hannasch informed the Council that Cesario will be at EDA meeting on Friday, November 1<sup>st</sup> and can answer any questions they may have at that time. Gervais stated he thinks its important to be proactive instead of reactive when it comes to technological upgrades. Stobb asked if they laid any conduit with the street work that was done this summer. Koopman replied they didn't but most was overlay. Gervais said the Eastview lots would be a prime example of a place to upgrade. Stobb asked if the Council acts on the plan at the next meeting, would it be soon enough to proceed with something in Eastview. Gervais replied it would be. Cesario said there are aspects of the plan that don't cost any money but just take time, such as changing ordinances. Gervais said Cesario made reference to being a Minnesota Star City, which proves you are a progressive city. The trend now is to become an E-Commerce City. Stobb asked if there are steps to be taken to become an E-Commerce city. Cesario replied the application has been put in and Tracy has met all the qualifications but just has to implement the plan. He said a copy of the application can be given to the Council. It was the consensus to place this item on the next agenda for approval.

Hannasch said the Council received the Aquatic Center financial report which is not complete because there are still some expenses coming in. Koopman said she still doesn't have an accurate amount for insurance and there is a \$546 credit from Coca Cola which isn't included. Some of the expenditures are one time expenses. Koopman said even though they have this preliminary report she didn't feel it was accurate to use in determining next year's pool budget. The report shows a net loss of almost \$49,000 but doesn't include the liquidated damages which will have to be determined. Koopman said season ticket prices were cut in half this last year as well so it is difficult to make concrete decisions based on this information. The Council will have to determine if they are going to weigh the cost of season passes at a lesser amount in hopes of selling more or go with original recommended season pass prices. Hannasch said they also lost five weeks of the swimming season this year so there are a lot of variables. Stobb said they lost five weeks of income but they didn't have the expenses either. Hannasch said they did have the cost of labor because the City had to pay staff for the entire season. Koopman thought they needed to have one full year of operations in order to better determine any changes.

Otto-Arvizu asked if the pool shows a loss where would the money come from to cover it. Koopman replied from the taxpayers. Stobb asked if the liquidated damages don't come through if the money would come from the insurance refund the City received or from the general fund. Koopman said she

doesn't want to think of using the general fund because the City will be in limbo as of the end of this year and they still don't know what the legislature is going to do. The Governor may still impose an unallotment of funds and the City won't get another payment until June. Koopman added that Minnesota cities have not taken a hit the last three or four years but eventually it is going to happen. Otto-Arvizu asked if the Council would want to consider a pool committee to look at the pool budget. Hannasch replied they may want to look at that later but wouldn't want to set one up now. Koopman said she would like to work with staff and come back with a recommendation before proceeding with the budget.

Hannasch presented the emergency evacuation plan for the Prairie View Healthcare Center. Prairie View is asking the City if they can designate the Prairie Pavilion if a primary evacuation center is needed. Motion by Caron, second by Ferrazzano, to approve the request. Stobb asked if this was initiated by Prairie View and said he was a little puzzled because the City emergency management plan has already designated the Prairie Pavilion as an emergency site. Koopman replied she thinks Prairie View was required to have something in place by regulations. Stobb said he doesn't want them to think the Pavilion is an exclusive site. Koopman said they can incorporate something in the agreement to state that. Stobb thought that would be a good idea. Caron and Ferrazzano agreed to amend their motion to that effect and all voted in favor.

Koopman stated the interview committee met and interviewed three applicants and unanimously agreed to offer the Public Works Director's position to Rick Robinson. The starting pay would be at Step 2, equaling \$37,752 plus three weeks vacation. Caron said Robinson interviewed very well. Koopman added everyone was impressed with his qualifications. Stobb said no one can come in with all the knowledge that Don Polzine has but Robinson does have a lot of experience. Otto-Arvizu made a motion to accept the recommendation of the hiring committee and Fraser seconded. All voted in favor of the motion.

Koopman referred to her memo regarding the Fair Labor Standards Act (FLSA) and said she has known for some time that the City is not in compliance. The FLSA has been discussed at the Regional League meeting and the issue of comp time came up during the interview process. The FLSA states the City cannot designate a specific number of hours as comp time and cannot base comp time on basis of quality or quantity of work. Previously the Council adopted the policy of allowing 16 hours of comp time per year for department heads. This policy is in violation of the FLSA and can no longer continue. The City needs to recognize that on occasion department heads may put in an excessive amount of additional time and should be allowed to take some time off without having it charged against sick leave or vacation, but it has to become an administrative decision.

Otto-Arvizu said this is the first time the Council was ever told the City was not in compliance and she was not sure how they could have a policy not in compliance. Koopman replied at the time the policy was put into place there was one individual abusing the use of comp time. Since then there have been no problems. Otto-Arvizu asked if there would be a lot of oversight on this issue so that department heads that put in a lot of extra hours can get comp time in lieu of overtime. Koopman replied department heads are salaried and not eligible for overtime but as long as comp time is not abused and is approved through administration it will work. Caron asked what the FLSA means by exempt employees. Koopman said employees who are exempt from the overtime provisions must qualify under the duties and salary provisions listed in the act.

Ferrazzano asked what excessive was going to be defined as. Koopman replied it was difficult to define excessive, but a department head would just need to get approval from her and cite the reason for the comp time request. Stobb made a motion to grant the City Administrator the authorization to grant comp time to City Department Heads and Otto-Arvizu seconded. Koopman said the key is the City cannot document the hours in regard to comp time. Otto-Arvizu said she finds it strange that they cannot document it. Koopman said department heads used to put down all the hours they worked but were told they couldn't do that, then they would essentially be paid by the hour. Otto-Arvizu asked if someone puts in an excessive amount of time and asks for comp time how would it be determined. Polzine said he has asked what the definition of excessive time is many times and has never been given an answer. Koopman replied the problem is there is no definitive answer, it is a discretionary decision. It will just have to be monitored so that it is not being abused. Berndt asked if they would have to have some guideline of hours because the pay is salary no matter how many hours are put in.

Koopman replied they cannot legally keep track of the number of hours, it defeats the whole purpose of salary and comp time.

