

January 12, 2004

The regular meeting of the Tracy City Council was called to order at 6:30 p.m., Monday, January 12, 2004 in the Council Chambers of the Municipal Building. The following Council members were present: T. Byrne, M. Fraser, S. Ferrazzano, J. Otto-Arvizu, R. Stobb, R. Caron, and G. Torkelson. Also present were staff members: A Koopman and F. Nielsen.

Ferrazzano asked for any additions or corrections to the minutes from the December 15, 2003 City Council Meeting. There being none, motion by Torkelson, second by Byrne, to approve the minutes as written. All voted in favor of the motion.

Ferrazzano asked for any additions or deletions to the agenda. Koopman added a comment under Mayor and Council Communications and deleted under Legal Issues (6B) and (6C) Ordinances 283 and 284, granting cable TV franchises due to some delays. Motion by Bryne, seconded by Fraser to approve the agenda as now written. All voted in favor of the motion.

Robinson said he had a short report this month. Stobb asked if the City will have a replacement for the People's Service operator for Tracy by January 23. Robinson replied he hasn't heard back from them. Fraser said they are running an advertisement in the Marshall paper.

Ron Radke asked if there were any questions about his monthly report. Ferrazzano asked if Gary Garrels had indicated when he is going to start on the bathrooms. Radke replied Garrels was going to talk with the City crew about getting it lined up. Robinson didn't think he had talked to anyone yet.

Robert Gervais reported the City was approved for a 169 acres for Jobz Zone. These include the City farm, industrial park, and the horseshoe shaped section abutting Highline Road. He will be attending a conference on Thursday and Friday in the twin cities to discuss the Jobz Zone. Part of the process will be setting up guidelines, who will qualify and how they will qualify. Gervais added the City can move zones around if needed, they are only restricted to the 169 acres.

Gervais reported the spec house has been completed and there will probably be an open house at the end of this month. The asking price will be in the \$120,000 neighborhood. Plans were changed from three bedrooms on the main floor to two and the closet size in one room was increased to accommodate a washer and dryer. A 12x20 deck was also included on the back of the house.

Gervais said the EDA has been contacted by a couple of different individuals about constructing a tire shop since Midwest closed theirs. He reported the DM&E was approved for \$223 million for an upgrade to their rail line. At this point the DM&E hasn't announced any bids for this area but they are aware of what Tracy has done in support of the DM&E in the past and they look forward to working with Tracy in the future. Hopefully Tracy will see some jobs in the future from that project.

The Chamber is working on the Sportsmen Show and Gervais received an email from a gentleman in Ohio and a resort from Pollock, SD has registered for the show. Pollock is in the north central part of South Dakota. There is every indication that the show is going to be larger than last year. The Chamber Banquet will be held on Saturday, February 7 and tickets are \$15 each.

Ferrazzano opened the public hearing to discuss an Administrative Penalties ordinance. There being no public testimony. There being none, the matter was referred to the Council for their consideration. Stobb pointed out one typing error on the penalty schedule. Motion by Byrne, second by Fraser, to adopt the ordinance contingent on the correction. All voted in favor of the motion. Stobb asked if the ordinance would take effect in 30 days. Koopman replied 30 days after publication which will be 30 days from Wednesday. Stobb asked if the City has to come up with a ticket format. Koopman replied she will talk to Frank Nielsen.

Chief Hillger stated he has nothing to report other than what's listed on his activity report. Ferrazzano asked if there have been any more problems with snowmobiles. Hillger replied he hadn't

had any reports and had purchased a few “no snowmobiling” signs to post. Stobb said he had one suggestion from a snowmobiler, that if officers don’t have a good description of a violator to ask other snowmobilers since they generally know each other.

Hillger reported that he had 24 people inquire about the officer vacancy and 17 applications were returned. All 17 were invited to take the written test on January 3 and seven showed up. Oral interviews will be held on January 21. Hillger added that Matt Loftness will be leaving on February 1 to start a position as conservation officer for the State of Minnesota. That will leave only Hillger and one other officer. Stobb asked if Tracy needs help from Lyon County if they will be there. Hillger replied the County is always there when he asks.

Dominic Jones with Red Rock Rural Water Systems introduced himself and stated his company was interested in pursuing a water purchase from the City of Tracy. He spoke with Koopman and Robinson a couple months ago about the proposal because they are looking for another water source to serve the Shetek area. Jones stated their system has 1360 rural members they supply potable water to and Red Rock also services eight small communities including Garvin. Red Rock has 1800 miles of pipeline through portions of nine counties and the main office is in Jeffers. Red Rock has water purchase agreements with four other entities, Lincoln-Pipestone, the City of Balaton, the City of Windom and the City of St. James. Red Rock owns a water treatment plant northwest of Windom and gets the majority of their water from that plant. Jones said when he talks to cities about partnering he likes the theory of regionalization which benefits all involved. He added Red Rock is a non-profit organization.

Jones passed around a coverage map showing where they supply water. Red Rock covers quite an extensive area and Tracy is in the northerly boundary of the system. Their first goal is to secure water sources and to serve water without interruption. There are line breaks occasionally but maintenance is minimal. Jones said they look at Tracy as being a bedroom community of Shetek or vice versa and that is where interest has developed. Murray County is doing work with wastewater around Shetek with the assistance of Chuck Schwartz with Bonestroo Engineering. Jones and Schwartz discussed the City of Tracy because of location and because of Schwartz’s knowledge of Tracy. Red Rock has standards of water quality which requires that iron manganese be removed, that the water is chlorinated, fluoridated and has a hardness of 22 grains or less. Tracy’s water doesn’t quite fit in the hardness category but there is still a chance to partner with Red Rock if Tracy constituents would be willing to get softer water. Tracy would need to look at making improvements to add a lime softening plant. Jones said the City of St. James was about identical to Red Rock water and they asked St. James for 65 million gallons per year. St. James said they would take a look at their system since they needed additional water and had to add onto their treatment plant anyway. In turn Red Rock wrote them a check for \$500,000 which helped them make improvements to their treatment plant. Red Rock now supplies water to Butterfield at a lower cost than it would have cost them to fix a radium problem.

Jones asked if the Council would be willing to look into a study at no cost to the City to see if Tracy has enough water available. Robinson stated Tracy does have enough water available but they would want to look into the existing wells and they would want to contact General Filter who built the original treatment plant about the feasibility of increasing output. Jones said they would want to make sure there would be enough water and if not then look into the possibility of another well. They would also rely on Schwartz for a cost estimate of bringing the system up to standards.

Ferrazzano asked what is the length of Red Rock’s contract with Balaton. Jones replied upon notice they would have two years to withdraw. He added they would be looking at investing many more dollars in Tracy than in Balaton so they would request at least a 30 year contract. Red Rock has 30 year terms with St. James and Windom and Jones said he can supply copies of those contracts if the Council would like to see them. Jones said funding is done on a pro-rated basis, if Red Rock is going to take 20% or 40% of the water supply they would look at providing 20% or 40% of the cost of upgrading. It looks advantageous that Tracy has large mains in the southwest part of the City and Red Rock would have to put in a booster station near City limits to pump water to Lake Shetek.

Schwartz stated he spent six years working on Tracy water systems when he was with RLK Kuusisto and one of the last things he did was with the emergency storm sewer system. Schwartz said Tracy’s

system is well designed and there is room for additional expansion. He added that he knows the system is well maintained. The purpose of the study is water scoping, to try to determine the cost of improving water flow and quality. It is not a fancy study, just a numbers study to determine if the project is worth pursuing further. Byrne asked for future reference if Tracy built a prison would the system be able to handle that demand as well. Gervais said he couldn't remember the exact numbers but thought it was something like 150 gallons per day per inmate. Byrne said they were looking at a 650 inmate facility.

Ferrazzano asked when the testing would be done. Schwartz replied over the next 60 to 90 days. Kerr said Jones had mentioned USDA funds and asked if those funds would be available to the City of Tracy as well as to the lake regions. Jones replied with the Lake Shetek area they would probably only get a loan because of income levels and because of second homes but if they pick up rural members on the way to Tracy and the income levels in Tracy are low enough Tracy could be eligible for USDA funds. Added points are given for regionalization and often brings in extra dollars. Ferrazzano stated if Tracy works with Red Rock they are not looking at making a profit, they are looking at improving water and splitting costs. Jones said the City would not only have up front cost that Red Rock would cost-share but also the O&M cost. For example Red Rock is paying \$1.21 per 1000 gallons to the City of St. James and their cost is \$.95. Red Rock is not looking for a huge markup but they understand that cities have some other infrastructures that are important to Red Rock such as water towers, water mains, etc. They understand some inflation numbers.

Ferrazzano asked if there was an estimate as to how much the cost of upgrading would be. Robinson replied there are three methods of softening. The first is lime softening in which lime is added to a clarifier. The City of Tracy does have a clarifier. The second is ion exchange, which is like the softeners in homes but on a much larger scale. He priced a couple and just the parts are in the \$150,000 range. This option would also require some work on the control panel which could be in the \$30-40,000 range. The third option is reverse osmosis which Robinson hasn't priced. Byrne asked if there is a preference in softening methods. Schwartz said he would have to rely on some of his company's specialists to answer that. Jones said the public perception of adding sodium to water is not as good. Some are concerned about sodium and heart conditions which is not actually an issue. He added the estimated cost to install reverse osmosis at 100 gpm in Butterfield was \$1 million. Red Rock furnished water to them for \$500,000. Jones said reverse osmosis is the cadillac of water softening options.

Gervais stated Senator Coleman might have some help for this area. He has a plan to develop rural United States and part of the plan is a rural infrastructure. If his plan is approved some of the \$50 billion budget could possibly be utilized. Robinson said a lot of times pilot studies can be done which can simulate using low volumes what the best option would be. Motion by Torkelson, second by Caron, to approve the water testing. All voted in favor of the motion.

Otto-Arvizu reported she had attended a seminar on Pandemic, which is the worst case disaster scenario, for instance a flu epidemic, tornado, flood, or fire and how to handle them. Members of communities and counties broke down into small groups to discuss how communities would handle such disasters. Ferrazzano asked who was there. Hillger replied representatives from a nine county area attended. Otto-Arvizu stated the focus was emergency preparedness for everything from terrorism to epidemics to natural disasters and groups discussed who was involved in orchestrating management of the disaster. She added the term pandemic is used to describe a large scale and incapacitating disaster. Otto-Arvizu said thing disaster planning is tied into the Department of Health and they are one of the first entities to contact. She thought Tracy was as ready as anybody to handle a disaster since there is no way to properly prepare for it but to have in place a chain of command should disaster strike.

Kerr stated he would like to give the Council and the public some general information as to what has taken place with the aquatic center. He added he would like to have closed session after the regular meeting. There have been several reports generated by Associated Pool Builders which gave several options but in a very preliminary manner. Authorization was given to hire another expert, Brian J. Peschina. On Thursday Jeffrey Coleman came down from the cities and brought Peschina who works for Wiss, Janney and Elstner. They are a nationally recognized company that employs more than 370 architects, engineers and materials scientists and has full consulting and laboratory services for the

evaluation of construction materials including field and laboratory studies using chemical analysis and petrographic examination.

Kerr stated that Peschina had a very productive session and was out at the pool for good two hours with Robinson and Paul Desmith. They not only looked at the pool but at the mechanical aspects. There are a lot of problems with the pool and the group went over the specifics and traded a lot of information. Coleman was brought up to speed and Kerr thought Peschina walked away well informed. Peschina reported the issues that need to be addressed include:

1. What are the existing conditions? What conditions require correction?
 - a. pool
 - b. walls
 - c. piping
 - d. other

Ferrazzano asked what fits under the “other” category. Kerr replied he doesn’t know yet and is not sure if Peschina knows that answer yet either. Peschina is saying these items need to be evaluated as to whether they need correcting. Robinson said another issue could be the decking. Ferrazzano asked what is wrong with the pipes. Robinson replied there are a lot of problems with the mechanical aspects of the pool. There were no manuals received from Olympic, problems with the boilers, and he doesn’t believe there was ever documentation found where the pipes were tested for leaking. Stobb asked if the basic design is an issue. Kerr replied that is the next issue:

2. What parties are responsible and why?

Pechina will make the call on this issue.

3. What repairs are required?
 - a. costs
 - b. risks
 - c. life expectancy
 - d. completion time

Kerr said Peschina will be preparing a report in three phases. The first will be the investigative phase. Robinson thought Peschina did a good job and asked what needed to be asked. Koopman thought the Council made a wise choice in selecting Coleman with his background. Ferrazzano asked about Peschina’s timetable and cost. Kerr replied he will get more indepth about that at the closed meeting.

Ferrazzano presented the PeopleService O&M Agreement and referred to Nielsen’s memo. Ferrazzano indicated that PeopleService seemed to have a lot of problems with a one page agreement. Stobb asked if the Council already reviewed this agreement at one point. Koopman replied that was last year’s agreement and PeopleService never gave the City a revised copy. Robinson said one thing the Council might want to note is that the original contract had general liability coverage of \$10 million and here they want to lower coverage to \$5 million. He said the water plant would probably cost more than \$5 million to replace if something would go wrong. Robinson said he would like to research more before it is signed. Fraser asked if the increase in fees is based on the consumer price index. Koopman replied it is. Ferrazzano asked Nielsen to send a letter addressing these corrections. Stobb didn’t think they should ask why PeopleService was lowering liability coverage to \$5 million, he thought the City should tell them we want \$10 million.

Ferrazzano presented the Safety First proposal for safety training. He asked if the fees had changed. Koopman replied they were the same. Stobb asked if the City was happy with the service. Koopman replied they were and said the Street Department gets most of the training. Robinson stated the training is very thorough and twice a year the trainer does a walk through on the City buildings at no cost to point out problems and concerns. Motion by Caron, second by Torkelson, to approve the Safety First agreement. Koopman asked if the Council wanted to incorporate Nielsen’s concerns

about the date and the reference to Minnesota Statute 5.205. Nielsen thinks it's referring to Minnesota rules rather than a statute. Ferrazzano thought they should include those concerns. All voted in favor of the motion.

Koopman reported that the Senior Center Director's resignation was placed on the agenda because she rescinded her resignation and the Council had officially accepted it. Byrne asked if it would cause the City any problems since the position had been advertised. Koopman thought only one application had been received and she would send out a letter explaining the situation. Motion by Otto-Arvizu, second by Byrne, to approve Ardys Drake's retraction of her resignation. All voted in favor of the motion.

Ferrazzano stated Brenda Beck from the Pit Stop had submitted an application for an On-Sale Non-Intoxicating Malt Liquor license. Beck explained she was dropping her liquor license. She already has an Off-Sale Non-Intoxicating Malt Liquor license and wants to add the On-Sale. Koopman reported Beck provided the application and insurance certificate. Motion by Fraser, second by Stobb, to approve the license. All voted in favor of the motion.

Ferrazzano presented a resolution recognizing the adoption of the City Charter, authorizing publication and the effective date. Ferrazzano asked for a correction to the spelling of his first name. Motion by Stobb, second by Byrne, to adopt the resolution. All voted in favor of the motion. (Res. No. 2003-1)

Ferrazzano presented a resolution approving an increase in pledged securities at Minnwest Bank South in the amount of \$500,000. Motion by Caron, second by Fraser, to adopt the resolution. All voted in favor of the motion. (Res. No. 2003-2)

The Consent Calendar included the following: Monthly Water and Wastewater Report for November and December; Monthly Police Maintenance Log; Multi-Purpose Center minutes for December 8, 2003; Tobacco Compliance Check; Monthly Financial Report for December; Municipal Accounts Payable; Cemetery Commission minutes for November 20, 2003; Downtown Revitalization minutes for November 19, 2003; and Police Activity Report. Hillger reported all businesses passed the tobacco compliance check. Byrne asked if there is a certain fee when renewing the annual contract with the Tracy Ambulance Service. Koopman replied it is so much per capita. Ferrazzano asked about the fee paid to Garvin Law office. Koopman replied there was no cost to the City. It involved an EDA loan for Larry Parker's mortgage fees. Garvin billed the EDA for these fees and Parker reimbursed the fees to the EDA in order to create an audit trail. Ferrazzano asked about the bill paid to United Laboratories. Koopman replied she will check on it and get back to the Council. Ferrazzano asked why there were bills to Alpha Wireless and Midwest Wireless and why the City was using two different wireless companies. Leonard stated it was for the wireless internet for the administrative office PC's. Ferrazzano asked about the bill for \$1400 for a computer. Koopman replied it was for Dave Spencer's new PC. Motion by Byrne, seconded by Fraser, to approve above listed items. All voted in favor of the motion.

Koopman stated she had discussed Rick Robinson's salary with him and in lieu of any monetary compensation he agreed to an additional week of vacation. If approved this would give Robinson four weeks vacation each year. Motion by Byrne, second by Stobb, to approve an additional week of vacation. Otto-Arvizu stated since an increase in salary had not been budgeted this is a way to not spend money but a benefit. She said she would like to tie the benefit to Robinson's performance. Caron asked about the other department heads who have been here longer. Otto-Arvizu said she is not questioning Robinson's job performance at all and thinks he is doing a fine job. Koopman said the only alternative is moving Robinson up the pay scale but the Council has already adopted the budget. Stobb said the pool has added a lot of responsibility and if Red Rock Water comes into play there may be additional responsibilities. Stobb added he would hate to see Robinson take off four weeks in row and asked if the City has a policy in place to prevent that. Koopman replied his vacation is still subject to her approval and felt they have to have enough confidence in the department heads not to do that. All voted in favor of the motion to approve.

Koopman stated the meeting with the Marshall City Council has been tentatively set for Tuesday, January 27. She said at the last Hospital Board meeting it was discussed having representatives from

the Hospital Board, City Council, and Hospital Advisory Board attend the meeting in Marshall since it may not be productive to have so many people attending. Koopman said Dan Reiner had suggested three members from each sector. Ferrazzano said he feels comfortable with everyone attending. Otto-Arvizu said she sees this as an exploratory meeting, not a meeting to make any decisions. She added that she thought this was supposed to start out as strictly a meeting between Councils. She doesn't have a problem with everyone attending but Tracy's Hospital Board is strictly advisory and Marshall's is an active board that makes the decisions. Kerr suggested the Council keep in mind the open meeting laws and if the Council sends a quorum they will have to announce this as an open meeting. Koopman asked if Kerr agrees it should be open even if only three Council members attend. Ferrazzano said he would prefer is the whole Council attend.

Caron said the Council didn't involve the Hospital Board when setting this meeting up and didn't know how Dan Reiner got involved. Koopman said she thinks they have to involve the Hospital Board. Caron said they were meeting in Marshall and that doesn't have anything to do with Reiner. Byrne felt they would eventually have to involve him. Otto-Arvizu stated the Hospital Advisory Board does not even consist of a majority of Tracy tax payers but felt everyone should be well informed. She said she is not trying to exclude the Advisory Board but asked how many Tracy tax payers are on that board. Koopman replied three out of seven. Otto-Arvizu thought in making decisions about the Tracy Hospital the Council needs to be very involved. She said the Council asked for exploratory talks. She saw the meeting as a discussion to see whether Marshall was willing to explore a collaboration and a lot depends on who Marshall collaborates with. Byrne asked what is the rule on notifying the public of an open meeting law. Koopman replied three days.

The Mayor appointed the following individuals to their respective positions:

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

Motion by Byrne, seconded by Caron, to approve the above listed appointments. All voted in favor of the motion.

Ferrazzano appointed Council members to the following positions:

| | |
|---------------------------------------|------------------|
| President Pro-Tem | Russ Stobb |
| Community Ed Financial/Advisory Board | Mike Fraser |
| Planning Commission | Russ Stobb |
| Economic Development Authority | Greg Torkelson |
| | Tim Byrne |
| Attorney meetings | Steve Ferrazzano |
| | Jan Otto-Arvizu |
| Hospital Advisory Board | Steve Ferrazzano |
| Pool Committee | Otto-Arvizu |
| Liquor Committee | Steve Ferrazzano |
| | Robert Caron |

Motion by Fraser, second by Torkelson, to approve the Council appointments. All voted in favor of the motion.

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

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

Koopman asked the Council to move the first meeting in February to the first Monday of the month instead of the second. She will be on vacation the second week in February. Council members agreed to the change.

There being no further business motion by Fraser, second by Caron, to close the regular meeting to discuss aquatic center litigation. All voted in favor of the motion.

ATTEST:

City Administrator

Mayor

January 26, 2004

The regular meeting of the Tracy City Council was called to order at 6:30 p.m., Monday, January 26, 2004 in the Council Chambers of the Municipal Building. The following Council members were present: T. Byrne, M. Fraser, S. Ferrazzano, J. Otto-Arvizu, R. Stobb, R. Caron, and G. Torkelson. Also present were staff members: A Koopman and F. Nielsen.

Ferrazzano asked for any additions or corrections to the minutes from the January 12, 2004 City Council Meeting. There being none, motion by Byrne, second by Fraser, to approve the minutes as written. All voted in favor of the motion.

Ferrazzano asked for any additions or deletions to the agenda. Koopman deleted (5A) the procedural guidelines for the Small Cities Development Program and (5B) the Lyon County Enterprise Development Corporation. Due to the weather the representatives for both these items were unable to attend. All voted in favor of approving the agenda as now written.

Ferrazzano reported that Dan Lanoue came to see him about the Farm Lease and asked for some input. Ferrazzano saw no problems with the lease but questioned if it was necessary to require a \$3000 cash bond every year. Otto-Arvizu replied it was one of the things the City could impose if the lessee does not follow the lease guidelines, such as staying off the runway. Fraser said the lease allows the City to invoke these things if guidelines aren't followed. Byrne asked if the lease amount is the same as last year's. Koopman replied it is. It was recommended because of the heavier restrictions for spraying near the bike path. She added that Lanoue thought the City was going to continue with the existing lease until it expired and then begin the new lease but then there would be no protection for the bike trail until 2005 unless the present lease was amended.

Caron suggested making the new lease a four year contract then it would account for the three year extension on the old one. Byrne wasn't sure if Lanoue was more concerned about the language or the three year extension. He added that a number of people stopped him to ask why the City wouldn't get bids on the property before awarding the lease to Lanoue. Stobb said the Council had two reasons for leasing to Lanoue, he has shown himself to be a good steward of the land and understands what can or can't be done with the land. Byrne said he has no problem with leasing to Lanoue, he just wanted to explain to the public why the Council made that decision. Stobb asked if there is legally one lease in place if they could replace it with another. Koopman replied as long as Lanoue agreed to sign it the City could start the new lease. Otto-Arvizu suggested if Lanoue was not interested in signing the City should open it up for bids. Motion by Caron, second by Torkelson, to change the lease terms to four years and approve the proposed lease as written.. All voted in favor of the motion. Council members agreed to direct Nielsen to put the lease into final form and send it to Lanoue.

Koopman reported that the Planning Commission had reviewed the ordinance amending Section 3.10 of the City Code allowing residential antique and gift shops in a residential zone if granted a special use permit and recommended adoption. Motion by Caron, second by Torkelson, to waive the first reading and set the second reading and public hearing for the Council meeting to be held on February 23, 2004 at 6:45 p.m. All voted in favor of the motion.

Koopman stated the only change to the Legal Services Agreement is a three percent increase in compensation. Stobb asked if that was three percent of all dollar amounts. Koopman replied it was three percent of just the salary amount. Motion by Byrne, second by Fraser, to approve the Legal Services Agreement. All voted in favor of the motion.

Koopman reported the Cemetery Superintendent agreement was the same as last year's except for a three percent increase in compensation. Motion by Stobb, second by Byrne, to approve the agreement. Byrne stated the Council had discussed listing some of the other duties the Superintendent performs that aren't currently listed in the agreement. That way if someone new takes the job the duties are covered. Caron asked if the Superintendent's compensation comes strictly through the sale of lots. Koopman replied they haven't had to levy for the last two years.. Ferrazzano

suggested reviewing the finalized agreement before approving the agreement. Stobb asked if they weren't approving the agreement now if the City should be paying the new wages. Koopman replied the next Council meeting is February 2nd so the Council will have time to approve the agreement. Stobb withdrew his motion and the issue was tabled until February 2nd.

Dave Spencer had issued a memo regarding two errors for the 2004 budget. The first was a calculation error in the number of pay periods for 2004. There will be 27 because of the way the calendar falls. An easy correction is to release payroll after the bank's transaction time of 3:00 p.m. upon employee consent.

The second problem is a data entry error on the 2004 Wage Chart which affects three employee's wages. Options include the following:

1. Ignore the problem and hope that revenues exceed expenditures in the 2004 fiscal year. If they do not it would lower the General Fund cash balance by approximately \$10,000.
2. Use some of the Other Financial Use monies in the General Fund. This would leave only \$6,200 for any other fiscal emergency that comes up during the 2004 budget year.
3. There is a small cash build up in the refuse collection fund which is an enterprise fund. This money has been built up over the years and comes from penalties charged on unpaid refuse charges.
4. There is also a similar cash build up in the licensing fund which is also an enterprise fund. This money has built up somewhat over the past few years because of increased fees allowed by the State of Minnesota.

Spencer recommended options 3 and 4. He said there is a small cash buildup in the refuse fund which comes from penalties on unpaid accounts. There is a similar cash buildup in the licensing fund because of increased deputy fees. Spencer suggested \$5000 could be pulled from each of these funds to cover the wage chart error. Stobb asked if this was money that had not been earmarked for anything. Spencer replied that was correct. Otto-Arvizu said she didn't remember anyone mentioning there was extra money in these funds or that it was found during an audit. The expenses for those funds are done as budgeted transfers. With licensing he recommended to keep in mind that although there was a fee increase the State opted for permanent registration on utility trailers so there will be a decrease in those transactions. Motion by Stobb, second by Caron, to take \$5000 out of the refuse fund and \$5000 out of the licensing fund to cover the wages error. All voted in favor of the motion. Otto-Arvizu thought in case there is another budget crunch the Council should be made aware of any funds with excess money.

Hillger presented a report on behalf of the Police Civil Service Commission in regard to the eligibility list of officer candidates. Ferrazzano asked if there was a timetable for selecting new officers. Hillger said he was hoping for the middle of February but that might be a rush. Caron said the only thing he didn't care for is asking the Council to pre-approve the Police Commission's selection of officers. Koopman replied the reason the Commission requested that is because of the timing of Council meetings. The first meeting is February 2 and the second meeting is not until February 23. Stobb said he didn't have a problem pre-approving since the information gained through the hiring process goes through the Police Commission so the Council won't get any new information. Stobb moved to give the Police Commission the authority to offer a job to the two individuals they deem to be the best qualified. Fraser seconded and all voted in favor of the motion.

Ferrazzano presented a resolution approving payment to Braun Intertec in the amount of \$18,277.10 for work completed to date on the aquatic center. Motion by Stobb, second by Byrne, to adopt the resolution. All voted in favor of the motion. (Res. No. 2004-3)

The Consent Calendar included the following: Firemen's Relief Association minutes for January 5, 2004; Planning Commission minutes for January 6, 2004; Monthly Financial Report; Municipal Accounts Payable; and Cemetery Commission minutes for January 15, 2004. Motion by Byrne, seconded by Stobb, to adopt the above listed items. All voted in favor of the motion.

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

ATTEST:

City Administrator

Mayor

February 2, 2004

The regular meeting of the Tracy City Council was called to order at 6:30 p.m., Monday, February 2, 2004 in the Council Chambers of the Municipal Building. The following Council members were present: T. Byrne, M. Fraser, S. Ferrazzano, J. Otto-Arvizu, R. Stobb, R. Caron, and G. Torkelson. Also present were staff members: A Koopman and F. Nielsen.

Ferrazzano asked for any additions or corrections to the minutes from the January 26, 2004 City Council Meeting. There being none, motion by Byrne, second by Fraser, to approve the minutes as written. All voted in favor of the motion.

Ferrazzano asked for any additions or deletions to the agenda. Koopman deleted (5A) the Lyon County Enterprise Development Corporation and added (5A) Tracy Nursing Home appraisal and (5B) a letter of support. Motion by Stobb, second by Byrne, to approve the agenda as now written. All voted in favor of the motion.

Tennes Eeg with the Tracy Nursing Home asked if Council members had a chance to review the letter of support for a moratorium exception for a possible merger and expansion between Tracy's two nursing homes. Eeg stated over the past 18 months there have been a number of discussions concerning long term care in the City of Tracy, where it's going, what challenges there are and how to maintain long term care in Tracy. Progress had been slowed because the moratorium exception was not formally renewed due to State budget issues. The letter of support will be presented to the State House of Representatives and will address a legislative bill that will allow Tracy to explore different options. On Monday, February 9, Eeg will be attending a hearing in St. Paul and he will present a break-down of Tracy's current situation and the options that will be explored. As part of the project the City will have to get an appraisal of the facilities involved.

Koopman said the Council also received a copy of an email from Dan Reiner which includes Joe Tisdale's proposal to do the Prairie View appraisal. Reiner is recommending Tisdale do the appraisal at a cost is \$4750 which would be done before March 1, 2004. Byrne asked if this information was sent to Tealwood. Koopman replied based on the email she didn't think so. She added that Steve Harle with Tealwood called her but she didn't get a chance to call him back. Ferrazzano asked if an appraisal of the Tracy Nursing Home would also have to be done. Eeg replied he would think so for the project to continue. The logical merger site would be Prairie View because of its location near the hospital, it is a one level facility with three existing wings and it has a potential to expand.

Otto-Arvizu asked if Tisdale's proposal was only for the Prairie View facility. Koopman replied Prairie View facility will be appraised but it will also include a cash flow analysis. Byrne said they will at things like Medicare rates. If they are going up it increases the value of the facility, it's not just the bricks and mortar. Otto-Arvizu stated since they are talking about purchasing both facilities she assumes they will have to appraise both. She asked where the money will come from since this is just the beginning of the project. Koopman replied the appraisal costs will come from the hospital improvement fund and if the project continues on they will have to look at financing and bond issues. Plans are that the City would own the bricks and mortar and then lease out the facility in a similar manner to the hospital and Sioux Valley. Otto-Arvizu stated that way the burden would not be on taxpayers. Stobb said he wanted to make that clear too because he had heard revenue bonds would be the first option.

Eeg said based on the appraisal that will give a better idea when approaching the State with the dollar amounts involved. Currently there is a State moratorium on nursing home expansion and improvements over \$1 million. In the past there have been open rounds whereby facilities can propose expansion or improvement plans. The State reviews and approves certain projects until the money allotted for that session is gone. Eeg said currently there is moratorium money available but the State has not opened up a round for it. Byrne said Prairie View currently has a moratorium exception for a 12 room addition proposed 2 years ago. Prairie View got an extension on that moratorium exception but hasn't taken the money and put it on hold because of the plans being discussed. A moratorium exception allows a facility to put the cost of expansion into the rates

charged so the facility can recuperate the money but they can spread the increase over time. The proposal that the City has would probably involve decertifying some beds and that will go a long way with the State approving a moratorium exception since it would actually decrease the total number of beds.

Stobb asked if that was the original reason for moratorium as a way to control costs. Byrne replied in either 1983 or 1985 nursing home facilities were being built left and right and owners were making tons of money. The moratorium came into play to stop over-building. Otto-Arvizu asked if the State has expressed any concern over all the assisted living and congregate care facilities being built. Eeg replied not at this time but he thinks they will in the future. There is lots of money to be made and they are poorly regulated. Byrne added right now most assisted living facilities are not subsidized because they are privately run so there is limited State regulation.

Stobb said there was a reference to Orien Appraisers and asked if Tisdale an independent appraiser. Koopman replied the only thing she can say is based on his references is that Tisdale is highly regarded in this field and if the City is going to look at financing they need someone reputable to do the appraisal. Byrne added that Tealwood has had used him before. Stobb made a motion to retain Tisdale per his quote of \$4750 and Fraser seconded. Ferrazzano said based on what Eeg has said the City will have to Tracy Nursing Home appraised as well. Koopman replied the first step is to get Prairie View appraised before the project proceeds. All voted in favor of the motion.

Otto-Arvizu asked if Kerr or Nielsen saw any problems with the letter of support for the nursing home project. Nielsen replied he wished it would have been brought to his attention earlier as he was not in a position to offer an opinion. Stobb said the letter states the City is exploring the possibility of a merger. Ferrazzano suggested to have Nielsen review the letter and if he finds no problems he will sign it Thursday. Motion by Otto-Arvizu to approve the letter of support contingent upon the approval of the City Attorney. Torkelson second the motion and all voted in favor of the motion.

Kerr stated the Council has been provided with several documents regarding the pool litigation. Two motions were filed, one by Olympic Pools and one by USAquatics, and the City got a very satisfying result from the court recently. One significant issue was determining that the liquidated damages provision in the contract between the City and Olympic Pools was an unenforceable penalty. The other issue was dismissing the City's counterclaim against Mid-State Surety Corporation which is Olympic's surety company on the performance bond because they had failed to satisfy conditions pressed into the surety's liability under the bond. Judge Harrelson concurred with Kerr's argument and USAquatics motion by summary judgment is denied and Olympic's and Mid-State's motion for partial summary judgment is denied.

The first issue Harrelson addressed was issue 5 of Olympic's motion which was to dismiss the City's counterclaim against Mid-State. As Kerr pointed out, Olympic's complaint dated September 10, 2002 alleges that the City of Tracy defaulted on the contract therefore paragraph three of the surety bond does not apply. That commences if there is no owner default. So Olympic's attorney, Curtis Smith, couldn't have it both ways.

Exhibit D, submitted by Smith, quoted portions of the contract referring to milestones, substantial completion, and final completion. Article 403 of the contract states that time would be of the essence and the contractor would pay \$800 for each day that expires after the time specified for substantial completion and also after final completion. The Court cited a case that Kerr also cited, Gorco Construction Company vs. Steen which states that the modern trend is to look favorably upon the provision of liquidated damages. Basically Olympic had signed many contracts including this provision and had no trouble with it until they actually had to pay it and now they are claiming it is a penalty. The Court stated very simply that liquidated damages is enforceable. Kerr thinks that means they can't argue that point later in trial but they could present some evidence about enforceability. The problem is that the \$800 was a figure supplied to the City by USAquatics. There is no causal connection between actual losses and the \$800. USA had used that figure in many of their other contract. Kerr was concerned the Court may say that's an arbitrary figure. If that would have been the case the City would have had to total up the actual damages.

The Judge addressed Olympic's next issue, if there was a liquidated damages provision if the City

is entitled to be covered by liquidated for the delay in completion of the project as a whole. Olympic argues that the City or separate contractors contributed to the delay. Where that comes into play is the City received six days of liquidated damages from Salonek because of the fence issue.

Olympic lastly argued that the City is only entitled to recover liquidated damages through the date of substantial completion and not the date of final completion as claimed by the City. The Court cited Article 402 and stated the City of Tracy may be entitled to collect liquidated damages up to final completion of the work. Kerr stated the assessment of six days of liquidated damaged against Salonek is questionable because it all goes back to Olympic not installing the underground piping in the fall when they should have. The Court also mentioned the liability for Aqualogic's costs. Per the contract the City paid Aqualogic \$27,270 so Kerr claimed that amount in the City's counter claim. The Court stated the decision if the City can collect for those expenses is reserved because the City has to prove that up.

The her motion for summary judgement the attorney for USAquatics asked if the City can collect liquidated damages from USAquatics even though they weren't party to that contract. Kerr stated the City never did say they were going to collect liquidated damages from USA. It was inadvertently mentioned in some response to a discovery.

USA asked if the City can collect attorneys' fees when there are no contractual provisions or statutory provisions allowing for the recovery. Kerr said that is where he was faced with the American rule which says that he has to have one or the other where is comes to recovering attorney fees.