Koopman said she wasn't sure if she was being clear. If a person puts in excessive overtime they would have to have very clear evidence of the excessive time. Ferrazzano thought they needed to get rid of the term excessive and state the hours they put in. Koopman replied they would then be paying a person by the hour and that defeats the purpose. Stobb said a salary person doesn't have set hours and just because a salaried person works 42 or 45 hours in one week it was maybe only 35 the week before. Polzine stated all department heads are required to work a minimum of 40 hours per week. Stobb thought they should take a vote on the motion to give the City Administrator the authority to grant comp time to department heads. All voted in favor of the motion.

Hannasch presented a resolution approving payment to Heartland Mechanical, Inc. for work completed to date on the Aquatic Center in the amount of \$6,921.90. Motion by Berndt, second by Stobb, to adopt the resolution. All voted in favor of the motion. (Res. No. 2002-68)

The Consent Calendar included the following: Monthly Financial Report for September; Fireman's Relief Association minutes for October 7 and 10, 2002; Economic Development Authority minutes for July 19, August 2, 16, and 30, and September 6, 19 and 20, 2002; and Municipal Accounts Payable. Motion by Ferrazzano, seconded by Fraser, to adopt the above listed items. Otto-Arvizu asked about the Fireman's Relief Association minutes which state there is no information regarding the IRS fine. Hannasch replied a fine was levied by the IRS because they say the accountant didn't file some paperwork on time. This was an IRS error that they are trying to get resolved but the fine will be paid by the accountant if they can't resolve it. All voted in favor of the motion above.

Hannasch informed the Council the first meeting in November will be held on Tuesday, November 12, 2002 at 6:30 p.m.

Sandy Carpenter informed the Council for her degree she needed to take a local and rural politics class and an assignment was to interview members of a local political organization. She handed out a list of questions and asked any Council members who had time to answer them to give her a call and she would pick them up. Carpenter said any information she received will be turned into a case study telling about what is done at this level of government.

There being no further business motion by Caron, second by Ferrazzano, to adjourn. All voted in favor of the motion.

ATTEST:

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City Administrator

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Mayor

**November 7, 2002**

The special meeting of the Tracy City Council was called to order at 12:35 p.m. on Thursday, November 7, 2002 in the Council Chambers of the Municipal Building. The following council members were present: C. Hannasch, J. Otto-Arvizu, S. Ferrazzano, D. Berndt, R. Caron, and R. Stobb. Absent was: M. Fraser. Also present was staff member: A Koopman.

Motion by Caron, second by Berndt, to adopt a resolution certifying that the General Election was in all respects duly and legally conducted on November 5, 2002 and that the following results for Mayor and City Council were canvassed and officially counted:

**MAYOR**

<b>NAME</b>	<b>TOTAL</b>
Steve Ferrazzano	539
Marv VanAcker	272

**WRITE INS:**

Russ Stobb	1
Dave Berndt	3
Dan Anderson	1
Don Polzine	1
Mike Peterriens	2
Claire Hannasch	1
Homer Dobson	1
Kurt Enderson	1

**CITY COUNCIL**

<b>NAME</b>	<b>TOTAL</b>
Russ Stobb	684
Tim Byrne	459
Jan Otto-Arvizu	409
Gregory Torkelson	380
Adeline Johnson	307

**WRITE INS:**

Dan Anderson	1
Tim Jones	2
Steve Larson	1
Russ Roots	1
Bottere Baker	1
Mike Peterriens	1
Joyce Visker	1
Steve Almlie	1

Steve Ferrazzano is hereby declared the winner of the Mayor's position and will serve a term of four years commencing on the first meeting in January, 2003. Russell Stobb, Tim Byrne and Jan Otto-Arvizu are hereby declared the winners of the City Council positions and shall serve a four year term commencing on the first meeting in January, 2002. All voted in favor of the motion. (Res. No. 2002-69)

There being no further business the meeting was adjourned.

ATTEST:

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City Administrator

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Mayor

**November 12, 2002**

The regular meeting of the Tracy City Council was called to order at 6:30 p.m., Tuesday, November 12, 2002 in the Council Chambers of the Municipal Building. The following council members were present: M. Fraser, C. Hannasch, J. Otto-Arvizu, S. Ferrazzano, D. Berndt, and R. Caron. Absent was: R. Stobb. Also present was staff member: A Koopman.

Hannasch introduced Rick Robinson, the new Public Works Director, to Council members. He also congratulated Otto-Arvizu and Stobb on their re-election to the Council and Ferrazzano as the newly elected Mayor.

Hannasch asked for any additions or corrections to the minutes from the October 28, 2002 City Council meeting. Motion by Caron, second by Fraser, to approve said minutes as written. All voted in favor of the motion.

Hannasch asked if there were any additions or deletions to the agenda. Koopman added (5D) a notice of appeal and Caron added (11B.3) vacant lots. Motion by Ferrazzano, second by Caron, to approve the agenda as now written. All voted in favor of the motion.

Hannasch read a Mayor's proclamation designating that Friday, November 15, 2002 be observed as Tracy Community Band Festival of States Day. He stated the proclamation will be presented to Clint Peterson on Friday at the Band's fund raising dinner.

Chief Hillger reported no change in the public nuisance at 200 State Street. Koopman said there was nothing included in the agenda packet but this nuisance was a complaint of trees around the foundation of the house. An order of abatement was issued to the owner but no response was received and nothing was done. Motion by Ferrazzano, second by Caron, to proceed with the abatement process.

Gary Garrels reported that he and John Judkins inspected the home and garage at 174 Center Street as possible hazardous buildings. Garrels passed around photos of the house and the garage and stated the house poses no real hazards other than it is a real mess. Structurally the house is sound, the foundation is good and the plumbing appears to be in good shape, there is a new electrical box with circuit breakers and new wiring which has been inspected by the State. There are some broken windows which should be fixed because snow could blow in and one of the bedroom windows is nailed shut so that is a code violation, but Garrels said since it is an existing building he is not sure what can be done about that. Other than needing to be cleaned up he said it is sound.