USA's third argument was can the City proceed on any claims of negligence against an engineer without complying with the requirements of Minnesota Statute 544.42. Kerr said that was an early argument by USA's attorney stating the City didn't have expert review. If you're going to be suing an attorney, architect, engineer or other professional you have to have a qualified opinion from a colleague or something with equal credentials. Kerr had replied that Rick Schaefer has a couple years of college and is not a licensed architect or engineer. The Court threw this out right away. The question is did USA breach the contract and fail to exercise ordinary and reasonable care. Tracy realizes they cannot collect liquidated damages from USA.

Mr. Coleman did not feel the City would need to get an expert witness in this respect but will need to get some admissions that Schaefer did not act as a reasonable construction manager.

The other matter which has been filed and will be very significant is a motion that will be heard on February 9 before Judge Harrelson where the City will ask that the scheduling order be amended. Kerr had earlier stated that the defective construction would be tried in a separate case. After Graham Construction and Associated Pool Builders came in the City found there were many more problems than just the cracking of the pool floor itself. Kerr has asked the Court to amend the lawsuit to include those issues as well and amend pleadings until April 30, 2004. By that time the City should know if there were design flaws and a list of defects. A letter went out to all parties involved outlining the findings. Kerr has asked for a deadline of discovery of August 1, 2004. Kerr has taken some discovery and now have to narrow it to the construction defects. The City's expert witnesses will be brought in on or before August 15, 2004. There will be an October 15, 2004 deadline for making other motions. Pretrial conference to be held late December 2004 and a bench trial to be held approximately late January 2005.

Kerr said one last item is there has been a suggestion that in an attempt to speed up the resolution of this very substantial problem by having a temporary heated plastic enclosure over the pool to allow Peschina and his help to do their investigation. As of right now they can't do this until later this spring when the ice and frost is gone. Peschina recommended that the City contact a local contractor about a cost effective way of building the enclosure. When Kerr spoke earlier tonight with Coleman his suggestion was Robinson and Paul DeSmith speak with Peschina about what they should consider for this enclosure. Ferrazzano stated if the Council acts now they may lose another pool season but if they don't do anything a season will be lost for sure. Robinson stated the enclosure would be heated with portable propane heaters and most likely would be a temporary wood structure with a wire mesh frame covered with plastic. He said he would talk to some local contractors about a proposal. Motion by Byrne, second by Stobb, to direct Robinson to speak with Peschina and put

together a bid proposal. Otto-Arvizu stated based a conversation earlier with Attorney Jeff Coleman there is a good possibility the City can recover these costs. Kerr stated even if the pool season is lost the City will still want to do as much work as possible before winter.

Otto-Arvizu stated it wasn't clear to her whether the City needs to consult with Brian Peschina in order not to do any further damage to the pool by installing the structure. Kerr replied it is called spoilation of evidence but Peschina has indicated that heat would not cause additional damage but this is something Robinson can clarify before getting quotes. Stobb asked if the City can speed up discovery if there is anything else that could slow the process down. Kerr replied the experts will have to keep the mechanical problems portion separate from the shell itself. They are being very careful about how sensitive this is going to be. There are suspicions that there are mechanical problems in addition to the concrete problems. Kerr figured they could probably save a month's time by putting up the shelter. Stobb said if the bench trial probably won't be scheduled until January 2005 that may endanger a second pool season. Kerr stated Coleman thinks the City can try the case without first obtaining damages. They will have the damages later on this fall. Otto-Arvizu stated the City can proceed with either repair or replacement of the pool, depending on the expert recommendation, without waiting for a judgement. Ferrazzano thought it would be wiser to proceed because the City will then have a specific dollar amount prior to the trial. All voted in favor of the motion to have Robinson consult with Peschina and obtain quotes for a temporary structure. All voted in favor of the motion.

Koopman stated issue (7A), the employee health insurance policy, should have been deleted. Her office was not prepared to submit a report at this time.

Ferrazzano presented the revised Cemetery Superintendent's Agreement. Otto-Arvizu asked about page two and the use of the City vehicle. She thought all contractors were supposed to provide their own vehicles. Byrne stated the Council covered this issue last spring that he could the water tank on the truck for watering plants. Otto-Arvizu said she thought that was for use in the City Gardener's position. Byrne replied it was for both. Koopman said he waters flowers and trees at the cemetery. Stobb recalled that the truck was purchased for \$800 and the sole use was as a water truck. Robinson stated Holm always contacts him prior to using the truck. Motion by Stobb, second by Byrne, to approve the Cemetery Superintendent's Agreement. All voted in favor of the motion.

Koopman stated at the last Council meeting when a transfer of funds from the refuse and licensing funds was discussed it was indicated there was a surplus of funds but that is not true. These funds have actually been committed within the budget with transfers back into the general fund for costs associated with those funds. Koopman said she just wanted to let the Council know there are really no surplus funds in the budget.

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

ATTEST:

City Administrator

Mayor

February 23, 2004

The regular meeting of the Tracy City Council was called to order at 6:30 p.m., Monday, February 23, 2004 in the Council Chambers of the Municipal Building. The following Council members were present: T. Byrne, M. Fraser, S. Ferrazzano, J. Otto-Arvizu, R. Stobb, R. Caron, and G. Torkelson. Also present was staff member: A Koopman.

Ferrazzano asked for any additions or corrections to the minutes from the February 2, 2004 City Council Meeting. There being none, motion by Fraser, second by Caron, to approve the minutes as written. All voted in favor of the motion.

Ferrazzano asked for any additions or deletions to the agenda. He deleted the closed meeting to discuss personnel issues. Motion by Caron, second by Torkelson, to approve the agenda as now written. All voted in favor of the motion.

Kerr reported the City had been again successful in court with the court approving a motion to file and amend claims in the matter of the pool and also to amend the schedule. The original trial was set for March 14, 2003. Judge Harrelson granted a motion from the bench to amend the City's claims.

Nielsen arrived at 6:32 p.m.

Kerr stated that Judge Harrelson directed the various attorneys to get together and agree on a schedule. Jeff Coleman's office sent a schedule to all parties involved which was agreed upon. The City has until April 15, 2004 to amend and file claims and a trial will be set around March 2005. This will give the City time to discover the extent of the damages. Kerr said there is also a matter of the need for an additional expert to investigate the pool. Gremmer and Associates has submitted a proposal and would address concerns in the mechanical room and partially on the pool shell itself. Kerr stated there will be in phone conference on Wednesday with Rick Robinson, Paul Desmith, Jeff Coleman's office, Brian Peschina and a Mr. Dahrns from Gremmer and Associates provided the Council approves the proposal from Gremmer.

Upon reviewing Gremmer's proposal Kerr questioned the need for Dahrns to read the depositions at this point and he thought it was alright to strike that from the proposal. The total proposal is then \$16,200 and Kerr requested that the Council consider approving that expense. Otto-Arvizu asked if the City needs this expert in order to be able to prove the case in court. Kerr replied that the first step is to determine the best method of rehabilitating the pool and the second step is to recoup expenses in court. All the experts involved will be called upon in court to testify. Stobb asked if the verbal report and written report are two distinctly different things. Kerr thought the verbal report should not be distinctly different but thought it would be the factor the Council would base their decision on for repairing or replacing the pool. Fraser thought it was strange there was the same fee for both. Kerr replied he assumes the proposal was based on a rate of \$150 per hour. Stobb wondered if a verbal report was necessary if the written report would contain the same information. Kerr replied the good thing about a verbal report is the Council can act on that information and decide how to proceed. Ferrazzano suggested if it was going to cost \$3600 for a verbal report maybe they should do the report by phone. Kerr stated he will propose that the Gremmer. Motion by Byrne to enter into an agreement with Gremmer and Associates. Fraser seconded and all voted in favor of the motion.

Koopman asked the Council to consider adopting a resolution ratifying the Council's action relating to entering into a contract with Karl Campbell to construct a temporary enclosure over the swimming pool. She said they don't have the resolution in writing at this time because Kerr had an emergency at his office and was unable to complete it. Koopman stated the City had obtained quotes from three contractors, Art Peterson and Joe Beierman, Daniels Peterson Construction and Karl Campbell. Campbell had the lowest quote including a performance bond of \$26,973. The Council was polled by phone to authorize the agreement with Campbell and the contract has been under way since February 17. The resolution is to ratify the contract. Motion by Byrne, second by Torkelson, to adopt the resolution. All voted in favor of the motion. (Res. No. 2004-4)

Ferrazzano opened the hearing to public testimony Ordinance No.283 amending Section 3.10 of the Tracy City Code. There being no public discussion the hearing was closed. Stobb stated there were no issues with the ordinance at the Planning Commission. Motion by Torkelson, second by Stobb, to adopt Ordinance No.283. All voted in favor of the motion.

Kerr reported the cable TV franchise renewals have been going on for some time and there have been several extensions. He received a call from Attorney Robert Vose last week after responding to a letter stating that PrairieWave is willing to accept the franchise but Charter has asked for amendments to the franchise. Kerr had written Vose that Charter's requests had never been spelled out, that the Council would not be advised to adopt the present draft subject to Charter's amendments, and the Council would be advised not to grant any further extensions beyond March, 28, 2004. Kerr asked Vose to come before the City Council on March 8 to explain what Charter is proposing. He said the biggest amendment is Charter doesn't want a local office in Tracy and has said they will not sign an agreement with that requirement.

Ferrazzano referred to a letter drafted by Frank Nielsen to Leonard Lanoue regarding the City farm lease. Nielsen stated that Lanoue stopped into Koopman's office earlier today and signed the lease agreement.

Barb Kirchner was present to discuss the procedural guidelines for the Small Cities Development Grant project. She stated the block grant was received last spring and one of the special conditions is that policies and procedures be drafted for the three types of renovations to take place: home, commercial and rental properties. Back in December Kirchner's office sent draft copies to Koopman. Kirchner came to explain what the policies for working with commercial property owners, home owners and rental property owners. She stated she would briefly review the three policies which establish who is eligible for assistance, how the applicant selection process goes, how to verify the eligibility, the average and maximum financial assistance that would be loaned as well and the terms, and conditions of assistance, eligible and ineligible improvements, procedures on lead hazard reduction, marketing of program, file documentation, the contracting information, the project approval process, appeals procedures, conditions of assistance, rehabilitation standards (eg. where smoke detectors need to be placed), and complaint procedures. The way the application was written for the owner-occupied properties the Small Cities Development project zero percent deferred loan is 80% of the total project.

Kirchner stated the average loan amount for owner occupied homes is \$14,112 with a maximum loan amount of \$25,000. When the application was written for the City of Tracy there were 18 owner-occupied properties listed. The loans were written as zero percent deferred with twenty percent per year forgiven.

Rental rehabilitation program is set up with an average loan amount of \$13,200 and the maximum loan amount is \$18,000 with a five year forgiveness term with 20 percent forgiven each year. Along with rental rehabilitation there is a section in the policy which states the units must be rented out to low to moderate income individuals for the length of the loan term. It also talks about how much the owner can raise the rent which would follow fair market rent.

The commercial project program is set up with an average loan amount of \$25,245 and a maximum loan of \$27,000. This program is set up a little differently where 66 percent of the project cost will come from the Small Cities Grant and 34 percent must come from the property owner. Thirty-three percent of the 66 percent is a grant which would be forgiven at 20 percent per year for five years. The remaining 33 percent is in the form of a one percent loan which is paid back to the City. That money is then used for other rehabilitation projects in the future.

Kirchner said the approval process is handled by the field administrator office which is Western Community Action (WCA). They will meet with the property owner and prepare scopes of work and put it up for bid. Then WCA presents this to a design committee established in Tracy who will review the plans and costs and make a recommendation of approval or disapproval. The plans then go back to the Southwest Minnesota Housing Partnership for their final approval. Byrne asked who decides on the contractor bids. Kirchner replied the property owner does. WCA prepares two or three scopes of work showing what the property would like to do. The property owner would then present

project plans to at least two contractors but ultimately the owner chooses the contractor he wants. WCA reviews the final plans and inspects the work while it's being done.

Stobb asked if a property is not suitable for repair if there is nothing in the development project for that property owner. Kirchner replied there is a process included in these procedures for how to determine that. If the project cost is 50 percent or more of the estimated market value and it has too many improvements the owner will receive a letter saying the property is unsuitable for rehabilitation. The property owner might disagree and they would write a letter to WCA and they would come and talk to the design committee, so they are given an opportunity to appeal it. Kirchner said there was a property in Murray County that was unsuitable for rehabilitation and the owners asked for a waiver and took the maximum loan amount and asked to build a new home.

Stobb said he doesn't know anything about the Davis-Bacon Labor Standards but it stipulates something about the hourly wages for contractors. Kirchner replied this applied only to the commercial projects. When WCA prepares a scope of work the labor standards are included in a packet so the contractor knows he has to pay the federal labor wages and the overtime requirements. Some of the contractors aren't real excited the first time they work on one of these projects but once they have done one they realize how the program works. Kirchner said there is some federal regulation on wages and sometimes rental property projects have these requirements. If there are eight units or more then the property falls under these guidelines.

Nielsen said on the first page of the procedural guidelines it says the City of Tracy is contracted with Southwest Minnesota Housing Partnership for administration of the program. Kirchner replied this contract was in place in June or July of last year. Nielsen asked to see a copy of that contract. Motion by Fraser, second by Stobb, to adopt the Small Cities Development Program procedural guidelines. All voted in favor of the motion. Kirchner stated as Koopman and she discussed the City will receive a monthly summary report either from her or WCA of how many applications have been approved and how many started construction. Right now 11 commercial applications have been received and the project has funding for 18. Sixteen applications for residential properties have been received and 25 can be funded. Jeff Gladis will be scheduling meetings with owners soon to discuss project plans.

Koopman presented a request from Christianson Plumbing and Heating for a City plumbing license. She said they have previously had a license with the City and have provided all necessary fees and documentation. Motion by Stobb, second by Torkelson, to approve the license request. All voted in favor of the motion.

Ferrazzano presented a letter received from Dr. Fazal and Dr. Edith Liu regarding a request for assistance from the City to plow snow from the driveways of doctors employed at Tracy Hospital. The concern is the doctors' ability to arrive at the emergency room in the first few critical minutes to provide patient care. Ferrazzano said in the letter there was a reference to other towns providing that service. Dr. Fazal replied he would supply those names. Ferrazzano stated Koopman had posed that question to other City Administrators and none of those who replied indicated that they provided this type of service. Otto-Arvizu said she wondered how this would be done since the City has large equipment for clearing streets but during a storm the City crew wouldn't be able to use smaller blowers to clear private driveways. She stated police officers are also on duty with a 4-wheel drive vehicle and could assist doctors in getting to the hospital. Fazal replied when responding to an emergency it's a matter of minutes to get to the patient. He said he wasn't asking for any extra service, just whenever the City is doing regular street maintenance if they could clear the doctors' driveways. Nielsen asked what street Fazal lives on. Fazal replied on 4th Street East. Nielsen said that street is part of the emergency snow route. Koopman responded that all the doctors are on the emergency route. Ferrazzano asked when plowing is done if the City crew can lift plow when passing by the doctors' homes. Robinson replied the City uses one way plows so that wouldn't be possible. He added there are also a lot of volunteer firemen and ambulance attendants in Tracy and where would the City draw the line if plowing for emergency personnel. Fazal replied the difference is only one doctor on duty. Caron stated the hospital has skid loader and asked if they would be available to plow. Fazal replied that aren't on duty at night and on weekends.

Koopman said the City has never plowed private drives before and the biggest problem is they City just don't have the equipment for a driveway. The equipment is too heavy and would damage

driveways. Robinson said there are a lot of private contractors in town that are out plowing at the same time as the City and suggested the hospital look into contracting for the doctor's snow removal. Byrne said he understands what the doctors do is important but other emergency personnel can argue they are just as important. Robinson said the City has the practice that when a large storm is coming the guys sleep at the shop so when the wind stops they can immediately go out to plow. He suggested the doctor on call could also sleep at hospital in case of a storm. Ferrazzano thought this was something the hospital could pursue in terms of contracting with a private party and if a doctor can't get out they could call for a police officer.

Koopman presented a list of Boards and Commission vacancies and applicants. She added the Planning Commission was meeting next Monday night and she would see if the current members were willing to renew. She doesn't plan to advertise the vacancies again in the newspaper. The appointments made will be effective on March 1, 2004.

Motion by Byrne, second by Fraser, to appoint Marge Robinson to the HRA board. All voted in favor of the motion.

Motion by Caron, second by Torkelson, to appoint Robert Ochocki to the Multi-Purpose Center Board. All voted in favor of the motion.

Motion by Torkelson, second by Caron, to appoint Chad Buysse to the E.D.A. Board. All voted in favor of the motion.

Motion by Byrne, second by Caron, to appoint Marlene Buck to the Cemetery Commission. All voted in favor of the motion.

Ferrazzano stated two applications were received for one vacancy on the Hospital Community Board. Koopman said the Council can go through an interview process otherwise the decision would be based on the applications provided. Stobb asked if this is the position Hannasch occupied previously. Koopman replied this was the position occupied by Chris Kamrud. Hannasch has attended the board meetings regularly but was not an official member. Byrne and Otto-Arvizu volunteered to interview Hannasch and Emerson for the Hospital Board position. Koopman asked them to schedule the interviews before the next Council meeting.

Dave Spencer introduced Steve Severson from Appletree to explain the proposed changes to City employee health insurance coverage. Severson stated Appletree is a group health insurance pool and administers risk management programs for Southwest Minnesota. It is a non-profit corporation that administers two different insurance pools; one for city, county and governmental services and one for schools. Some of the benefits to participating in a pool are discounts through Blue Cross Blue Shield and capped administrative fees. Normally these fees are figured on a percentage of claims but the pool has negotiated a flat rate. Another advantage is the sharing of increases and decreases in premium rates. This averages out the highs and lows of rate increases for the whole group. Group members also have access to excess revenues. At the beginning of a policy year an average is determined and if at the end of the year claims are lower than projected members get credit. Severson feels Blue Cross has the best provider discounts and also offers prescription refunds. Appletree has negotiated that 92% of prescription refunds come back into the pool. The executive committee decides where those refunds go. The plan is called a minimum premium plan and defined as a self-insured plan. The service coops take out reinsurance to take away any risk to the group.

Severson stated that in Minnesota there are eight service cooperatives. Roughly 30 percent of all Blue Cross entire business is in these pools. He said the VEBA plan is what City employees are considering. It is a higher deductible health plan but provides significant savings in premiums part of which is used to establish a personal health care account for each employee. If an employee doesn't use all the funds in their account in a year's time the money rolls over to the next year. Account funds can be used for things like eye glasses, laser surgery, and dental costs and this money comes out tax free. Severson thinks this is a real win/win situation for employees and employers. Stobb asked what happens to employee funds if they retire or leave employment. Severson replied they keep all funds but they still have to be used for allowable uses. Nielsen asked if the money gets into the accounts by deductions from the contract holders. Severson replied that the employees negotiates

that with the City.

Spencer stated currently the City pays the employee premium and a limit on family premiums of \$500 per family. With the high deductible plan the family premium drops so much that everyone drops below the \$500 mark. The proposal is for a ten percent deduction for each person that has family coverage rather than having the City pay \$500. The other side is the total deductible is \$3500 for family coverage, which is \$1750 for the employee and \$1750 for the family. These account donation figures were rated down to \$1550 for the employee and \$1350 for the family. Spencer stated Appletree also has an incentive and will give a single person \$240 and a family \$600 into each VEBA account. He prorated the first year's costs out for nine months since the City has paid three months already to Principal. In 2004 the bottom line is the least amount of money the City would save is \$331.36 if the 15 people who are eligible for City insurance but not currently participating would join the plan. The best scenario is if no additional members join the pool the City would save \$17,774.49 in a year. For 2005 Spencer calculated the savings without a possible increase in premiums and in the worst case scenario the City would save \$9867.80. In 2005 the best case savings would be \$32,893.40.

Otto-Arvizu stated the premium rates are based on experience but she asked if the City would have a rating by then with only have nine months of experience by next January. Severson replied the company may go by industry trends which are about eleven percent. Spencer said eleven percent is less than half of what the increase has been over the last few years. Ferrazzano asked if the employees are in favor of the plan. Spencer replied it took some convincing because change is scary but upon a vote the majority was in favor of the change. He has reviewed the plan for the last two months and it appears everyone benefits from the VEBA plan. Otto-Arvizu asked if the City has talked to any other municipalities about this type of plan. Spencer replied the VEBA plan is quite new so there is no one that has a lot of experience with it but a lot of municipalities are on a regular plan with Appletree. Stobb asked if the City would be locked into the plan for any length of time. Severson replied the City could switch at the end of a plan year however there is a No Peek provision. Once in a pool if the City would go out for bids with another company the City would be asked to leave the pool for two years. This is the glue that holds the pool together, it discourages young healthy groups from finding a less expensive plan and jumping ship leaving older, less healthy groups.

Spencer said a couple other things is the amount that goes back into this plan is the City's savings in premium dollars and the percentage that the employee pays for premiums. Both these items are negotiable when it comes to the union contract. Spencer added it does cost \$2.40 per contract per month for each person in the pool. Currently the City is charged \$2.50 per person for the flex plan and at the end of 2004 they City can roll a flex plan in with insurance plan all for the same \$2.40 fee. Severson stated Appletree is currently paying the \$2.45 fee as an incentive but he doesn't know if they will continue to after 2004. Spencer said since October 2003 there have been six employee meetings on insurance. Tom Rignell would still be the City's agent. Stobb asked if the plan would make more work for the City office. Spencer replied somewhat less since Wells Fargo would manage the plan. Byrne asked if other than the larger deductible if the coverage is about the same. Spencer replied it is. Byrne said the biggest incentive is it will slow down the increase in premiums. Motion by Torkelson, second by Stobb, to approve entering into an agreement with Appletree. All voted in favor of the motion.

Ferrazzano stated a committee met about the permanent parking lot structure on February 1, 2004. They wanted to get approval from the Council to hire an architect to draw up plans for the structure. He asked what Group II Architects out of Marshall has done for the City. Koopman replied Group II has done some work on the Prairie Pavilion but nothing else. She suggested it would be wise to do a Request For Proposal (RFP) to get the best price. Stobb said he was curious about the time line. Byrne said it was not possible for the Sportsmen's Show but the committee was shooting for sometime in the summer. Koopman said she will send out a request for the cost of drawing up these plans. Motion by Byrne, second by Caron, to direct the City Administrator to prepare a RFP for architectural services. All voted in favor of the motion.

Koopman reported that last Friday she opened bids for the playground equipment at Sebastian Park. Two bids were received and there was a \$2800 difference in price, however one bid meets specs and

the other doesn't. She thought it would be wise to have the Park Committee meet to make sure they were comfortable with the proposals. Koopman added Miracle Playground Equipment was the body that drew up the plans and they did meet the bid price included in the LAWCON Grant application. She said she would set up a meeting with the Park Committee within the next two weeks.

Ferrazzano presented a resolution transferring a loan from the Medical Center Trust Fund to the Aquatic Center fund in the amount of \$200,000. Motion by Byrne, second by Torkelson, to adopt the resolution. All voted in favor of the motion. (Res. No. 2004-5)

The Consent Calendar included the following: Monthly Police maintenance log; Monthly Water and Wastewater report; and Municipal Accounts Payable. Ferrazzano asked how PeopleService is doing. Robinson replied there is a new person in place but he doesn't think they have a C class license which is the type of facility Tracy has. He said he would like to get some documentation and submit a report about some of the problems that have occurred. Robinson said in some of the recent water main breaks PeopleService had three people here with little to no experience in fixing water mains. GH Plumbing had to remain on site much of time costing the City a lot of extra money. Plus City Crew were in the holes doing repairs that PeopleService should have been doing. Koopman said the City contracted with PeopleService to do this work so Public Works employees didn't have to be in the holes. Motion by Byrne, seconded by Fraser, to approve the above listed items. All voted in favor of the motion.

Ferrazzano presented a Mayor's proclamation to establish March 2004 as Lyon County Red Cross Month. Motion by Fraser, second by Byrne, to approve the proclamation. All voted in favor of the motion.

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

ATTEST:

City Administrator

Mayor

March 8, 2004

The regular meeting of the Tracy City Council was called to order at 6:30 p.m., Monday, March 8, 2004 in the Council Chambers of the Municipal Building. The following Council members were present: T. Byrne, M. Fraser, S. Ferrazzano, J. Otto-Arvizu, R. Stobb, R. Caron, and G. Torkelson. Also present were staff members: A. Koopman and F. Nielsen.

Ferrazzano asked for any additions or corrections to the minutes from the February 23, 2004 City Council Meeting. There being none, motion by Caron, second by Fraser, to approve the minutes as written. All voted in favor of the motion.

Ferrazzano asked for any additions or deletions to the agenda. Koopman added (4C) an emergency moratorium on adult uses. Motion by Caron, second by Torkelson, to approve the agenda as now written. All voted in favor of the motion.

Kerr reported he and Koopman met today with Robert Vose with Kennedy and Graven to discuss the cable franchise agreements. They reviewed 30 areas on the agreements and developed some recommendations for the Council. Kerr stated the franchise agreements must be granted by ordinance and if the recommendations are approved by the Council they must waive the first reading tonight. The Council will be provided with the two agreement drafts prior to the public hearing on March 22 and the Council will be asked again to extend present franchises until the agreements are accepted by all parties.

Vose stated he was retained in August 2003 to review the Charter and Prairiewave franchise agreements. On August 15 2003 he obtained a draft of the franchise which was based on the existing PrairieWave agreement. This agreement is quite different than the Charter franchise first issued in 1988. Charter accepted the general parameters of the agreement but raised some issues that were not acceptable.

Vose said the City currently receives a franchise fee of \$2500 per year. Since the City is entitled up to five percent of gross revenues both Charter and Prairiewave have agreed to the increased franchise fee amount included in the proposed agreement. Both have also agreed to reimburse all legal fees associated with franchise renewal. Vose added Charter does not typically agree to do that. He said he has had three or four rounds of comments requesting changes to the agreement and he thinks today was the final set of requests from Charter. Vose said he had eight agreement issues to present to the Council:

1. What kind of system each company has in place.

Since Prairiewave has a completely different type of system than Charter would be nearly impossible to describe each system in the same way. Vose recommended that the system description be limited to the number of video channels each service provides. In the current Charter franchise they are required to provide 50 channels. The contracts would not speak to the kinds of networks the two companies would have to maintain. Vose recommended that the City require increase to a minimum of 75 channels. Both companies currently provide more than that.

2. A listing of categories of channels that each company provides in basic service.

The "basic" tier is the least expensive with a limited number of channels including over the air broadcast channels and community channel. In both franchises the categories include sports, children's, news, and over the air channels. Since the City issued the Charter franchise in 1988 the Supreme Court decided that the channels provided by a cable franchise are the company's choice and are an exercise of free speech rights. The government has little or no control over that. Cable companies don't want local governments either to say what they will air. Charter has come back and asked the City not to include channel requirements on any tier of service. They have agreed to provide at a minimum all broadcast channels on the basic tier and the public access channel. In addition Vose, Kerr and Koopman are recommending that the City require a minimum of 13 channels on the basic tier and the company cannot duplicate for example two CBS affiliates. The 13 must be different channels which would give the broadest range.

3. Character generator issue.

This is a device that would allow the City to put text messages on the community access channel. This can be a very valuable way to communicate with the public. The proposal is that Audrey or an appointed staff person be permitted to call in a request to put a particular message on that channel. Vose had no reason to believe either company would be opposed to that. Otto-Arvizu asked if that means only City staff has the authority to put information on the public channel or if each company would be able to publicize on these channels. Vose replied that would be up to the City and can be done either way. Many communities choose to make this truly a community channel whereby anyone can submit information. He added that the cable companies do sometimes have valuable information that could be put on the public channels.

4. The City right to require inspections of the cable systems.

and

5. The right to call for a evaluation sessions.

This allows the City to call in the cable companies representatives to discuss cable issues. Vose stated companies like to limit cities authority in this respect to only when both companies are inspected. It makes some sense in that they are in a competitive market and want to be treated fairly but as Kerr pointed out if the City suspects problems with one system and has to inspect both, if nothing is wrong with the other system the City has to pay for the inspection. Vose and Kerr think these inspections shouldn't be linked in that way and should say no to those changes

6. Local office requirement.

Prairiewave has clearly been far less concerned with this issue than Charter. There is no location, square footage, or staffing requirement specified in the agreement. Charter is significantly larger and their approach is they have an 800 number for residents to call for service requests or problems. The Charter office is only staffed part time but the City may have a concern in losing that presence if the office was closed. Kerr stated it was his understanding that Charter is open Tuesdays and Thursdays and Prairiewave is open Mondays, Wednesdays and Fridays. Byrne asked where the closest regional call center is located. Vose said the main center is in Rochester and thought that location may serve Tracy. There is also a center in Eau Claire that serves northern Minnesota.

Koopman said when the City was having difficulty broadcasting Council meetings she had a very difficult time finding someone to explain the problem to. When she called the 800 number customer service didn't know what she was talking about and she spent over 20 minutes on the phone. Koopman added the local numbers listed in the phone book have been disconnected. Byrne said if there is anything other than personal cable service, such as with the nursing home it's very difficult to get anywhere. The customer service line isn't prepared to deal with corporations.

Stobb asked how the City would put something on the local channel. Koopman replied that she thought the City would be getting a fax number. Vose stated he was very uncomfortable explaining Charter's point of view. Charter has said they will commit to a drop box, mailing and the Internet for bill paying and a toll free number to call for service changes and problems. Charter has said people would never have to drive anywhere if disconnecting service and it their position that they don't need a local office. Otto-Arvizu stated Charter always had a local office so the City required Prairiewave to do the same. Vose said the flip side of the Charter office issue is having a local person employed and giving the company a closer tie to the community. Fraser asked if some communities do have a local Charter office. Vose replied he was almost certain he has negotiated at least one deal with a local office.

Kerr said he has talked to Pat Mastel, attorney for Prairiewave, and they are quite comfortable with having a local office. Otto-Arvizu said if the Council requires a local office they should also require a working local phone number. Vose stated much of the growth of regional call center is due to FCC regulations about customer service including how quickly companies answer phones, and how quickly they roll out repair trucks. All this can be done without having a local office. As long as they have sufficient trucks for service the cable company will be complying with federal cable laws.

7. Performance bond requirement and a \$1000 security fund requirement.

Vose said the security fund was put in place to be used to penalize companies for violations. Koopman had reported to Vose that while both companies have been in compliance it has been a hassle for staff to maintain these security funds because they are in City's name and are interest bearing accounts so periodically the interest has to be forwarded. Both companies would like to drop this requirement.

8. Corporate changes.

Charter has undergone a number of corporate changes the City has had to review and approve. Charter has proposed not subjecting the company to a review by the Council in the event the system or part of the system is leased to another company. Typically when Charter has new internet offerings they lease a portion of their network to an affiliated company and they are probably concerned that arrangement doesn't cause the City to review the change. Vose said he didn't think the City would be concerned about leasing a portion of the system but would be if Charter leased the entire system. Staff has come up with a proposal to address both the City's and Charter's concerns.

Vose asked for some direction in regard to the local office requirement. Nielsen asked if the Council decided to require local offices if they should require they be open three full business days with a working local phone number. Byrne said he would have no problem with two business days but agreed they should have a local number. Motion by Byrne, second by Torkelson, to adopt a resolution to waive the first reading and call for public hearing on the two franchise agreements to be held on March 22, 2004 at 6:45 p.m. All voted in favor of the motion.

Kerr presented a proposal to revise Section 9.10 of the City Code regarding the Hospital Advisory Board. Currently there are seven board members including four from outlying areas. He said as the Council is aware the board is reviewing some plans for hospital expansion and given the possibility there may be significant expenditures for the City of Tracy it was suggested that the board add two more Tracy residents for a total of nine. Otto-Arvizu said she thinks it's important that Tracy residents make the decisions in regard to taxpayer dollars and public property. Kerr said they are trying to make sure there is input from a majority of Tracy residents since the primary recommendation will come from the Advisory Board. Otto-Arvizu suggested it may be a better reflection if people outside the community be ex-officio on the major expansion decisions involving taxpayer money. Motion by Torkelson, second by Fraser, to waive the first reading and hold a public hearing at 6:55 p.m. at the Council meeting on March 22, 2004. All voted in favor of the motion.

Kerr reported the Planning Commission has been working for the past year on developing an answer to the threat of adult use establishments in Tracy. Members have completed a lot of research to develop a recommended ordinance for the Council. The current emergency moratorium on adult use establishments will soon expire and Kerr asked for a six month extension. Motion by Byrne, second by Stobb, to adopt a six month moratorium extension. All voted in favor of the motion.

Kris Harris with the Lyon County Enterprise Development Corporation (LCEDC) introduced herself to the Council. She stated LCEDC is sponsored by each community member and they serve to help new businesses get started, help businesses experiencing difficulties or help existing businesses expand. It is a free and confidential service available to anyone. Harris will be available in Tracy one-half day each month. Byrne asked if Harris works with EDA boards. Harris replied she cannot initiate and cannot motivate contacts but can take referrals. She added she sends a lot of people to the local EDA for funding and support.

Koopman stated the Board of Review meeting is scheduled for Thursday, April 29, 2004 at 7:00 p.m. The meeting is for people who have questions or issues with the way their property is being valued. Motion by Caron, second by Fraser, to appoint Torkelson and Byrne to the Board of Review. All voted in favor of the motion.

Motion by Stobb, second by Fraser, to appoint Allen Landa and Sheila Leonard to the Planning Commission. All voted in favor of the motion.

Motion by Stobb, second by Caron, to appoint Wanda Apperson and Goldie Wilking to the Library Board. All voted in favor of the motion.

Two applications were received for the Police Commission vacancy. Otto-Arvizu and Byrne will interview Bernie Holm and Todd Radke prior to the next Council meeting.

Motion by Caron, second by Fraser, to appoint Sheila Leonard and Linda Petit, to the Multi-Purpose Center Board. All voted in favor of the motion.

Koopman stated the possible expansion of the Hospital Advisory Board wouldn't take place for 30 days after publication so the vacancy needs to be filled now. Otto-Arvizu stated she and Byrne interviewed Claire Hannasch and Dennis Emerson today and they recommended Hannasch be appointed to the Hospital Advisory Board. Motion by Fraser, second by Torkelson, to appoint Hannasch. All voted in favor of the motion.

Dennis Emerson addressed the Council stating he was the second applicant for the Hospital Board. He said that when he stepped into room he felt the interview was completely biased against him. He heard that Hannasch had attended meetings for the past year and a half. Emerson said he had been speaking to Rick Nordahl about a possible vacancy and finally contacted Koopman who said the vacancy would be published in the newspaper. Emerson said he thinks he is fully qualified for the position. Ferrazzano replied the Council made the decision for this vacancy but more than likely the Hospital Advisory Board is going to expand. He added it speaks volumes that Emerson applied for the position. Byrne said he thinks Emerson also misunderstood what he and Otto-Arvizu said. Hannasch was on the Advisory Board for three years when he was Mayor. Byrne said the current vacancy was not Hannasch's previous position. He had been attending the meetings as an interested party but had no official capacity. Koopman added Hannasch has normally attended every meeting. Emerson asked when the meetings are normally held. Ferrazzano replied the third Wednesday of every month at 7:00 a.m.

Dan Reiner was present to give a Task Force Committee report. He stated either he or Rick Nordahl will try to give an operational report each month to the Council. The hospital's fiscal year ends April 30 and Reiner anticipated by year end the hospital will have a surplus of about \$200,000. He said there have been two general surgeons showing interest in joining the organization and four urologists who have shown interest in replacing Dr. Pinto upon his retirement. They hope to interview candidates in March.