Kerr said some of the pictures reflect debris and asked if any was old food. Garrels replied there are empty cans and containers. Kerr asked if vermin would be attracted. Garrels replied it was possible. Kerr stated it would be a nuisance violation. Garrels asked if the original nuisance was abated. Caron replied it wasn't. Garrels said he was wondering if some of junk that was outside was thrown inside the house but he doesn't know that for a fact. Hannasch said structurally it may not be a hazard but with all of the debris in the house it could be considered a health hazard. Garrels replied they could maybe contact the Department of Human Services but he wasn't sure if anything could be done since no one is currently living there. But it is definitely not very sanitary. Otto-Arvizu asked if Garrels meant not sanitary in terms of food items left there. Garrels replied in terms of the junk and debris and said it is almost unbelievable inside and he could hardly get into the basement for all the debris.

Hannasch said he would think if someone owned a piece of property and wanted to sell or rent it they would want to take the time to clean it up.

Otto-Arvizu asked how permission to enter the premises was requested from the owner. Kerr replied a certified mail request was sent to Sandra Kramer but no response was received. Kerr then requested an Administrative Search Warrant which was granted by the District Court judge. Otto-Arvizu asked if Kramer knows the City has entered and inspected the buildings or that this issue was on tonight's agenda. Kerr stated what the inspection was for was to determine whether or not either the house or garage are hazards. Then the Council has to make some determinations if and how they want to proceed and then Kramer would be notified of the actions taken by the Council and she could come to be heard by the Council. Kerr stated this public nuisance has existed since February of last year. Otto-Arvizu said the nuisance may have existed since last year but Kramer just received notice of the nuisance for the first time on June 5, 2002.

Hannasch felt to be fair to Kramer they should give her notice and a time frame to clean up the house but he thinks something needs to be done because it is a health hazard and could be inviting rodents. Ferrazzano thought if it was mostly garbage to be picked up two weeks should be enough notice, more time could be allowed for the windows. Garrels said he didn't see any evidence of animals when inspecting, but if someone is going to move in, the house will need to be cleaned up. Ferrazzano said he thinks the house has to be cleaned up, if there are not rodents now there will be. Garrels said another concern is there is water in the toilets so as soon as it freezes outside there is no heat so there will be broken pipes. Otto-Arvizu thought the Council should order a clean up and the pipes be drained. Ferrazzano made a motion that Kramer remove all the garbage from the house at 174 Center Street and drain the water pipes within two weeks. Otto-Arvizu seconded. Caron asked if they could make the deadline November 24<sup>th</sup> so a re-inspection can be done before the next Council meeting. The motion was amended to include a November 24<sup>th</sup> deadline and all voted in favor. Koopman said she will have a letter drafted and certified to Kramer.

Garrels reported the garage at 174 Center is in sad shape, if someone were handy they could fix it but he doesn't know if Kramer has the ability to. Garrels recommended the Council decide if they want to require Kramer to fix or remove the garage. He stated the garage is leaning but could be straightened. Otto-Arvizu asked if Garrels thought it was a hazard. He replied it is not going to fall down next week or even this year but there are holes in the roof and the siding is starting to decay and it will only get worse. Hannasch said when other garages have been deemed unsafe the Council has given a 60 day period to repair or remove. Garrels said the garage is also full of tires and debris. Kerr thought that would be a continuation of the public nuisance. Otto-Arvizu asked how many tires were there. Garrels guessed ten or more. Kerr said he has some pictures taken previously that show tires being stored and pointed out the garage is not sound and therefore not appropriate for storage. Ferrazzano made a motion to give Kramer two weeks to clean out the garage and 60 days to remove or repair it. Caron seconded the motion and all voted in favor.

Hannasch reported that a nuisance complaint was filed on the house at 275 3<sup>rd</sup> street but it didn't qualify as a public nuisance. However the possibility it is a hazardous building exists. Motion by Fraser, second by Ferrazzano, to contact the Building Inspector and Fire Marshal to inspect the home. Otto-Arvizu asked if it was privately owned but not occupied. Koopman replied that was correct. She has not checked into the ownership at this time but they will need to contact the owner to request entry to the home.

Koopman informed the Council that the City was served with a notice of appeal from Dave Anderson regarding the 2002 Street Assessment against his property. Otto-Arvizu asked where the process goes from here. Koopman replied the City Attorney will respond and supply the information requested. Kerr stated the appeal goes through District Court and the documents spelled out in the statute are provided by the City. Otto-Arvizu asked when the notice goes through how long until the case appears in court. Kerr replied Anderson has to file within 10 days and he assumes the case will be expedited because Anderson has that right. Kerr added there will probably be some expenses for expert witness and other special legal fees.

Hannasch presented a request to change the hours at the library from 9:00-12:00 on Saturdays and from 1:30-8:00 on Thursdays. Motion by Caron, second by Otto-Arvizu, to change the hours of the

library as requested. Ferrazzano asked if they should include an effective date. Hannasch suggested to start the week of November 18, 2002. The motion was amended and all voted in favor.

Hannasch presented a report about the municipal building boiler. Gary Hanson from GH Plumbing did some research on the available options:

1. Replace the tubing - materials \$4800
2. Install a new Bryan boiler (same brand as the current boiler) materials \$9600
3. Install two new Slant Fin boilers - both run only on demand - materials \$3800

Labor costs for all three options will run between \$1500 and \$2000. Berndt asked if Option 3 boilers would do the same job as the current boiler. Koopman replied it is her understanding they would. Caron asked about the labor and Koopman said Hansen had indicated would not exceed \$2000. Motion by Ferrazzano, second by Berndt, to approve Option 3. Otto-Arvizu asked if there is any reason that no other bids were obtained. Koopman replied no other than Gary Hansen has always been the one to do the work on the City boilers. Ferrazzano retracted his first motion and made a motion to approve Option 3 if Hansen can do the work for a maximum of \$5800. Kerr suggested if the City was not going to get another quotes to declare this an emergency situation. Hannasch felt that if the work could be done now to replace the boiler prior to it breaking down in the middle of winter and becoming an extreme emergency that it could be considered an emergency now. Ferrazzano amended his motion to include an emergency provision and Berndt seconded. Otto-Arvizu asked if the boiler is for all the buildings. Koopman replied it is strictly for the municipal building side. All voted in favor of the motion.

Hannasch presented a resolution approving an increase in pledged securities at Minnwest Bank South in the amount of \$500,000.00. Motion by Fraser, second by Berndt, to adopt said resolution. All voted in favor of the motion. (Res. No. 2002-70)

Hannasch presented a resolution approving an increase in pledged securities at State Farm Bank in the amount of \$240,000.00. Motion by Caron, second by Fraser, to adopt said resolution. All voted in favor of the motion. (Res. No. 2002-71)

Hannasch presented a resolution approving budgeted transfers totaling \$451,112.00. Motion by Caron, second by Berndt, to adopt said resolution. Ferrazzano asked how it was determined that each of these funds has enough money to transfer out of them. Koopman replied it was actually incorporated in the budget. She said when they approved the 2002 budget the revenue projections included a transfer of \$40,000 from the Liquor Store Fund to the General Fund so any improvements would have to be incorporated in next year's budget or they look at reducing the revenue. But if they reduce the revenue they are shorting the General Fund. Caron asked if the City received the government aid money from the State yet. Koopman replied not until December 26, 2002. Ferrazzano asked by transferring these funds if they were shorting anyone. Koopman replied no, everything was incorporated in the budget document done last year. All voted in favor of the motion. (Res. No. 2002-72)

The Consent Calendar included the following: Cemetery Commission minutes for October 17, 2002; Planning Commission minutes for November 4, 2002; Monthly Water and Wastewater report; Monthly Police maintenance log; Police Activity Report; Multi-Purpose Center minutes for October 21, 2002; and Municipal Accounts Payable. Motion by Caron, seconded by Fraser, to approve the above listed items. All voted in favor of the motion.

Hannasch asked Council members to consider approval of the TNT plan. He stated when the City has a plan they have to keep in mind that changes will have to be made and dollars adjusted but Hannasch thinks it is important to have a plan in place. Caron asked how much the next step is budgeted for. Hannasch replied this is not approving any kind of budget, it's just to put a plan in place with goals to work towards. He added the Council will need to look more into this plan to determine any necessary changes. Otto-Arvizu suggested they would need to look at the plan before doing next year's budget. Caron asked for clarification that they are not committing any money. Otto-Arvizu said she would like to delegate the oversight of this plan to somebody. Hannasch said he thinks the EDA director will be responsible for overseeing the plan. Otto-Arvizu said she hopes that the entire EDA

Board as a group will oversee it. Motion by Fraser, second by Caron, to approve the Strategic TNT Plan. All voted in favor of the plan.

Hannasch stated the December meeting dates are currently set at December 2 for the Truth in Taxation Hearing and December 9 for the regular Council meeting. However another meeting is scheduled December 9 between the Hospital Board and State Legislators and Koopman and Hannasch are both on the Hospital Board and would like to attend. Hannasch suggested moving the regular meeting date to Monday, December 16 adding that the Council usually only meets once in December and this would be more towards the middle of the month. Otto-Arvizu made a motion to change the regular Council meeting to Monday, December 16, 2002 at 6:30 p.m. and Caron seconded. All voted in favor of the motion.

Hannasch informed the Council there will be an open house at the new Lyon County Public Works building on November 22, 2002 from 1:00 to 6:00 p.m.

An invitation was extended to the City Administrator and Council members to attend a joint meeting of the County, cities and townships located in southern Lyon County for an informal round table discussion on Wednesday, November 20, 2002 at 6:00 p.m. at the Mediterranean Restaurant. Ferrazzano, Otto-Arvizu, Caron and Hannasch all stated they would attend. Koopman will check if Stobb wants to attend.

Caron asked if there was a selling price established for the 3<sup>rd</sup> Street lot where the City recently tore down the house. Koopman replied not at this time. Otto-Arvizu said in the past the Council has sold lots, most recently the Bakker lot. Koopman said this is an entirely different situation because the City incurred expenses on this lot. Koopman said she has sent a letter to John Her regarding gifting this lot to the City and if he does that then the City can sell or give it to someone. Otto-Arvizu said she thought the City had to advertise property for sale. Koopman said in this case there is a \$10,000 in asbestos removal alone. Caron said the City will never get all the money back out of it. Hannasch said they can attempt to get a portion of it back through a sale and by getting it back on the tax rolls. Koopman said she would like to give Her time to respond to the letter. Caron asked if they would know before a lien was filed against the property. Koopman replied a lien wouldn't be filed until next year. Otto-Arvizu said she assumes if the City was given the property from Her there would be a quit claim deed. Koopman replied yes and in turn if the City would issue a quit claim deed when it is sold.

Clint Peterson, the director of the Tracy Community Band stated that he missed the presentation of the Mayor's Proclamation regarding Tracy Community Band Day. Hannasch informed him he would be presenting it in person to Peterson at the fund raiser on Friday.

There being no further business motion by Ferrazzano, second by Caron, to adjourn. All voted in favor of the motion.

ATTEST:

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City Administrator

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Mayor

### November 25, 2002

The regular meeting of the Tracy City Council was called to order at 6:30 p.m., Monday, November 25, 2002 in the Council Chambers of the Municipal Building. The following council members were present: M. Fraser, R. Stobb, C. Hannasch, S. Ferrazzano, D. Berndt, and. Absent were: J. Otto-Arvizu and R. Caron. Also present was staff member: A Koopman.

Hannasch asked for any additions or corrections to the minutes from the November 7, 2002 Special Meeting to Canvass the 2002 Election and the November 12, 2002 City Council meeting. Motion by Stobb, second by Fraser, to approve said minutes as written. All voted in favor of the motion.

Otto-Arvizu arrived at 6:31 p.m.

Hannasch asked if there were any additions or deletions to the agenda and added (5B) garbage cans. Motion by Fraser, second by Berndt, to approve the agenda as now written. All voted in favor of the motion.

Kerr informed the Council the Charter Commission was established in the early 1970's to draft the City Charter and amended it as needed. A previous member, Alda Mae Brewster, was extremely meticulous about organizing the Commission and making reports. The Charter Commission must report annually to the Chief Judge all actions that have taken place at the meetings but this hasn't been done for several years. The City currently has a Commission consisting of nine members and the Chief Judge does the appointment of new members. Members can serve on the Charter Commission for two consecutive four-year terms or until a replacement is named. Kerr stated he and Koopman would like to suggest that the City Council direct the Charter Commission to meet and assess their current membership. He indicated it was very important to keep the Commission going as they regularly find things in the City Charter that need to be addressed.