Reiner said they are underway with some small improvements but the most significant concern operationally is O'Brien Court which has eight vacancies. The hospital is currently leasing three units for hospital use. Regarding the issue of governance Reiner said Sioux Valley is pleased to have the board expanded. The only concern is historically administration listens carefully to the medical staff and Reiner recommended the Council give consideration that the hospital chief of staff attend meetings as an ex-officio member of the Hospital Advisory Board. Since hospital staff is employed by Sioux Valley this would give the Board an excellent pulse on staff perspective. Ferrazzano thought that was a reasonable request. Motion by Byrne, second by Otto-Arvizu to have the chief of staff attend Advisory Board meetings as an ex-officio member. All voted in favor of the motion.

Reiner said as far as the Hospital Task Force is concerned on a ambulatory specialty center they are underway. At the last board meeting members of the medical staff came to express their thoughts about expanding. He felt the board got an idea of the difference of views. In about two to three months the Advisory Board will bring back some recommendations to the Council and he thinks they will be affected by Weiner Memorial's decisions. March 15 is the next scheduled meeting and administration has been asked to put together pros and cons of the three options to be pursued.

1. Building a range of speciality diagnostic services at specific hospital or possibly all three if appropriate.
2. An ambulatory care specialty facility at one hospital or a neutral site.
3. An ambulatory specialty center with the expansion of a centralized emergency room

service as opposed to each hospital having emergency room services.

The Board will hopefully be providing a comprehensive report on the pros and cons of each option and more than likely some capital commitments will be following that.

Reiner added that in regard to the vacancies in O'Brien Court the residents there are getting older and home health services have expanded in this area. Young active seniors don't want to live in O'Brien Court and after speaking with a housing consultant one recommendation is that either some or all of O'Brien Court be made into assisted living housing. A feasibility study will be conducted. This would allow for a much broader depth of nursing services as well as looking at an elderly housing facility wing. Along with these projects a child daycare center is also being looked into. That particular project could have an impact on the first project. Otto-Arvizu asked when these types of studies are authorized who pays for them. Reiner replied Sioux Valley does.

Hillger reported he had nothing to add to his monthly report other than it was a slow month of ICR's. Ferrazzano asked where they stand in the process of getting another officer. Hillger replied the Police Commission asked him to do a background check on two more candidates which will entail driving to Duluth.

Radke said the bathroom renovations seem to have solved the problem. He said he was looking at Saturday May 15 for the Liquor Store appreciation open house. Byrne asked if that weekend is the opening of fishing season. Radke replied he may have to rethink the date. Caron asked if Radke has had anyone ask about a driveway on the west side into the gravel lot from South Street. Koopman said she can check with Lyon County to see if they might be able to work it in with street project. Caron added at one time they were going to look into putting a door on the west side for off sale.

Robinson stated Brian Peschina from WJS had spent quite a bit of time at the pool documenting finds and sounding the floors of the pools. They marked suspect spots around the pools. Today Peschina came back with Jody Dabrns from Gremmer and Associates who is a mechanical engineer. They put their heads together to bring Dabrns up to speed and will do some calling back and forth to see what further testing needs to be done. Robinson said by the end of the month the City will have a report. He thinks the inspectors will want to go back and review all the data that has been taken and decide if they should do more core drilling or computer testing. Stobb asked if the additional testing will be part of the current contracts. Robinson replied they will probably bring Braun back to do more core drilling and he suspects they will be back at the end of the week. They may also want to do some pressure testing of the pipes. A tele-conference is set up for this Friday.

Ferrazzano asked if there have been any more water main breaks. Robinson replied one more last week but it was an easy repair. Caron asked if there have been any complaints about the corner of Morgan and Highway 14. Robinson said he hasn't had any and public works has been repairing it as needed. Caron said the corner needs to be widened there.

Robinson reported the sewer service line in the Multi-Purpose Center has backed up several times during the past 6 months. They City had it roto-routed twice then televised. The four inch cast iron pipe was not completely collapsed but 22 feet of it are exceptionally bad and it's deformed. Robinson had obtained two repair quotes and said they will have to take out part of the cement floor which they will have to patch somehow as they won't find matching tile. Motion by Stobb to accept the bid from GH plumbing. Caron seconded and all voted in favor of the motion.

There were no questions regarding Koopman's monthly report.

Koopman reported the Park Committee met and reviewed two bids received for the Sebastian Park playground equipment. She said two bids were received

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|-------------------------------------|-------------|
| Weber Recreational (Miracle) | \$47,472.37 |
| Flanagan Sales, Inc. (Little Tikes) | \$44,596.14 |

Koopman stated Flanagan's bid did not meet specifications. The committee's recommendation is to

accept Miracle's bid. In addition since the Park Committee meeting she received two additional quotes for the engineered wood chips or the protective surfacing needed surrounding the play equipment.

| | |
|--------------------|------------|
| Fibar Systems | \$6,865.00 |
| Weber Recreational | \$3,998.01 |

The Committee recommended to accept Miracle's bid of \$3,998.01. Motion by Caron, second by Torkelson, to accept both of Weber Recreational's bids. All voted in favor of the motion.

Caron referred to Koopman's report and asked when the Council would decide on the City Gardener's position. Koopman replied she would include it with the next agenda. She added there is more involved with that position than in past, especially if the Highway 14 beautification project proceeds. Caron asked if more was budgeted for that. Koopman replied Robinson has some budgeted for part time help that could be used. Caron stated they will need to get a job description and advertise for the position. Koopman replied she would have no problem doing that and will have to incorporate the additional duties in the contract.

Otto-Arvizu said the Pool Committee met and one of the issues raised was the fund raiser for residents outside City limits. The agreement was if \$1500 was pledged the donator would be given a season pass resident rate for 20 years. Otto-Arvizu said it's difficult to say the City still wants to collect the money with no pool available. The Pool Committee recommended to put the pledges on hold if the donor wishes and extend the residency rate until after the pool is back in operation. Koopman said the Council was provided a sample letter that would be sent to donors.

Ferrazzano said one of the things he thought about was approaching Slayton or Marshall about giving our Tracy residents a decreased season rate. Koopman replied the committee is checking into that. Otto-Arvizu said they also talked about getting additional swim lesson times and providing transportation from Tracy, the memberships and a weekly schedule with bussing. Caron said on the sample letter he didn't like the part where it states the goal is to have the pool in 2005. He said it sounds like it might be a two year project and felt they should leave it out. Ferrazzano said the letter says the goal is 2005 which is next year already and thought it sounded okay. Otto-Arvizu said Shorty Engel also presented a letter and requested to send it to former staff explaining they City wouldn't have a 2004 season. Koopman added the Council hasn't talked about it but Engel is putting a lot of personal time into the pool situation and not getting paid for it but Don Polzine is getting compensated for his time. She thought the Pool Committee should make a recommendation to the Council about that.

Ferrazzano presented a resolution approving an increase in pledged securities at Minnwest Bank South in the amount of \$500,000. Motion by Stobb, second by Fraser, to adopt the resolution. All voted in favor of the motion. (Res No. 2004-6)

Ferrazzano presented a resolution to oppose tax and expenditure limitation proposals. Other cities are doing this as a sign of support. Motion by Torkelson, second by Stobb, to adopt the resolution. All voted in favor of the motion. (Res. No. 2004-7)

The Consent Calendar included the following: Economic Development Authority minutes for January 14, February 6 and 20, 2004; Tri-Hospital Task Force minutes for January 14 and February 11, 2004; Cemetery Commission minutes for February 19, 2004; Fire Relief Association minutes for February 2, 2004; and Municipal Accounts Payable. 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 Torkelson, second by Byrne, to adjourn. All voted in favor of the motion.

ATTEST:

March 22, 2004

The regular meeting of the Tracy City Council was called to order at 6:30 p.m., Monday, March 22, 2004 in the Council Chambers of the Municipal Building. The following Council members were present: T. Byrne, M. Fraser, S. Ferrazzano, J. Otto-Arvizu, R. Stobb, R. Caron, and G. Torkelson. Also present were staff members: A. Koopman and F. Nielsen.

Ferrazzano asked for any additions or corrections to the minutes from the March 8, 2004 City Council Meeting. There being none, motion by Fraser, second by Caron, to approve the minutes as written. All voted in favor of the motion.

Ferrazzano asked for any additions or deletions to the agenda. Koopman added (5B) an aquatic center update and ratification of a previous action; (6C) under Board and Commission appoints another application was received for the hospital board; (8A) a resolution approving change order number one for the Hollett Street Bypass project; and (8B) a resolution approving payment to RLK. Motion by Stobb, second by Byrne, to approve the agenda as now written. All voted in favor of the motion.

Ferrazzano presented a proposed Cemetery Groundskeeper contract. Stobb asked if the Cemetery Board has seen the contract. Koopman replied they had seen and approved it. There were only two changes, an increase in compensation of three percent and the duty of trimming shrubs was removed. Motion by Torkelson, second by Caron, to approve the contract. All voted in favor of the motion.

Kerr reported that testing by the experts at Gremmer and Associates and WJE is ongoing. He said Brian Peschina is the lead expert and while there is some concern about the Gremmer expert since he is so young, Gremmer has a more experienced expert who will come in for the lawsuit. Kerr stated the City must give the lawyers a summary by April 1 because the City has to amend its pleadings and have those served by April 15. There have been three inquiries about the inspections that have been done. One was from Salonek and a fellow came and took some pictures. He didn't stay long and City representatives didn't converse with the individual as that is proper with rules of engagement in legal proceedings. All parties involved will learn the City's side of the story through normal discovery. On March 25 USAquatics will be here to view the facility. There will be no testing done but they will be bringing out a structural engineer. On March 30 Olympic Pools will come to the pool site and Kerr thought they would also be bringing a structural engineer. Otto-Arvizu asked what work Salonek did on the pool. Kerr replied they did the demolition and a lot of the concrete work on the decks, some of the back filling, and they subcontracted the fencing which was an issue during the time of construction. Salonek may have also built the surge tank. They were the second most involved contractor of the four. Kerr added that Salonek complained a lot about Olympic's work. Salonek also built the retaining wall which is an issue, but they are not the ones who did the shotcrete, Olympic did that.

Kerr said recently City staff thought a survey was in order and polled the City Council for authorization. Staff was concerned about the grasp that Jody Dabrns from Gremmer has on the situation. Lyle Mosing from Marshall has done the surveying and will meet with Kerr, Robinson and Paul Desmith tomorrow to give them a verbal report and will then submit a written report. Robinson explained there is a stainless steel gutter around the pool which is a scum gutter. If the gutter is low in one area it is called short circuiting. The gutter should be perfectly level all the way around so water flows through and it functions properly. Robinson has had experience with this in terms of water treatment and it is critical that gutters are level. There are concerns with the cold joints on the west wall of the pool where the gutter system could have shifted so they felt it necessary to have it surveyed. Mosing uses a type of laser equipment to survey and preliminary indications show the gutter is off as much as three-eighths of an inch. In water and wastewater treatment that would not be good enough. Robinson said he is not sure if there is a standard for pools but if it is supposed to be perfect there is something wrong. This goes back to the treatment of the pool water. Mosing also surveyed the pool floors to make sure the depths of the floors are built according to plan. Kerr requested that the Council ratify the action taken on Lyle Mosing's quote not to exceed \$1000.

Kerr stated American Leak Detection (ALD) has submitted a quote for air testing of the water pipes not to exceed \$4800. They believe the testing will not exceed two days. Robinson stated all water pipes need to be tested to see if they are broken or if any of the connections have come apart. The only

way is to plug both ends of the pipe and apply air or water pressure. The concern with the gutter system is if it has moved much because it is welded every 10 feet and some of the welding locations may have come apart. Kerr said there are certainly some water issues and the City is not sure where that water came from and where it went. Otto-Arvizu asked if they still think the pool was losing an estimated 4000 gallons a day. Robinson replied Gremmer is looking at the data Desmith put together as far as bather load, wind speed, temperature, humidity and are charting that to see how much is an acceptable loss each day. Water will be lost from bathers going in and out as well as from the water spraying amenities but 6000 gallons per day is obviously too much.

Stobb said ALD is asking for as built plans again and asked if they are aware the City doesn't have them. Robinson replied that he contacted them to let them know we don't have the plans. Kerr said the City will be asking for the as built plans in discovery. Motion by Caron, second by Fraser, to approve the quote from Lyle Mosing for survey work. All voted in favor of the motion.

Motion by Stobb, second by Torkelson, to approve the quote from American Leak Detection for water pipe testing. All voted in favor of the motion.

Ferrazzano opened a public hearing at 6:45 p.m. on Ordinance No. 284, an ordinance granting Charter Communications a Cable TV Franchise. No comments were received from the public. Kerr said for the record the Council may address the memorandum sent along with franchises from Robert Vose. Kerr said the high topic is the local office. Charter is offering to provide a local office in Marshall but after reviewing Marshall's franchise Charter is already required to provide an office there. Kerr said he assumes the Council will pass the franchise ordinance as is but he's not sure what Charter is going to do. Fraser asked if Charter ever sent anything back in writing. Kerr replied that Vose said it's typical for Charter to talk a lot but never put anything in writing. Council consensus was to keep the local office requirement in the agreement. Motion by Byrne, second by Fraser, to approve the Charter franchise as written. All voted in favor of the motion.

Ferrazzano opened a public hearing at 6:50 on Ordinance No. 285, an ordinance granting Prairiewave a Cable TV franchise. No comments were received from the public. Byrne asked if Prairiewave accepted all the agreement terms. Kerr replied they did and have been very cooperative. Motion by Caron, second by Torkelson, to approve the Prairiewave franchise agreement. All voted in favor of the motion.

Ferrazzano presented a proposal provided by Group II for the permanent parking lot structure which contained no proposal. Koopman said she spoke with Group II and they felt that before they could give a dollar amount they would like to meet with the committee to discuss exactly what the City wants. Group II also thought the City should arrange for topographic survey on the site prior to drawing up plans. Koopman said they City would have to pay to have it surveyed and would probably have Lyle Mosing do the work. Stobb said Gary Garrels did express concerns about the location. Koopman said the Group II architect has physically been here to view the site. She suggested the committee have a meeting to find out what it's going to cost to survey the site.

Ferrazzano presented a request from the Chamber of Commerce to close Morgan Street between 3rd and 4th Streets from 4:00 p.m. on Friday April 16 through 8:00 p.m. on Saturday, April 17. The Chamber also requested the parking lot across from City Hall be blocked off to accommodate a vendor tent. Motion by Byrne, second by Stobb, to approve the request. All voted in favor of the motion.

Motion by Fraser, second by Stobb, to appoint Nancy Jones to the Library Board. All voted in favor of the motion.

Otto-Arvizu and Byrne interview Bernie Holm and Todd Radke for the vacancy on the Police Commission and recommended Holm for the position. Motion by Stobb, second by Otto-Arvizu, to appoint Holm to the Police Commission. Upon roll call voting in favor were: Byrne, Fraser, Ferrazzano, Otto-Arvizu and Stobb. Voting against were Caron and Torkelson. The motion passed.

Koopman stated there were two applications received for the Currie representative on the Hospital Advisory Board from Dean Salmon and Elizabeth Jacobson.

Ferrazzano tabled the issue to open a public hearing at 6:55 p.m. on Ordinance No. 286, an ordinance expanding the Hospital Advisory Board to include two additional Tracy residents. Dennis Emerson said he thought there should be more citizens of Tracy represented on the board. Kerr said the Council should state for the record what the ordinance does say, that the number of Tracy residents will be increased to three. The Tracy City Council representative must be a resident and the Tracy City Administrator who is also a resident would bring a majority to the board of five Tracy residents. Motion by Byrne, second by Fraser, to adopt the ordinance. All voted in favor of the motion.

Otto-Arvizu and Torkelson volunteered to interview the Hospital Advisory Board Applicants for the Currie position. Koopman stated she will publish the Advisory Board ordinance on March 24 and in 30 days it will go into effect and applications can be accepted. She will advertise for applications at that time.

Motion by Stobb, second by Byrne, to approve a Private Bottle Club license for the Tracy Eagles Club. All voted in favor of the motion.

Motion by Byrne, second by Caron, to approve a Set-Up License renewal for Tracy Lanes and Sanders' Eastside. All voted in favor of the motion.

Rick Nordahl reported the window replacement on the west side wing of the hospital is completed and they would also like to replace windows in the east wing from the nurses station to the east on both sides of the corridor. Nordahl asked for permission to spend up to \$25,000 for window replacement over the next six to eight months. They will need 10 windows at approximately \$2500 a piece. Plans are to provide the labor in house to save some money. Otto-Arvizu asked if the hospital has gotten bids. Nordahl replied they just based their request on the cost of windows from the last project. Otto-Arvizu asked if using in house labor would be a problem with the building inspector. Koopman replied not as long as the windows openings are not changing. Motion by Byrne, second by Stobb, to approve the hospital expenditure. All voted in favor of the motion.

Robinson referred to his memo regarding airport mowing and a request to attend an auction in order to purchase a used Toro 580D mower. He said the airport does contribute yearly to the equipment replacement fund. The current mower was purchased in 1984 and was due for replacement in 1994. Robinson said if they purchase the mower through the Office of Aeronautics the City will be reimbursed for 70 percent of the cost. The only restriction is the mower could only be used at the airport. Robinson said the mower will have to remain at the airport except for storage and maintenance. The biggest benefit of this mower is Public Works can cut mowing time from five work days to less than half that time. Robinson requested that the Council approve the purchase of a unit in the \$16,000 to \$22,000 range.

Stobb asked if the mower could only mow flat land. Robinson replied it's designed for contoured land with two wings that fold up. He added they could still use the old mower as substitute and for going around trees. Stobb asked if they can store the mower at the airport. Robinson replied there is one open hangar with no front door. They could put up some type of door and store the mower there or if needed it could be run back into town. Motion by Stobb to authorize Robinson to attend the auction and spend up to \$22,000 on a used mower. Byrne seconded the motion. Nielsen stated that Robinson had talked to him about the legal issues of buying at auction. Robinson had done some checking on what it would cost to buy a used unit elsewhere and it is what he used to get his estimated cost. All voted in favor of the motion above.