Ferrazzano asked if the Commission is supposed to meet and report to the County every year how they got by for four years without reporting. Ferrazzano asked if there are any repercussions from not reporting. Kerr replied there weren't. Hannasch asked if it would be proper to advertise. Kerr replied he would recommend to call the present Charter Commission together first and then they can determine who will need to leave their position. Hannasch suggested they meet in January because December gets to be a busy month. Stobb asked if the Commission can authorize the advertising for new members after they determine how many are needed. Kerr replied they could certainly do that but thought they should come back to the Council because the Council should submit a list of names to the Chief Judge for appointment to the Commission. Motion by Ferrazzano, second by Stobb to authorize Koopman to contact Charter Commission members. All voted in favor of the motion.

Gary Garrels reported that he reinspected the property at 174 Center Street today and in his opinion there has been no change whatsoever. Hannasch said regarding the house there is probably nothing the City can do about that. It would be advantageous to the owner to clean it out and drain the pipes but Kramer has been notified about the situation. The Council can proceed on garage however, Kerr said he doesn't necessarily agree about the house, he thinks it can only get worse and the house will attract vermin. Hannasch said if the water pipes freeze this winter it will make it very difficult to get the home into a sellable state again and if it becomes tax forfeit it will be several years before anything can be done. Kerr said he does agree as far as taking any definitive action at the present time there is probably nothing they can do. Hannasch said they did issue a letter to Kramer which put a 60 day time limit that says the garage must be repaired or razed. Kerr said that is the hazardous building portion but the letter states the debris must be removed from the house and garage by November 25, 2002 and the water pipes drained in the house.

Otto-Arvizu asked if the garage is secured. Kerr replied being a hazardous building they cannot make it secure. It is an unsound building housing a public nuisance. Garrels stated there is plywood up and canvas over the door but anyone could easily get in. Fraser asked if Kramer accepted service of the letter. Kerr replied she did. Otto-Arvizu asked if she could have an itemized list of things that are considered the public nuisance portion. Kerr replied he didn't bring the pictures along but he can give them to her but he has shown the Council the pictures several times. Hannasch added Kramer has not responded to the City office regarding any notices she has received. Stobb asked if they were at the

point where the City can remove the items from the garage and bill the cost to the owner. Kerr replied they were but it is a two step process. Ferrazzano asked if it is also a two step process to get the debris out of the garage and out of the house or can they combine the two. Kerr replied they couldn't combine the two issues. Ferrazzano made a motion to proceed with Summary Enforcement and Stobb seconded. Upon roll call the following was recorded. Voting in favor: Ferrazzano, Fraser, Hannasch, Berndt and Stobb. Voting against: Otto-Arvizu. The motion carried.

Ferrazzano asked what the Council can do about the debris and water pipes in the house. Stobb asked if the water is shut off. Garrels stated the meter is out but he wondered if the City has the authority to tell Kramer to drain the pipes. Hannasch didn't think so. Hannasch asked if anyone has asked Kramer what she wants for the house. Otto-Arvizu said she thinks Kramer has a mortgage against it and would like to recoup that amount. Stobb asked if the City can contact the mortgage company about the situation. Hannasch thought the bank had been contacted and asked if there was a copy of the letter sent to them. Kerr said he has a copy of the sheriff's service and sent a copy of the nuisance abatement to the bank. Otto-Arvizu said if the bank was served the original order of abatement they were only told to remove three cars. Ferrazzano said what he understands is they can't do anything about the inside of the house. Kerr replied it would be a matter of the house being unsecured, windows broken out, and a haven for vermin. But they will probably be required to let it deteriorate until the house becomes more of a concern.

Koopman reported that David Hicks has applied to fill the Cemetery Commission vacancy. Motion by Stobb, second by Fraser, to approve Hicks' appointment to the Cemetery Commission. All voted in favor of the motion.

Rick Robinson stated that garbage cans could become an issue for snow plowing if the home owner puts the can in the street and the garbage service puts it back in the same place. He requested authorization to advertise a notice that people need to place garbage cans in the boulevard. Otto-Arvizu suggested they also put a reminder about winter parking. She thinks there was a misunderstanding some time back about people assuming they are supposed to put garbage cans in the street. Polzine said he counted 60 cans in the street just last week. Hannasch stated it is the homeowners responsibility to make sure garbage cans are placed safely. Ferrazzano said the problem he foresees is how do they know the garbage service puts the cans back in exactly the same spot. Robinson said the garbage truck has an arm that reaches out and puts the can back in the same exact spot. Hillger said part of the problem he sees is if there is a car parked nearby and the garbage service can't get to the can with their equipment he has seen them leave the can in the street if they have to manually get them. Otto-Arvizu asked if they can also put a reminder about winter parking in the newspaper. Robinson said he had talked to the paper about that but would follow up on it.

Hannasch presented a resolution approving a loan repayment to the General Fund for the Gym Renovation project in the amount of \$10,000. Motion by Ferrazzano, second by Fraser, to adopt said resolution. All voted in favor of the motion. (Res. No. 2002-73)

Hannasch presented a resolution approving a loan repayment to the Medical Center Improvement Fund for the Aquatic Center project in the amount of \$96,629.15. Motion by Stobb, second by Berndt, to adopt said resolution. All voted in favor of the motion. (Res. No. 2002-74)

The Consent Calendar included the following: Downtown Revitalization minutes for November 13, 2002; Multi-Purpose Center minutes for November 11, 2002; Monthly Water and Wastewater report; Monthly Financial Report; Economic Development Authority minutes for October 4 and 18, 2002; Fireman's Relief Association minutes for November 4 and 12, 2002; Municipal Accounts Payable; and Cemetery Commission minutes for November 21, 2002. Motion by Berndt, seconded by Fraser, to adopt the above listed items. Ferrazzano stated when reviewing the Cemetery Commission minutes it indicates a consensus decision that the Superintendent and Groundskeeper positions remain separate. He asked if the Council approves the minutes if that means the Council agrees with that decision. Hannasch replied it would mean the Council agrees the positions remain separate for the duration of the contract. Ferrazzano said his second question is when the contract for the Cemetery Superintendent comes due if the same thing will happen, if the Cemetery Commission approves renewing the contract in the minutes and the Council approves those minutes they are approving the contract. Koopman replied the actual contract comes before the Council for approval. All voted in

favor of the motion.

Koopman informed the Council Monday, December 2, 2002 is the Truth in Taxation hearing. Stobb asked if the Council certifies the levy at that meeting. Koopman replied they will certify at the regular meeting December 16<sup>th</sup> . Stobb asked if the Governor can still unallot State aid funds. Koopman replied he still can through December 31. Stobb asked when they City normally receives State aid. Koopman replied December 26<sup>th</sup> .

There being no further business motion by Ferrazzano, second by Stobb, to adjourn. All voted in favor of the motion.

ATTEST:

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City Administrator

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Mayor

**December 2, 2002**

A special meeting of the Tracy City Council was called to order at 6:30 p.m., Monday, December 2, 2002 the Council Chambers of the Municipal Building. The following Council members were present: C. Hannasch, S. Ferrazzano, M. Fraser, J. Otto-Arvizu, R. Caron and R. Stobb. Absent: D. Berndt. Also present: A. Koopman..

The City Administrator briefly reviewed the proposed 2003 budget and levy. The proposed levy equaled a 17.1% increase. She explained that the high percentage increase was due primarily to levying \$94,000 in anticipation of the loss of state aids. Various graphs were used to help illustrate the levy comparison, revenues sources, expenditure by category and levy distribution. Discussion included preparing for the loss of state aids, and whether we should consider raising fees. The Department of Revenue is suppose to have the new budget forecast available on December 3<sup>rd</sup>. When that information is available we may have a better idea on how to proceed. The City Administrator reported that the Council will consider the final adoption of the 2003 budget and levy at their regular meeting scheduled on Monday, December 16, 2002. No further action was taken.

There being no further business, the meeting was adjourned..

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Mayor

ATTEST:

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City Administrator

**December 9, 2002**

An emergency meeting of the Tracy City Council was called to order at 7:00 a.m., Monday, December 9, 2002 in the Council Chambers of the Municipal Building. The following council members were present: M. Fraser, R. Stobb, C. Hannasch, S. Ferrazzano, R. Caron and D. Berndt. Absent was: J. Otto-Arvizu. Also present was staff member: A Koopman and J. Kerr.

Hannasch stated a copy of the lease agreement between the City of Tracy and Independent School District #417 and a memo from Koopman had been distributed. Koopman informed the Council that the school now plans to hold wrestling matches at the school because they say the wrestling program is losing money. According to our agreement with the School, they are to be paying the City one-half of the gate receipts and ten percent of net concessions proceeds for all wrestling matches consisting of at least four teams. Koopman added the City was never contacted about the change in location for wrestling matches. Kerr stated the intent of the lease is that the entire wrestling program was to be moved to the Pavilion. Ferrazzano said the problem is the agreement doesn't state that fact nor does it state the school is obligated to hold any events at the Pavilion.

Kerr said the posture the School Board is taking on this is the same position they took on the Joint Powers agreement. They decided they no longer wanted to be involved with the pool because it was costing them money. Now they have decided it is costing too much for wrestling. Kerr asked the Council to keep in mind a lease is a contract according to Minnesota State law. He referred to the Joint Powers agreement saying the City did adopt the City Attorney's opinion that the agreement had to be viewed as a whole and could not be pieced apart. Kerr said the agreement is ambiguous in regard to the wrestling program and a court would have to determine the legalities but there are guidelines when an agreement is determined to be ambiguous. When contract language is ambiguous, you then determine the intent. This agreement also needs to be construed as a whole and parts or clauses cannot be amended.

Kerr said he is not aware that since the date of this agreement that there has ever been a quad wrestling match held anywhere but in the Pavilion. That alone shows the intent and it should continue. When the agreement was first being discussed the wrestling program was being held in a very poor facility which was deemed unsafe and the school asked to use the Pavilion. Quad wrestling matches became very popular in the 1990's and the Pavilion is large enough to accommodate them, as well as regional and sectional matches. Kerr added not only is there wrestling revenue but matches held at the Pavilion generate downtown business. He said the court would also look at surrounding circumstances in determining the legalities of the agreement.

Kerr asked those who were on the Council at the time the agreement was drawn up to recollect what was discussed. He stated the meeting minutes were not going to be a lot of help because there was a lot of outside discussion. Another consideration is the \$4000 per year that the school pays as rent barely covers expenses for utilities and maintenance. Hannasch said one of the main reasons the wrestling program came to the Pavilion is because of the shacks they used to use. The wrestlers hold all their practices at the Pavilion and he believes they should hold their meets there as well to fulfill all aspects of the agreement. Hannasch said they can't pick and choose which parts of the agreement they want. His concern is if the wrestlers were thinking about moving the matches why they didn't contact the City.

Caron asked how much revenue the City would be losing. Koopman replied she would be getting the figures together but didn't have them yet. Fraser asked if the wrestlers were holding dual matches at the Pavilion. Koopman replied all matches were held there. Fraser said the unfortunate thing is the agreement is ambiguous. Koopman stated Karl Campbell was the head wrestling coach at the time the agreement was drawn up and can back up the fact they discussed moving the wrestling program to the Pavilion. Berndt felt it was the school's intent to do this and thought the school was throwing the issue in the Council's face. Koopman said any time the City can rent the facility it brings business to the downtown area.

Hannasch said the thing he would like to do is meet with Rick Clark and members of the School

Board. Ferrazzano suggested inviting the School Board to the next Council meeting on December 16 and if they decline to come the City will know where they stand. Stobb said he agrees with what the Council has discussed but wished the Term and Scope of the Lease as stated on the first page of the agreement reflected using the Pavilion for wrestling matches, but it states “to be used exclusively for Fall, Winter and Spring Sports Practice Sessions.” Kerr stated that item refers to the \$4000 that the school pays to lease the facility for practices. There is a separate clause for events. Stobb asked if the term “scheduled events” refers to events scheduled with the State High School League or if the school just relays their own schedule. Fraser asked if last year all the wrestling matches were held at the Pavilion. Koopman replied they were and there was never any communication with the City that there were plans to change.