Homer Dobson requested approval from the Council to attend the 2004 Minnesota Airport Symposium on April 28-30 in Rochester. He talked to Robinson who showed some interest in going along. Dobson also talked to Tracy Schmidt from the Department of Aeronautics who said it would be worthwhile for Dobson to attend. The cost is \$135 per person for registration and the costs are reimbursable as training under the MN Department of Transportation maintenance agreement. Koopman thought that was part of the \$16,000 the City gets for maintenance through the Department of Aeronautics and the City has already exceeded that amount. Otto-Arvizu asked if lodging and meals are extra. Dobson replied the price includes meals and sessions. Robinson said he wasn't sure he could attend all the events with the upcoming pool issues.

Dobson said recently the City was informed by the Department of Transportation/Department of Aeronautics, that grant money is available to the tune of \$450,000. A form was sent back indicating the City is interested in the grant a he received a packet of information and forms to fill out. This is the first time the City is involved with the program and he asked Tracy Schmidt if she could come down to run through the program. She said providing aircraft transportation is available for her she would so it has been arranged. Byrne asked if the grant funds were available for hangars and runways. Homer replied he doesn't think there is money available at this time for hangars. Robinson said 95% of the project would be paid for through the grant. The first requirement for the project is an Airport Layout Plan (ALP) and the City is due for a new one. The last one was done in 1960 and has since been updated over the years. The cost of an ALP is anywhere from \$15,000 to \$45,000 to complete which would be covered 95% by the grant. The ALP shows exactly where each facility is, where future facilities may be, the airport layout, height restrictions, compass bearings, and everything else pertaining to the airport.

Motion by Otto-Arvizu, second by Fraser, to approve two people to attend the Airport Symposium. All voted in favor of the motion. Otto-Arvizu asked just for the record if Dobson has ever asked for permission to attend this kind of event. Dobson replied he has been on the Airport Commission since 1957 and has previously only asked once to attend a symposium. He was approved but then couldn't attend. He will keep the Council informed about grant process and added it won't be a quick process.

Dobson informed the Council the interior of the big hangar was completed and looks great. Otto-Arvizu asked if the issue with the hangar being used for storage had been cleared up. Dobson replied that April 1 is the deadline. Byrne said the Council had talked about revising the leases to insure they are being used for aircraft rather than storage of other items.

Ferrazzano presented a revised City Gardener's contract and asked if the City will have to post the position again. Koopman replied at the existing pay scale of \$1350 she doesn't think the current gardener would be interested with all the additions to the duties. She suggested they start from scratch and advertise the position but the Council needs to decide what they want to pay the position. Koopman added the items that are underlined are additions to the existing agreement. Caron said the City doesn't know yet what is going to have to be maintained for the Highway 14 project. Koopman replied she did get a finalized plan from the Highway Department showing what will be done this year assuming they can get enough volunteer help.

Stobb said he thinks the City needs the position and thinks the job has grown since it started so an increase is in order. Byrne thought they should pay at least minimum wage. Stobb said this is not an hourly job, it is a contracted job. Fraser asked if the City budgeted \$1500. Koopman replied they did and if they pay more than that the City will have to do a budget adjustment with the funding coming from the Other Financial Uses fund. Ferrazzano suggested \$2500 as compensation for the position. Motion by Torkelson, second by Byrne, to approve the changes to the agreement and \$2500 in compensation. Stobb asked if there was some rationale for the \$2500. Ferrazzano replied it was an increase from the previous amount. Koopman stated \$1500 was budgeted last year but it was reduced to \$1350 because of budget constraints. Stobb said he was thinking \$2000 was a fair amount. Byrne thought if they were going to get somebody to do the job \$2500 might be in order. All voted in favor if the motion above. Koopman said she will advertise the position over the next two weeks and asked if one or two Council members wanted to sit in on interviews. She added that Stobb sat in on interviews the last time. Stobb and Ferrazzano agreed to assist with interviews.

Koopman presented a resolution for change order number one to the Hollett Street Bypass project. She said they are expanding the scope of the project. Robinson explained the purpose of the project is to control the bypass of sewage into the storm water system. The PCA has required the City to install a locked bypass by August 2004 and as they looked at the project they realized the City would be running two storm lines and two sewer lines in the same block. By changing the plans the City can abandon an old sanitary sewer system and put all homes onto one system. Public works added dye to the water to see how it ran and televised the system to see where everything was located. Koopman said the Council will need to adopt a resolution authorizing change order number one which will increase the fees by \$8770 and then authorize a payment to RLK Kuusisto in the amount of \$4683.25. Motion by Caron, second by Torkelson, to approve change order number one. All voted in favor of the motion. (Res. No. 2004-8)

Motion by Byrne, second by Caron, to approve payment to RLK for in the amount of \$4683.25. All voted in favor of the motion. (Res. No. 2004-9)

The Consent Calendar included the following: Monthly Water and Wastewater report; Police Maintenance Log; and Municipal Accounts Payable. Stobb asked if the well inspection was a routine check. Robinson replied it's done every year. He said the inspection was okay but the next time the well is pulled they will have to chemically treat the screen because it was getting plugged up. Motion by Caron, seconded by Stobb, to adopt the above listed items. All voted in favor of the motion.

Ferrazzano extended an invitation from Tracy Computer and Office Supply and Tracy Learning Center to attend an open house on Tuesday, March 23 from 4:30 to 7:00 p.m. He said beverages and hor d'oeuvres will be available.

There being no further business motion by Caron, second by Byrne, to close the regular meeting to discuss labor negotiations. All voted in favor of the motion.

ATTEST:

City Administrator

Mayor

April 12, 2004

The regular meeting of the Tracy City Council was called to order at 6:30 p.m., Monday, April 12, 2004 in the Council Chambers of the Municipal Building. The following Council members were present: T. Byrne, M. Fraser, S. Ferrazzano, J. Otto-Arvizu, R. Stobb, R. Caron, and G. Torkelson. Also present were staff members: A. Koopman and F. Nielsen.

Ferrazzano asked for any additions or corrections to the minutes from the March 22, 2004 City Council Meeting. There being none, motion by Fraser, second by Caron, to approve the minutes as written. All voted in favor of the motion.

Ferrazzano asked for any additions or deletions to the agenda. Koopman added (7D) a resolution authorizing the execution of a grant agreement for airport improvements. Motion by Byrne, second by Fraser, to approve the agenda as now written. All voted in favor of the motion.

Ferrazzano presented a resolution ratifying the hiring of Braun Intertec for additional testing at the swimming pool. Motion by Otto-Arvizu, second by Fraser, to adopt the resolution. Koopman said a poll of City Council was done to approve the testing. Braun will be doing ground penetrating radar to see if additional core testing should be done. All voted in favor of the motion above. (Res. No. 2004-10)

Ferrazzano presented an agreement between the Department of Natural Resources and the Deputy Registrar. Stobb asked if the City was okay with the equipment requirements of the DNR, he read an additional computer was needed. Leonard replied any of the PC's can be used, the DNR doesn't need an exclusive computer. Motion by Stobb, second by Byrne, to approve the agreement. All voted in favor of the motion.

Southwest Minnesota Housing Partnership provided a commercial rehabilitation agreement for the Small Cities Development Program. Nielsen asked if Minnwest Bank South gets compensation for servicing the loan for the City. Koopman replied she wasn't sure. SWMHP made the arrangement with the bank to handle the 1% loans. The agreement only includes the guidelines for the commercial rehabilitation project. Motion by Stobb, second by Caron, to approve the agreement. All voted in favor of the motion.

Chief Hillger requested the directive to start the annual public nuisances inspections and asked for direction on how to handle the new administrative fine ordinance. Under the ordinance he can automatically write citations but wondered if he should do as in the past, do a survey and issue letters to offenders giving them 10 days to clean up. Ferrazzano thought the City should continue that process. Stobb asked if a fine is issued if a case can still end up going to court. Hillger replied if a fine is issued and the offender doesn't pay the City can file in court. He added hopefully the fines will shorten up the process. Nielsen said a case won't automatically roll over to court but it's up to whoever wrote the citation if they want to proceed with the case. Koopman asked the Council to consider if in the case of a repeat offender the City should implement an automatic \$25 fine initially and then follow up with \$75 fine if the nuisance is not abated. She suggested this could be addressed in the initial notice sent out. Hillger said they could start that procedure next year after everyone becomes familiar with the process.

Koopman reported that the school submitted their proposal for the Prairie Pavilion lease. They want unlimited use for a flat fee of \$6000 annually. It has been \$4000 per year with an additional \$25 fee for double use where there is a practice and a game on the same day. Byrne said he didn't like the term "exclusive use" and thinks the City should specify time frame. The school shouldn't be given use 24 hours per day, seven days per week. Otto-Arvizu said with more usage the City will incur more janitorial services and higher utility costs. Koopman said excluding any improvements and depreciation it still costs the City roughly \$15 per hour to operate the Pavilion.

Torkelson asked if the amount offered by the school includes putting the handrails in for the west end bleachers. Koopman replied that is not included and that costs roughly \$1400 to install and remove these handrails. The only time the rails have been used is for a youth wrestling tournament which is run through Community Education so the City doesn't get any compensation. She wants to discuss

this issue with the Community Education board because the handrails have become very labor intensive. This year is the first time they were installed and the company who designed them did it. Each rail is numbered specifically for each bleacher so Koopman was not comfortable just letting anyone install them.

Koopman said she thinks \$6000 is close to covering expenses but doesn't address improvements or depreciation. Fraser said at a committee meeting one of points the school made is they want to pay a flat fee and not mess with a \$25 fee but he isn't sure how they arrived at the \$6000. Koopman stated the City has replaced the shower heads and increased the heat on the west side to 72 degrees which will also increase costs. The school needs to improve on supervision and make sure coaches are on site in timely manner and make it clear to kids they are only allowed in the Pavilion during scheduled and supervised times. Koopman said supervision is not currently being enforced. Stobb said he thought #12, Lessee Responsibility for Conduct and Supervision, in the proposed contract covered supervision. Koopman replied the problem is when there is damage to the facility, no one takes responsibility. Very often maintenance doesn't find the damage until Monday morning so how does the City prove who did it. If there is more than one event going on it's hard to prove responsibility. A prime example is the big window on the armory side that was broken, no one claimed doing it. Ferrazzano asked about collecting a security deposit. Koopman replied the City will still have a problem proving responsibility.

Caron asked if \$9675 is a figure Koopman came up with. Koopman replied that would be the cost if the school used the Pavilion five days per week for ten months at \$15 per hour. She added the school would probably not use the Pavilion that much. Ferrazzano asked how the City has been compensated for vandalism before. Koopman replied if the cost exceeds \$250 an insurance claim is filed otherwise the City eats the cost. Stobb said if an event is held at the school they have to have a custodian on duty because of the boiler. He didn't know if this could apply to the City as well. Fraser said the school includes in the lease agreement that they agree to have sufficient supervision. Stobb said that is for crowd control but it's not someone who knows the mechanics of the building. Fraser asked how the City would cover supervision unless someone was hired to do that. Koopman added the City would have to get compensation for hiring someone because the \$6000 would just break even. Stobb asked if #12 should stipulate use of a check list with items that should be done before leaving the building. Fraser asked if coaches are responsible for locking the gym. Koopman replied they are and the City had keys cut which would not allow duplication. She said the number of keys distributed are limited but they probably get passed around too.

Caron asked if the City received \$4000 per year plus \$4300 from wrestling. Koopman replied the \$4300 was over a five year period. Ferrazzano said the community needs to be able to use the Pavilion but a solution needs to be found for policing the facility. Nielsen said a checklist may be a good idea, the supervisor signs a list when they come in saying everything is in order and if it turns out later things are not in order it puts the burden on them rather than having City cover expenses. Ferrazzano didn't know why the school would be opposed to that since it won't cost them anything. Fraser didn't think \$6000 was an unfair amount. Koopman agreed but thinks some other issues need to be addressed. Often lights are left on around the building for no reason and one time the showers were left running. It may be a minor thing but coaches should be responsible. Sinks and toilets have been plugged up and overflowed, the sink upstairs was plugged and left running which leaked down into the ceiling of the Council Chambers at the expense of the City. Ferrazzano asked Koopman to come up with a checklist.

Byrne asked about the term "exclusive use." Ferrazzano didn't think the school will use the facility any more than they do now. Byrne replied he had a problem with not specifying what exclusive is. Stobb said for example what if last September the school decided to book an event the same day as the Sportsmen Show. Ferrazzano said the school had stated they wouldn't use it when the City has plans and thought they could work together on scheduling. Nielsen stated there is a clause in the agreement that if there is a scheduling conflict the City has the final say. He agreed "exclusive use" should be clarified and asked if seven years was too long for the lease agreement. Byrne felt "exclusive" is too inclusive and the City needs to narrow the scope and determine what that means. Koopman suggested eliminating the term exclusive. Stobb said the school would be locked in at \$6000 for seven years and if utilities doubled the City would be hurting. He said they could put in an escalator if utility costs rise. Koopman said they could leave the existing language about utilities

rising more than ten percent.

The Council agreed to remove the word “exclusive” and agreed to a flat fee. Koopman said \$6000 at one practice per day puts the figure in the ballpark but the City is subsidizing any additional use. She suggested the City could raise the fee to \$7000 to cover additional practices or games. Ferrazzano suggested \$6000 on a two 2 year agreement, remove the term “exclusive”, and add a checklist requirement. Otto-Arvizu made a motion to that effect and Torkelson seconded. All voted in favor of the motion.

Ron Radke reported that he has been working on painting and a general facelift at the Liquor Store. Otto-Arvizu said was in last Friday and said she thought it looked very nice. Byrne said March was up about \$1700 in sales and asked about year-to-date. Radke replied they are up about \$6000.

Hillger stated it was a standard activity report. In regard to hiring Robert Lucas, a former Carlton County deputy up by Cloquet, has accepted the job so the police will be up to full staff. Hillger said he will bring Lucas in to meet the Council.

Koopman said her monthly report was basically self explanatory. She said she would give Rick Robinson’s report in his absence. Over the weekend there was vandalism at Central park. At 3:00 p.m. on Saturday a call came in that someone had kicked in the men’s bathroom door on the new facility. Public works repaired it but at 12:30 p.m. on Sunday someone kicked in the men’s door again and at 4:00 p.m. on Sunday the women’s door was kicked in. Neither is repairable and the stools and urinals were filled with human waste. The City has a camera but it was taken down over winter and hasn’t been installed yet. This will be done this week. Fraser thought unless weather is a reason the camera should be left up year round. Ferrazzano asked Hillger if he still has people walking through the park and driving by. Hillger replied he can have staff start doing it again but wanted the Council to understand that he doesn’t have officers on duty at all times. Torkelson asked if there is a cash reward for evidence leading to the vandals. Koopman replied there is nothing in place at this time. She added last year once the camera was up the vandalism stopped.

Koopman reported that Robinson had requested that the City be allowed to keep enough of the framing material from the temporary pool shelter to build a storage building at the airport. She said by the next Council meeting Robinson will have an inventory of the wood that will be available for sale. Byrne made a motion to allow Public Works to reserve wood for a storage facility at the airport and Torkelson seconded. All voted in favor of the motion.

Koopman referred to Robinson’s memo regarding fire truck #17 which will be retired this spring. He requested that the truck be converted to a tanker truck for the Public Works department to be used for flushing sewers. The current tanker truck would then be converted to a snow hauling truck. The current snow hauling truck would be retired. The total cost of this project would be approximately \$10,000 of which \$5000 would come from Public Works equipment replacement fund and \$5000 would come from the Fire Department equipment replacement fund. Motion by Stobb, second by Byrne, to approve the truck project. All voted in favor of the motion.

Koopman reported the police union agreement had been settled which include a three percent increase in salary, a \$.10 per hour increase for on call time, a \$25 increase in uniform allowance, and some minor language changes to the contract. Motion by Byrne, second by Fraser, to approve the police union agreement. All voted in favor of the motion.

Mark Evers, from the Shetek Prairie Chapter of the Minnesota Waterfowl Association was present to request approval of a raffle permit. Motion by Byrne, second by Fraser, to approve the MFWA permit request. All voted in favor of the motion.

Otto-Arvizu said she had received complaints of poultry in City limits. A couple people have complained that they have heard chickens in town, either in a home or garage. She asked how the City handled this type of complaint adding at one time a family asked to keep chickens in town which the Council denied. Byrne said the Council looked at it as a health issue. Hillger said he has not recently seen any but on the few occasions that he has received complaints and has seen chickens the owners were told to get rid of them. More than likely they end up in basements. Byrne asked if this would fall

under the new administrative fine ordinance. Otto-Arvizu thought the City may even get the health department involved because she understands there are diseases that can be transferred from poultry.

Ferrazzano asked if chickens are inside houses if the City can do anything. Hillger said he would hate to go to a court judge and ask for a search warrant for chickens. Koopman suggested contacting Community Health Services (CHS). She said the City requires an animal license permit for livestock in City limits. Otto-Arvizu asked if a resident hears chickens on someone's property what can they do. Hillger replied they will have to come to an officer and file a complaint. The problem is to file for a search warrant in court there would have to be a legitimate witness and a lot of people aren't willing to have their name mentioned as a witness. Ferrazzano asked if an officer sees a chicken can he seize it and keep it. Hillger said they can but someone would have to explain what to do with the chickens once they are seized. Nielsen said the City already has an ordinance in place forbidding livestock but the problem is enforcing it.

Koopman said she would contact CHS to find out what the City can do. Nielsen said he hopes the City would get somewhere but CHS may say if the City has ordinance it's up to the City to enforce it. Otto-Arvizu said for health reasons she would rather see chickens outside than inside houses where there are children. Stobb thought if the City was concerned that it is a health issue if CHS won't do anything they should go farther up the ladder to the State Department of Health. Hillger said he doesn't know if a public health service would need an administrative search warrant to search a home but he assumes there would have to be some burden of proof. Koopman thinks there would have to be response to a complaint if the City reported a concern over health of a family due to confinement of animals. Otto-Arvizu thought it could be considered child endangerment. Barb Johnson asked the Council if livestock is allowed in a home if considered pets. The Council replied no. Byrne said that is the way the ordinance reads. He said he doesn't know if a goat can be classified as a pet. Byrne added the City has granted a special permit for horses on the edge of City limits.

Ferrazzano stated the Permanent Structure committee had a meeting with a Group II engineer in regard to a design structure. He requested that a land survey and subsurface exploration be done. American Engineering Testing Inc. submitted a proposal for soil testing not to exceed \$1700 and Lyle Mosing will do the surveying for \$1000. Group II Architects proposal was for \$2900. Otto-Arvizu asked when the Council first voted to support the structure what the estimated costs were. Caron thought the estimate was about \$70,000. Otto-Arvizu said in previous discussion plans were for the City's portion to be paid with money from the EDA Revolving Loan Fund. She asked if the EDA had discussed and approved the expense. Byrne replied they had some informal discussion and he didn't think there was any opposition to the project. Otto-Arvizu said her concern is that the cost seems to be growing steadily and if the City decides not to build they would be out the preliminary expenses of surveying and the specs. Ferrazzano replied even if the City doesn't do anything now these studies would be good for years. Otto-Arvizu asked if the building specs would also hold up and where the money would come from for the surveying and architect fees. Ferrazzano assumed they would be divided equally between the City and the Chamber. Byrne said it is his understanding that the Chamber doesn't have the money available right now unless they are going to start paying the \$1500 per year now. He said they also talked about jointly owning the building so who will do maintenance and repairs. Ferrazzano said the structure would be owned solely by the City. Byrne then asked how the City is asking the Chamber to split costs. Nielsen replied it would be considered a user fee. Fraser said the question is why would the City charge them half of the survey fees. Ferrazzano thought these costs should be figured into how long the Chamber pays the City a user fee. Otto-Arvizu said the EDA may have limited dollars. The EDA has recently had some activity and loans going out and this would strap them for a number of year because the City is not going to levy extra taxes for this building. She said this may impact the EDA's ability to fund loans. Ferrazzano thought they should proceed with the surveying anyway. Byrne added they can't get the total cost of the structure without it. Ferrazzano said if they get the final costs and they are much more than expected the City doesn't have to do anything right now.

Byrne asked if the cost of surveying is \$5600 if the issue is going to be brought to the EDA before proceeding. Stobb asked if Group II's proposal for \$2900 includes engineered plans and specs and everything. The proposal says the City will get conceptual drawings. Koopman said the architect said he will present the preferred concept but she thinks there will be additional costs for plans and specs. The Council asked Koopman to contact the architects to clarify their proposal.

Koopman reported that a lot of debris had been found at the compost site. Last fall a camera had been installed but license plate numbers couldn't be identified which Hillger would need to impose a fine. Koopman added an offender could also camouflage a license plate with a tarp or branches. A sofa, cabinets, rubber hose, and sheet rock were among the items found. Koopman said she would like to go back to locking the gates and hiring someone to be on site. She said people had been gaining access to the dump through a field approach by the old railroad tracks so those dumping illegally know what they're doing. There are also trash bags dumped all over. Koopman stated the compost site had previously been open from 3:00 to 6:00 p.m. on Wednesdays and 1:00 to 4:00 p.m. on Saturdays. Caron said he would like to see it open three days instead of two. Koopman said this is assuming the City can hire someone at \$6.00 per hour. This expense isn't budgeted but it needs to be done since it's costing more to dispose of the garbage than it would cost to hire someone.

The person they hire would be responsible for checking vehicles as they enter and making sure people are bringing garbage bags back out. She suggested they take down license plates of all vehicles entering. Caron thought the site could be open Wednesday, Friday and Saturday. Ferrazzano suggested Saturday and Sunday from 1:00 to 4:00 and Wednesday from 3:00 to 6:00 since more people do yard work on weekends. Koopman said the weather will have to dictate when the compost site season ends. Stobb asked if they would have trouble hiring someone for every weekend. Caron suggested they may have to hire more than one person. Koopman said she will have to advertise for the position. Otto-Arvizu asked if they should lock the gates until then. Caron didn't think they should do that. Koopman said they will have to look at the police to patrol the area until someone is hired. Ferrazzano suggested they start locking the gate at 6:00 p.m. Caron thought they should have the police lock the gate at dark and have Hillger open it when he comes on duty. Hillger agreed to arrange that.

Torkelson reported that he and Otto-Arvizu interviewed Dean Salmon and Liz Jacobson for the Currie Hospital Board representative. He said it was a hard decision but they decided to recommend Jacobson for the position. Motion by Caron, second by Otto-Arvizu, to appoint Jacobson. Byrne abstained and all other Council members voted in favor of the motion.

Stobb reported that four people were interviewed for the City Gardener position. Based on knowledge, training and experience the recommendation was to appoint Bernie Holm to the position. Motion by Fraser, second by Stobb, to approve Holm's appointment. Caron asked how many flower beds the gardener would be responsible for this year. Koopman replied it depends on how many get planted along Highway 14. Caron said that means there could be only two gardens. Stobb stated there are currently seven gardens. Caron asked if that includes the proposed Highway 14 sites. Koopman replied it didn't and said hopefully four more sites will be planted. Nielsen stated the contract with the State has some very specific maintenance requirements and the City will try to include those requirements in the City Gardener contract. Caron asked if there was a planting date specified. Koopman replied all should be planted by the first week in June, weather permitting. All voted in favor of the motion to appoint Holm.

Ferrazzano presented a resolution approving an agreement with Mn/DOT for the Highway Beautification Program along Highway 14. Motion by Stobb, second by Fraser, to adopt the resolution. All voted in favor of the motion. (Res. No. 2004-11)

Ferrazzano presented a resolution executing an agreement with DEED for funding for Lead Hazard Control. Motion by Byrne, second by Fraser, to adopt the resolution. All voted in favor of the motion. (Res. No. 2004-12)

Ferrazzano presented a resolution approving a budgeted transfer from the General Fund to the Senior Center Operating Fund in the amount of \$31,459.00. Koopman stated the transfer was for operational costs for the year Motion by Stobb, second by Caron, to adopt the resolution. All voted in favor of the motion. (Res. No. 2004-13)

Ferrazzano presented a resolution approving a grant agreement with the Department of Aeronautics for airport improvements. Motion by Fraser, second by Stobb, to adopt the resolution. (Res. No. 2004-14)

The Consent Calendar included the following: Cemetery Commission minutes for March 11, 2004; Revitalization Committee minutes for March 16, 2004; Multi-Purpose Center minutes for March 8, 2004; Economic Development Authority minutes for March 4 and 19, 2004; Firemen’s Relief Association minutes for March 1, 2004; Library minutes for January 27 and February 24, 2004; Police Activity Report; Police maintenance log; Hospital Board minutes for February 18, 2004; and Municipal Accounts Payable. Byrne asked if there was any way to get the Hospital Board minutes any sooner. Koopman said she can share the Council’s request with the Hospital Board and maybe get minutes with a disclaimer stating they are subject to the Board’s approval. Ferrazzano stated the Firemen’s Relief Association minutes from February stated he wasn’t at the meeting but he did attend. Otto-Arvizu asked if the hospital storage on the second floor of the Multi-Purpose Center had been resolved. Koopman replied the Hospital Board hasn’t addressed the issue yet but will be at the next meeting. They want to get an inventory of what is being stored. Byrne asked when the City will advertise for the two additional members for the Hospital Board. Koopman replied the ordinance will be effective April 24 so she will begin advertising prior to that. Motion by Byrne, seconded by Fraser, to adopt the above listed items. All voted in favor of the motion.

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

ATTEST:

City Administrator

Mayor

April 26, 2004

The regular meeting of the Tracy City Council was called to order at 6:30 p.m., Monday, April 26, 2004 in the Council Chambers of the Municipal Building. The following Council members were present: T. Byrne, M. Fraser, S. Ferrazzano, J. Otto-Arvizu, R. Stobb, R. Caron, and G. Torkelson. Also present were staff members: A. Koopman and F. Nielsen.

Ferrazzano asked for any additions or corrections to the minutes from the April 12, 2004 City Council Meeting. There being none, motion by Caron, second by Fraser, to approve the minutes as written. All voted in favor of the motion.

Ferrazzano asked for any additions or deletions to the agenda. Koopman added (9B) additional removal charge for the temporary pool structure; (9C) Charter franchise update; and (10A-2) Hospital Board appointment. Motion by Fraser, second by Torkelson, to approve the agenda as now written. All voted in favor of the motion.

Action was tabled on the Hollett Street bypass. Koopman stated Joe Kong with RLK was intending to be at the meeting. Robinson added plans for the bypass have not been received yet.

Nicole Larson presented the City Audit Report for 2003. She gave the audit report a clean bill of health other than some fixed asset issues that exist from a long time ago. Larson explained she would give some highlights of the report. Page 29 addresses funds with a deficit balance. The Debt Service Fund for the Interfund Aquatic Center Loan Fund is sitting on the books at a deficit balance primarily because there is no offsetting cash to pay that loan until enough donations are raised to take care of the loan. The Aquatic Center Replacement Fund is sitting at about a \$26,000 deficit. The only major concern in the Enterprise Fund is for the 5th Street Apartments has a \$20,000 deficit. That is an increase from the previous year.

Larson indicated that page 113 shows detailed revenue and expenditures of all the enterprise funds. All but three of the enterprise funds operated at a net operating income for 2003. Page 128 shows a nice increase in profits for the Liquor Store of almost \$25,000. After the yearly budgeted transfer there is a loss of \$5500 but overall much improved from losses in 2002. Contrary is the 5th Street Apartment fund on page 140 which shows that rent proceeds and operating costs were almost identical to the previous year but there is a \$9800 loss for 2003. Larson has spoken to the EDA and they have addressed the issue.

Larson referred to the graph showing a summary of all revenues City wide and indicated a good increase in both local and county revenues. The reason the increase is two-fold, first this was the first year the City saw pool revenues and second because of a required increase due to the reduction of LGA payments in 2003. Overall revenues were down only \$45,000 and total sales were up. Miscellaneous revenues were down and there has been a steady decrease over the last few years primarily due to a decrease in interest rates.

Larson said on the Expenditure and Expense Summary graphs the only thing that sticks out is debt service and capital outlay. In 2002 there was a lot of refinancing and the capital outlay of the pool project. Operating expenses costs were 47% which were up from 37% in 2002 which is again due to the significant debt service and capital outlay in 2002 which made the operating expense portion smaller. Overall expenditures were down 1.8 million. The Asset Summary shows cash is up \$156,000 for the year and receivables were down \$16,000 and other current assets were increased about \$8400. The liability graph shows larger increases. Accounts payable were up \$9500 which is a sign of times with increased fees and expenses plus additional legal fees. Accrued salaries were up because of when payroll falls and pay rates were up with the cost of living increase. Overall the City added to total assets and total fund balance which is a move in the right direction. Motion by Fraser, second by Caron, to approve the audit report. All voted in favor of the motion.

Otto-Arvizu reported that the Pool Committee met last week and one of the concerns has been continuity for children enrolled in the swimming lessons program. The committee felt it was important to organize lessons for Tracy area families so Shorty Engel conducted registration for lessons. The word came in today that 56 children are enrolled and it can all be taken care of in

Marshall. Otto-Arvizu stated when the City offered registration parents were notified that they City was also looking into the option of transportation. Koopman informed the Council a bus can be rented for \$85 per day at a total of \$850 for a two week session. Otto-Arvizu said Kerr had indicated the cost could be included in the pool lawsuit. Koopman said she didn't calculate it out but the costs comes to less than \$20 per person. Kerr stated from his research this is an allowable public expenditure. Fraser asked how many students normally register. Koopman replied there are normally about 300 students.

Otto-Arvizu reported that Engel provided alternate options for those families who couldn't attend the Marshall session. Byrne made a motion to approve the bussing expenditure and Fraser seconded. All voted in favor of the motion. Otto-Arvizu said the Council needs to figure out where the money will come from. Koopman replied the Other Financial Use fund is really the only fund available. Stobb asked if they should run it through the Pool Fund. Koopman replied that fund already has a deficit balance. Stobb thought it would be a better justification for including the cost in the lawsuit if the money came from the pool fund. Ferrazzano asked about reduced fee season pool passes at other facilities. Otto-Arvizu replied the Pool Committee talked about it and Engel was going to check into the possibility. Ferrazzano asked if the Council wanted him to send a letter to the City Councils in Marshall and Slayton asking if they could offer resident rate season passes to Tracy residents. Council members agreed he should. Byrne asked if lessons would be held at the YMCA or the school. Koopman replied at the school and added the YMCA was \$10 more per person.

Joe Kong with RLK arrived to discuss the Hollett Street Bypass project. He gave Rick Robinson a set of plans along with an estimate of costs. Kong said the bypass project is required because of PCA regulations. The existing line runs underneath homes and the new line will be run in the City park and residential lines will be hooked up across the street. Kong said they talked about boring across the street but it ended up being more expensive so the street will be dug up and patched in certain places but not the whole length of Hollett Street. At 2nd Street the sewer will be dug up and replaced and that's where it will be hooked up to the existing line.

Kong said a lot of businesses are still hooked up with a combined storm and sanitary sewer so that is why a larger sewer and bypass line is being installed to match the existing line. There will be a 48 inch storm sewer and a 40 inch sanitary until you reach the bypass, then it will be back to a 12 inch line. The cost estimate is higher mainly due to the larger size pipe. The manhole structures have to be that big in order for the pipes to be hooked up. Kong said Robinson, Koopman and his company explored a couple options and this was deemed the best because it will eliminate the structure under homes. Going through park will also be much easier for maintenance. Kong stated an alarm system will be installed for high water and the bypass will be a manual sluice gate as required by the PCA. The bypass structure will be a manhole with a special wall poured and a sluice gate with a hand wheel to open or close manually so there are no backups in the sewer lines. Kong said the PCA had set a deadline of August this year but the City may want to request an extension to make sure work in completed.

Kong stated the estimated cost is \$160,000 some of which depends on labor costs which can vary from year to year. Some of the bigger structures will have to be built in the field rather than precast because of the size of the pipes. He is still working with a supplier on the sluice gate but Kong thinks it will be about \$4000. The alarm will run about \$2500 and the bypass structure will probably be about \$13,000. Kong stated another variable may be power lines and phone lines for the alarm and where they can be trenched in from. He is not sure

Stobb asked if some dye testing was done to determine if the existing line is being used. Robinson replied Public Works did dye testing and televising and the sewer lines are being used. Stobb asked if the 1300 or so feet of street to be torn up is mostly on 2nd Street and asked if that was blacktopped in 2002. Kerr thought only an overlay was done on 2nd Street. Kerr asked if materials will be bid separately from labor. Kong replied they will be bid together. The only thing that may differ is precast manhole versus built on site. Kerr wondered if the City could buy the materials and just hire the labor as that has been done on several projects. Kong said the City may be able to do some of the labor such as grading and tree removal. He said the park is quite a bit lower than the street so they will have to do some grading. Robinson asked for a few days to review the plans. Otto-Arvizu made a motion to approve the plans and specs for the Hollett Street bypass and call for bids contingent on Robinson's

approval. Byrne seconded and all voted in favor of the motion. Costs of the project will all be covered by the Surcharge Fund.

Ferrazzano presented a request from the Chamber of Commerce to close the municipal parking to hold a City wide rummage sale. Koopman stated the event is scheduled for June 5, 2004. Motion by Byrne, second by Stobb, to approve the request. All voted in favor of the motion.

Otto-Arvizu asked how citizens should handle street light outages. Fraser said anyone can call into the power company, he was told once it's more effective coming from a resident living nearby. Leonard added the City office often gets calls about street lights and calls them into Xcel.

Otto-Arvizu stated she has had a few flat tires and asked what protocol is when there is broken glass in the streets. Robinson said anyone can call the Street Department and someone will pick it up. They also have street sweeper routes regularly run. Otto-Arvizu replied the sweeper only runs every few weeks. Her concern is there are a lot of bikes and pedestrian traffic on streets.

Ferrazzano presented a resolution declaring property no longer needed for public purpose and authorizing the sale of that property. Koopman stated the wood from the temporary structure of pool will be opened for bids. She hasn't done the resolution yet because until the structure is taken down she won't have an inventory of items for sale. Motion by Stobb, second by Fraser, to approve the resolution. Stobb asked if it will be sealed bids and if there will be an opportunity to raise bids after they are opened. Koopman replied bids will be sealed and the City has never before allowed bids to be raised. All voted in favor of the motion.

The Consent Calendar included the following: Multi-Purpose Center minutes for April 12, 2004; Firemen's Relief Association minutes for April 5, 2004; Monthly Financial Report; Municipal Accounts Payable; Planning Commission minutes for April 5, 2004; Hospital Board minutes for March 17, 2004; and Economic Development minutes for April 2 and 16, 2004. Motion by Caron, seconded by Torkelson, to adopt the above listed items. All voted in favor of the motion.

Koopman reported that after the last Council meeting she talked with Mr. Helgerson at Group II Architects. Plans and specs were not included with the bid he provided and he said he couldn't give an estimate until they have a scope of work. Otto-Arvizu said they would be looking at \$5000 for just the concept, soil testing and surveying. She said talked to Robert Gervais regarding her concerns about using EDA funds to finance the project and asked if the EDA had discussed the project. The way it was structured the Chamber would not be repaying at the same rate the City would. Otto-Arvizu said she was very concerned the project would be impacting the EDA revolving loan fund for a very significant amount of time. She added the EDA has not officially voted on this and she did not want to see the preliminary costs expended until the EDA discusses the project. Ferrazzano suggested the Council not take any action at this time and further discuss the matter with Gervais at the next Council meeting. Stobb asked if the Chamber is taking part in this decision. Otto-Arvizu said they are on the other end of the project and she doesn't know if they are still standing behind their commitment. At \$1500 per year how many years would it take for the Chamber to pay their share. Fraser replied probably 20 at least. Ferrazzano suggested that Mark Evers and Gervais attend the next meeting and the issue was tabled.