Ferrazzano thought they should invite the School Board to the December 16 Council meeting and if they don't come the Council will know where they stand. Hannasch thought they should try private negotiations because he didn't want to see the issue turn into a big public battle. Stobb made a motion to contact the school and try to work out their differences. Ferrazzano seconded the motion. Kerr asked who would be contacting the school. Ferrazzano suggested that Koopman draft a letter regarding the City's concerns. Hannasch suggested two Council members and two School Board members meet. He asked Stobb if he would like to meet. Stobb replied since he is employed by the school it would be construed as a conflict of interest. Ferrazzano and Fraser agreed to meet with the School Board members. Koopman asked the Council if they would like her to attend since she was present when the agreement was drafted. Ferrazzano felt if Clark was going to attend then Koopman should. Hannasch thought two Council members and two School Board members as well as both administrators should attend. Stobb suggested Bill Tauer attend the meeting as well. Koopman asked if they wanted to arrange the meeting prior to the Council meeting on December 16. Hannasch didn't think that would be enough time to arrange a meeting. Stobb amended his motion to include an invitation to meet and discuss the issue and Ferrazzano seconded. All voted in favor of the motion.

Koopman will notify Fraser and Ferrazzano when a meeting is scheduled. There being no further business the meeting was adjourned.

ATTEST:

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City Administrator

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Mayor

**December 16, 2002**

The regular meeting of the Tracy City Council was called to order at 6:30 p.m., Monday, December 16, 2002 in the Council Chambers of the Municipal Building. The following council members were present: M. Fraser, R. Stobb, C. Hannasch, S. Ferrazzano, D. Berndt, J. Otto-Arvizu and R. Caron. Also present was staff member: A Koopman.

Hannasch asked for any additions or corrections to the minutes from the November 25, 2002 City Council Meeting, the December 2, 2002 Truth in Taxation Hearing, and the December 9, 2002 Emergency Council meeting. Motion by Berndt, second by Fraser, to approve said minutes as written. All voted in favor of the motion.

Hannasch asked if there were any additions or deletions to the agenda. Berndt requested to add (10A.1) a topic under Mayor and Council Communications and Hannasch added (10A.2). Motion by Caron, second by Stobb, to approve the agenda as now written. All voted in favor of the motion.

Hannasch addressed the Prairie Pavilion lease issue and asked Eric Nelson to respond on behalf of the School Board. Hannasch said was looking for a motion from the Council to form a committee of two City Council members and two School Board members to discuss the Pavilion lease. He stated there are some issues that need to be addressed and the Council and Board need to look for ways to work together rather than continue to be at odds. Hannasch said the Council and Board members he has talked to are very concerned about this animosity. He asked that the committee appointments wait until after the first of the year when the new Mayor and Council members are sworn into office. Caron asked if this solution was all right with the School Board. Nelson stated the School Board was fine with that as they would hold an election of new officers after the first of the year. Motion by Caron, second by Ferrazzano, to form a committee in January. Hannasch stated there has been a breakdown of communications on both sides and it is an area to work on harder in the future to try and eliminate those problems. The City and School are one and have to work together. All voted in favor of the motion above. Hannasch thanked the School Board, Rick Clark and the coaches for attending the meeting.

The request for payment for work performed on the aquatic center was tabled until Steve Almlie arrived to the meeting.

Koopman presented the agreement with Safety First Compliance Management, Inc. She stated it is the same agreement as they have had the past four years of doing business with them. The City is required to be in compliance with OSHA regulations which requires monthly training. Koopman said the cost is the same as it has been the past two years and the training prevents the City from being subject to fines by OSHA. Fraser asked if Safety First follows the once a month meeting schedule. Koopman replied they do. Motion by Fraser, second by Stobb, to approve the agreement. Stobb asked if their job is primarily instructional or if they also look for hazards. Polzine said they do look for hazards and do mock OSHA inspections. Robinson stated they just received a compliance report within the last couple weeks. All voted in favor of the motion above.

Koopman presented the annual Senior Dining Nutrition Services agreement with Western Community Action. Motion by Berndt, second by Caron, to approve the agreement. All voted in favor of the motion.

Robinson stated it had come to his attention there is a lack of efficiency in airport mowing. He said currently the City doesn't have a building to house and service the mower and employees have to run it back and forth each day. In his memo dated December 5, 2002 Robinson presented a proposal to put a 12 x 16 foot shed with an overhead door on an existing cement pad at the airport. The shed would need to be wired for electricity and supplied with hand tools, ramps, and an air compressor for servicing the mower. The mower uses diesel fuel so the request includes a fuel supply tank to haul in the City Jeep. The project cost was estimated at \$4500.

Since then Robinson considered all the areas the City has to mow and they are currently using a six foot deck mower which is not due for replacement for another eight years. Robinson looked at different options and the most cost effective included a wing mower deck attachment to pull behind

the existing mower. They would be able to mow an additional 60 inch wide area. In his second memo Robinson added about \$1700 to purchase a wing mower and determined the shed would need to be longer to accommodate the wing. This would bring the project cost to \$8900 but Robinson believes this could save \$2500 per year in labor. One of the things he is concerned about is the safety issue of running the mower up on ramps with only one person there. Robinson would contact Safety First to get some guidelines and safety training for that.

Ferrazzano asked how long a wing mower would last. Robinson said he wasn't sure but of the mowers he priced the vendors indicated none have been brought back. He knows of one party who purchased one three years ago but Robinson hasn't had a chance to ask him about it. Hannasch felt with proper maintenance a wing mower would last as long as the main mower. Caron asked how many acres the City mows out at the airport. Polzine replied 39 acres. Caron asked for the rating of the wing mower. Robinson replied he wasn't sure about the rating but it has a 60 inch deck. He said John Deere makes 20 foot mowers but they need to be pulled behind a tractor. They also have a 12 foot wide mower rated 8 or 9 mph but is priced about \$45,000.

Caron said the mower the City owns is rated at 3.2 acres per hour so without spending anything the City should be able to get the airport mowing done in two days. He felt half of the problem was addressed by coffee breaks being taken at the airport facility. Robinson said the problem is there is no place to store the mower at the airport. Caron asked about some place in one of the buildings. Robinson replied the build space is all rented out. Caron asked about the end of the shed where the dog kennels used to be. Polzine replied it's not very big and he's not sure if they could get the mower in, plus they would need an overhead door. Caron said he would like to check on these things first before making any decision. Caron made a motion to leave the mowing as is and work on some time use issues. Ferrazzano agreed and stated it will be a while before mowing begins. Hannasch said they can check on the shed size right away. Stobb asked Koopman if she had thought about where the money could come from for the project. Koopman replied annually they transfer \$1300 from the Airport fund to the Equip Replacement fund for the mower but the City may also qualify for some State reimbursement since it is for the airport whereby the City might be reimbursed 60 percent of the cost. Caron said that still leaves 40% for the taxpayers. Koopman stated with labor savings the costs can be offset fairly quickly, within a five year period or less but they can certainly look into other options. Otto-Arvizu seconded Caron's motion and all voted in favor.

Hannasch referred to a recommendation from the Tracy Library Board to initiate a fine schedule for overdue materials. Suggested fines are \$.10 per day for books and books on tape, \$1.00 per day for videos and \$2.00 per day for DVD's. If a patron reaches a \$5.00 fine they would not be able to check out anything else until the fine is paid. The Board wanted to make it clear that this is to be considered a deterrent and not a moneymaker. Motion by Fraser, second by Stobb, to approve the fine schedule. All voted in favor of the motion.

Hannasch presented the following annual City license renewals. Motion by Caron, seconded by Otto-Arvizu, to approve cigarette license renewals to the following businesses contingent on receipt of payment and application:

- Cenex Harvest States
- Tracy Food Pride
- Eagles Club
- Food N Fuel
- Amoco
- Tracy Liquor Store
- The Pool Hut
- Amada's Dollar Store

All voted in favor of the motion.

Motion by Berndt, seconded by Fraser, to approve plumbers license renewals to the following businesses contingent on receipt of payment and application:

- Christianson Plumbing & Heating

G&H Plumbing & Heating  
 Heartland Mechanical  
 Olson Hardware  
 Sanderson Mechanical  
 Swish's Plumbing & Heating  
 Weedman Service Co.  
 Wood's Plumbing

All voted in favor of the motion.

Motion by Stobb, seconded by Caron, to approve a dance license renewal to the following business:

The Mediterranean Club

All voted in favor of the motion.

Motion by Stobb, seconded by Fraser, to approve a split liquor license renewal for the following businesses contingent on receipt of payment and application:

The Mediterranean Club  
 The Pool Hut

All voted in favor of the motion.

Motion by Caron, seconded by Stobb, to approve a Sunday liquor license renewal for the following businesses contingent on receipt of payment and application:

The Mediterranean Club  
 The Pool Hut

All voted in favor of the motion.

Chief Hillger reported that during a tobacco compliance check conducted on December 12, 2002 none of the seven businesses holding cigarette licenses sold to the Tracy High School student. Motion by Stobb, second by Fraser, to accept report. All voted in favor of the motion

Hannasch presented a resolution adopting the final tax levy, collectible in 2003, in the amount of \$661,533.00. Motion by Caron, second by Stobb, to adopt the resolution. All voted in favor of the motion. (Res. No. 2002-75)

Hannasch presented a resolution adopting the 2003 budget with the following budgeted expenditures:

<b>GENERAL FUND</b>		<b>\$1,595,979</b>
General Government	\$518,181	
Public Safety	\$375,177	
Public Works	\$499,946	
Recreation	\$ -0-	
Other	\$202,675	
<b>PUBLIC ENTERPRISE</b>		<b>\$2,609,522</b>
Liquor	\$610,022	
Utility	\$617,000	
Utility Surcharge	\$145,000	
Refuse Collection	\$169,500	
Licensing	\$1,068,000	
<b>DEBT SERVICE AND BOND FUNDS</b>		<b>\$ 847,485</b>

**OTHER****\$ 715,781****TOTAL ALL FUNDS****\$5,768,767**

Motion by Caron, second by Fraser, to adopt said resolution. All voted in favor of the motion. (Res. No. 2002-76)

Hannasch presented a resolution approving payment to Schmidt Construction for work completed on the sewer separation/Circle Drive Bypass project in the amount of \$4,827.60. Motion by Caron, second by Stobb, to adopt the resolution. All voted in favor of the motion. (Res. No. 2002-77)

The Consent Calendar included the following: Police Maintenance Log; Police Activity Report; Municipal Accounts Payable; Monthly Water and Wastewater report. Motion by Berndt, seconded by Caron, to adopt the above listed items. Hannasch said the police maintenance log is not very legible but it is his understanding that it will soon be put into the computer. Stobb asked about the water service report saying in the past couple reports he noticed how close the average waste water flow was to the permitted flow. Stobb said he doesn't remember that happening in the past and asked if it is a problem. Rick Robinson said he would check on the numbers and make sure the meter has been calibrated. Ferrazzano asked what happens if they go over the permitted flow. Robinson replied nothing happens. Polzine added the waster water is water going into the lagoons. Robinson stated the permitted flow indicates what the system has been designed to handle. Otto-Arvizu said in that case it's not an issue with water being discharged from the lagoons. Polzine stated he thinks it's a problem with the calibration because the system couldn't be pumping out that much more water than is being consumed. All voted in favor of the motion to approve the consent calendar.

Berndt stated that with great regret must submit his resignation from the City Council effective January 1, 2003. He purchased a convenience store in Minot, ND and will be moving there. Berndt thanked the citizens of Tracy and the City Council and stated it was a privilege to serve the community.

Hannasch stated this was his last Council meeting as Mayor. He thanked the City Department Heads for working well with him, and thanked the City workers and City Council for their help and hard work. Hannasch said he would also like to thank the different committees that have worked on City improvement projects, especially the pool committee for all their hard work. He stated this was also Don Polzine's last Council meeting and thanked him for all his years of service to the City of Tracy.

There being no further business motion by Caron, second by Stobb, to adjourn. All voted in favor of the motion.

ATTEST:

\_\_\_\_\_  
City Administrator

\_\_\_\_\_  
Mayor