Robinson reported when the temporary structure was put up it was done in a hurry. When the contract was made with Karl Campbell it specified that he was responsible for taking the structure down but it did not specify how it needed to be disassembled. Robinson apologized for that. There was nothing to say Campbell couldn't cut it apart to safely take it down. Robinson talked with Campbell and in order for the City to salvage a little more money out of the materials they need to be in larger sections. The City has over \$12,000 in materials and the only way to remove pieces intact is to rent a boom which can be rented from Mankato for \$1320. Robinson's thought was to take down the pieces and lay them out on the asphalt and cover them with tarps until sold. He believes it will be \$1300 well spent and the City will make much more off the wood. Stobb made a motion to approve the expense. Robinson stated the boom would be rented for two days. Otto-Arvizu asked if the cost includes transportation. Robinson replied it does. Torkelson seconded and all voted in favor of the motion.

Kerr reported on the Charter and Prairiewave franchise renews. He stated Charter and the City has

been at odds about the renewal but Prairiewave could not have been more cooperative. He received their acceptance by return mail. Charter had until Saturday April 25 to approve the franchise agreement. Kerr did not receive their acceptance but rather received a letter from Arnie Carlson, their Government Relations Counsel. The letter said that the City passed the ordinance in a unilateral fashion and because the franchise is a contract Carlson said the City cannot do that. In Kerr's opinion all the City has gotten from Charter is arrogance. He will report more at the next Counsel meeting. The good news is Prairiewave has reached a deal with Victory Sports last Friday and they will be able to air Twins games. The bad news is Kerr hasn't heard that Charter has done any negotiation with Victory Sports.

Stobb said the City wants to keep the franchises as equal as possible and assumed the local office is the sticking point. Kerr replied it isn't and he never knows just where Charter is coming from. He sent two copies of the ordinance along with a copy of the franchise publication in the newspaper. It gave a 30 day time limit and Carlson waited until Saturday and sent back only a letter. In April Carlson sent a 25 point bulletin listing questions and concerns and no recognition that the City had addressed all previous issues back in March. Kerr said the point is the Council has given extensions over and over and Charter has ignored that. The latest thing Carlson said about the local office is if City makes it a requirement Charter will pass the cost on to customers. Kerr commented that cable companies pass all costs onto customers. Carlson is now saying that a five percent franchise fee plus reasonable costs is more than is permitted by federal law. Kerr said he was not prepared to address that at this time. Robert Vose had sent a letter stating if Charter refuses the franchise agreement the fact that Prairiewave has accepted it should be significant. Kerr agreed with that statement and said he wanted to compare some other franchise agreements before the next meeting.

Byrne asked if Charter does not accept the agreement the City can say they are done. Kerr said he doesn't want to say that because there are some options. Carlson said the City negotiated in a unilateral fashion and doesn't have a right to terminate. Stobb said Charter can pass costs onto customers but when they have competing franchise they can't do much damage because they can lose customers. If they won't accept a franchise that's equal we can negotiate and ask them what they will give the City instead. Kerr said of the 25 points Carlson claims some is simply housekeeping. Otto-Arvizu said Carlson is questioning amount Charter would pay for the franchise fee. Kerr replied the language Vose used said five percent plus reasonable expenses so Carlson said that is more than the law permits. Previously Charter said they weren't going to have a local office and the Council replied it would be a requirement so they backed off on that issue. Kerr said the City has had sincere negotiations with Prairiewave but he has failed to see that with Charter.

Ferrazzano informed the Council there would be a special City Council meeting on Tuesday, April 27 at 6:30 p.m. to discuss hospital issues. Stobb asked what the meeting will be covering. Ferrazzano replied it will be an informational meeting presented by the Hospital Task Force. Otto-Arvizu stated she, Koopman and David Zwach are members of the task force representing Tracy. Ed Weiland with Sioux Valley and Dan Reiner will also be speaking and the meeting will start with Jim Kerr who will be sharing some legal parameters regarding what the City can and cannot do.

Otto-Arvizu stated there will be some big decisions resting on the Council in regard to the hospital. She asked the Council to consider if one or both of the new Hospital Board positions should be filled by Council members. Koopman said is Tracy is unique in that it is the only one of the three hospitals that has a Hospital Board. She said the meeting tomorrow will help bring the Council up to speed. When not involved in decision making process hard to get to full volume of information

Ferrazzano thought maybe one of the positions could be a Council member but the other should be available for the public to get involved. Byrne said if thought if the Council was going to appoint someone it should be Otto-Arvizu since she is on the task force. Otto-Arvizu said she was willing to serve and thinks this is a very important time to be on the Hospital Board. Byrne thought it made sense since Otto-Arvizu is immersed in the process already. Motion by Caron, second by Stobb, to approve Otto-Arvizu's appointment to the Hospital Board. Byrne said for future reference because of the ties with long term care he thinks someone representing long term care in Tracy should also be on the Hospital Board. All voted in favor of the motion above.

There being no further business motion by Byrne, second by Caron, to close the regular meeting to

discuss pending litigation. All voted in favor of the motion.

ATTEST:

City Administrator

Mayor

April 27, 2004

The special meeting of the Tracy City Council was called to order at 6:30 p.m., Monday, April 27, 2004 in the Council Chambers of the Municipal Building. The following Council members were present: T. Byrne, S. Ferrazzano, J. Otto-Arvizu, R. Stobb, R. Caron, and G. Torkelson. Absent was: M. Fraser. Also present were: A. Koopman, J. Kerr, D. Zwach, C. Hannasch, E. Weiland and D. Reiner.

Prior to discussing hospital issues Rick Robinson asked to address the Council about a water main problem. He stated on Harvey Street there have been some problems with a service line to a home which has broken three times in recent years. The home required a new service line and when Robinson reviewed City maps they show there is a water main on Harvey street. Upon excavating it was discovered there is no water main there and Robinson proposed that the City install a water main as the map shows. The new line will run along Harvey between 5th and 6th Streets and will be an eight inch main. Currently Morey's, Hatton's and Boit's service lines are believed to run east to the intersection between Harvey and 5th Street. The service lines are running across neighboring yards. Robinson provided a quote along with a list of responsibilities for the plumber and responsibilities for the City. The costs will come from the surcharge fund and it will take about a week to install. Robinson stated they will dig a four foot wide trench. Asphalt repair will be done later in the summer and will cost approximately \$2500. He added this line will also benefit people on the south side of Harvey Street when they begin to have service line problems. Otto-Arvizu made a motion to approve the plan as presented and Torkelson seconded. All voted in favor of the motion.

Kerr stated he would highlight some areas of the law he thinks are relevant to the proposed hospital projects between Murray County Hospital, Tracy Hospital and Westbrook Hospital. The City of Tracy is a city of the fourth class and the State's hospital statute is short and to the point regarding cities of fourth class. They may acquire, establish, and operate hospitals. A city may acquire a property by gift, acquisition or condemnation to establish, maintain and equip a hospital. The City has the ability to operate and maintain a hospital within city limits. Kerr said he is not here to advise the County of Murray but thinks it's incumbent upon Tracy's City Council and Hospital Board to advise them about the State Statute on county hospitals. A county board may contract and maintain a building for use as a hospital. The county board has limited authority to appropriate up to \$65,000 annually to acquire lands for the construction of hospitals. Furthermore the county can construct an addition or remodel without those dollar limits, however new buildings may be constructed but only on the existing premises without a vote by the county. Kerr also wondered how any of these plans are impacted by the moratorium on hospitals.

Kerr stated under present law a hospital district cannot be established. He understands the options being discussed are a tri-party hospital or tri-party clinic on the Highway 59 corridor or the remodeling of individual hospitals and sharing of facilities which is permissible. Chapter 447.31 states that any two or more cities or towns other than first class cities may create a hospital district. In order to do so they must be contiguous at one or more points of their territory. That statute is not relevant to the issues at hand. Kerr's opinion is a joint exercise of powers is more relevant towards buying joint supplies and equipment. A joint board may not pledge a full faith in credit with the taxing powers of any of the governmental units that established the board. The final thing to address is there are certainly bonding methods but any type of bonding would go to the voters of the municipality. Kerr said he skipped over them quickly but he wanted to lay the groundwork for his perception of the statutes. He wanted to point out there are strict limits for the City of Tracy.

Dave Zwach stated he lives about 11 miles northeast of Tracy and has doctored in Tracy all his life. He feels it's his responsibility to listen to the doctors, administrator, the other two hospitals involved and most importantly the people in the Tracy area. Zwach feels strongly the goal should be to give doctors the best possible surroundings to work in. He thinks all can agree the three facilities need to be upgraded. By doing that more people can remain at home for the care they need but to do that the hospitals need specialists so that surgeries can be done in local hospitals. The sticky point is how can this area attract specialists and where can they be located. One of the options is to establish a centralized location. The other option is sharing specialists between the three locations. Zwach said financing might be a problem if one of the options is to establish a specialty clinic and there are still some questions to be answered. Is the project financially feasible? Will Tracy be willing to spend \$8-

12 million for an upgrade? The future of medicare and medicaid is a big unknown. How would the three hospitals share a revenue? Would Tracy be willing to support a speciality clinic in a location other than Tracy?

Zwach said he personally feels the best way to attract good specialists would be to have them in one location all working together. He knows there is disagreement about that issue but he has traveled all his life to Tracy for medical care. Zwach said the idea of traveling to a certain area for care and then traveling to Tracy, Westbrook or Slayton for surgery makes sense to him. He added whatever decision is made he will wholly support but he definitely wants the City Council to listen to the hospital staff. Zwach feels specialists would definitely be willing to locate to this area. In closing Zwach asked the Council to please keep an open mind. There are only two options being discussed and he asked the Council listen to medical staff, administration and people in this area. Those involved are not looking at a new hospital but are studying the possibility of a speciality clinic.

Otto-Arvizu stated the decisions made in the near future will affect the hospital far into the future. A lot of time and effort has already been put into looking at different options. The Task Force has made every attempt to consider all options and is well aware of the discussions Marshall is having with Avera and Sioux Valley. In light of Kerr's legal opinion the only viable option is to upgrade Tracy's own hospital. Advanced technology and services plays a vital role in recruiting and keeping specialists in this area. One doctor feels he is practicing medicine with one hand tied behind his back. Because of the lack of diagnostic equipment he must send patients to other facilities.

Otto-Arvizu briefly reviewed the options that have been discussed. The first option was to do nothing. On the positive side there is no cost. On the negative side there would be a loss of doctors, patients, and revenue. The second option which was rejected was the concept of a regional hospital. This could not be done legally under present law. The City of Tracy would lose its own hospital and commit to responsibility for the facility if it failed financially. The third option involves upgrading all three hospitals and building a \$5 million specialty clinic on the Highway 59 corridor. While this location was sited by a consultant as the ideal place, no decisions have been made. The negative impact is that for legal reasons under present law this is not a viable option. Other concerns are doctors' drive time from the centralized to area hospitals for procedures and rounds, the cost of maintaining a fourth facility, a nationwide nursing shortage, and on at least two occasions it has been mentioned if a specialty clinic is built a hospital will follow. The fourth and only legal option involves extensive renovation and new construction of our local facility to accommodate specialty services and procedures as well as enhanced technology and patient care. This is a positive medical model for our community because it keeps enhanced medical services in Tracy. This would generate an opportunity for a collaborative effort with other area hospitals.

Otto-Arvizu stated no matter what decisions are made it is important to advocate the installation of a cat scan as soon as possible. She also feels it's critical to make no final decisions until the Marshall hospital has made theirs. She said Zwach had mentioned a cost of \$8-12 million for a significant upgrade and a significant financial contribution from the community. Otto-Arvizu added that would be revenue based and not come from the tax payer bond. She feels a strong need to identify what services will be provided in order to get an accurate cost of the upgrades. After a plan is developed the community will be engaged in informational forums and a vote put to the people.

Reiner stated he had nothing to add. He thought think Zwach and Otto-Arvizu have clearly stated the efforts at this time.

Hannasch stated this meeting is a very good idea. There are a lot of unanswered questions and a lot of rumors. He recently heard someone say what is wanted is one centralized clinic and hospital and that is not the case. There are only two things being looked at, either a centralized specialty clinic or upgrading of the three facilities with different specialists being located in the three different hospitals. Hannasch thought a feasibility study would tell what is best option. He stated the most important thing is that all work together and push for the betterment of Tracy and the surrounding areas and do what is best for the hospital.

Weiland stated regardless of Sioux Valley's arrangement with a facility they view healthcare as a local community asset. Sioux Valley is here to work with the community's resources and work to do

what is best for this area. Weiland said Sioux Valley wants to do what they can to keep clear communications and support the decisions made locally. Sioux Valley needs to uphold their obligations on the lease. Weiland wanted to give the committee credit for the work it has done in looking into different options. No one can continue to run health care as in the past there is a need for changes. Weiland said it's essentially true specialists are hard to recruit and retain. They are busy folks and if they have to travel and ideally it's preferable to go to one or two places rather than three to five in a day. Looking at it from Sioux Valley's standpoint they also want to make sure any decisions are financially feasible. Weiland added there is some misunderstanding in regard to the decision-making time frame. Marshall's decision in May will determine some steps that Sioux Valley takes. Sioux Valley has also said they won't make any decisions on the Shetek discussions until Marshall's decision is made.

Dr. Fazal asked to speak on behalf of healthcare providers as the chief of medical staff. He said he represents a lot of views stressed by patients. One of the questions raised by patients is why does it seem medical staff does not seem to be taking part in the decision making process. Fazal reiterated that medicine has changed a lot in the last 10 to 15 years with a great need for specialty care, specialty services, and access to diagnostic equipment. In the middle of the night trying to locate a specialist is very frustrating. Healthcare is suffering when that happens and the hospital loses a lot of patients and revenue. Specialty care is a necessity and not a luxury anymore. The hospital staff is not able to do about half of healthcare management which must go to other facilities.

Fazal wants to see speciality care in the next couple years and he stated where that care is located is up to the Council. Fazal would like to see it in Tracy but his options right now are a 100 miles away so anything closer would be an improvement. Most of the specialists in this area have come due to a colleague who is already located here. So far a few specialists are interested in this area if provided with the necessary equipment and facility. Fazal stated he can say with a lot of confidence the health care is better here than that even in Marshall even with limited resources. In this combined area there are more board certified physicians in internal medicine and more specialists available than in Marshall. Fazal has signed another three year contract and hopes to fulfill that but said he cannot go on practicing limited medicine in this manner. He added recruitment of physicians is going to be dependent on the decisions made by the Council.

Stobb asked Fazal what he would say are the most needed specialties. Fazal replied cardiology, orthopedics and mostly a surgeon. He has a friend who has signed on and will join the hospital shortly. He spoke to another friend in nephrology who is willing to come down a couple times a week but most specialists do not like driving 20 miles several times a day. They want everything localized and centralized with available diagnostic equipment.

Judy Anderson stated she is a nurse practitioner in Tracy, Balaton and Walnut Grove and said it is both frustrating and time consuming to travel each day to several sites. As an example she wanted to do a test for a patient in Tracy but couldn't and had to send them to Slayton. Anderson said she had a very difficult time getting the results sent over to Tracy and frequently runs into problems tracking down charts. Having a centrally located area would prevent charts being in one location, x-rays in another, diagnostic equipment in another. It all makes a difference for patient care and makes them more comfortable with the care they are receiving. Anderson said she wants to make each specialist's stay enjoyable but in order to retain people it is important to provide the correct tools. She sees the importance of having a centrally located facility and added that more appointment times are available if driving time and set-up time is reduced.

Otto-Arvizu asked how Anderson would address the issue of patients going to one facility and then the doctors and patients will have to go to a hospital for the procedures. Anderson replied they can easily set up scheduling for these tests at a centralized facility on one day and schedule procedures at a particular hospital on another day. Otto-Arvizu stated there will still be drive time for doctors. Anderson replied it is different than driving several places on a daily basis. Otto-Arvizu asked about the option of headquartering different specialists at different facilities. Anderson replied the question would be how to decide who would go where. She is thinking about what is more convenient and from a provider perspective she sees how hard it is to lose time from driving and then stay late to catch up. Anderson feels if we want to get specialists here and keep them here it's important to have a centralized place with all the diagnostic equipment available. Byrne commented that building a

specialist clinic doesn't mean we can recruit specialists. If they are having a hard time in Sioux Falls it may be harder here. Byrne also asked if the committee is considering a specialty clinic with emergency services or just a clinic. It was indicated emergency services were not in the plans. Fazal said considering the number of specialists who have shown interest in the past few months and the surgeon that recently signed on there won't be a problem finding them.

Stobb said the Slayton newspaper had article about upgrading emergency services at the Murray County Hospital. He asked since Sioux Valley is financially responsible for hospital operations at the three locations will whatever decision is made be subject to Sioux Valley's approval. Weiland replied in most leases the ability to add or delete services must be agreed upon by both parties. Sioux Valley will want to make sure the plan is something they are comfortable with and is a sustainable service from both a quality and financial standpoint. Weiland stated so far everything that has been discussed is attainable. Stobb asked if the \$8-12 million estimate pertains to the clinic, the upgrades or both. Zwach replied the clinic is estimated at \$5 million for the building and equipment. Otto-Arvizu regardless what is done the hospital facilities all need upgrading. Right now the legal aspects don't look optimistic for a centralized clinic and that is why she is standing behind the idea of creating some suites at the Tracy Hospital to accommodate specialist needs. She said Rich Heck who is an architect specializing in hospitals can plug different figures into a computer program and give the average price of construction. Otto-Arvizu said the \$8-12 million figure was in a perfect world, remodeling everything and adding about 30,000 square feet. The Task Force thought a more practical strategy would be to determine regionally what would be offered in Tracy and then customize plans to those needs. For instance 9000 square feet was proposed for admitting and Otto-Arvizu questioned needing that much space. She said until it's determined where each specialty would be headquartered it's impossible to begin to design a remodeling project. Stobb agreed and didn't want the \$8-12 million figure being used inappropriately because in truth no one knows what the cost will be.

Otto-Arvizu stated to do nothing will cost the community later, and later is three to five years. The people who have talked to her have expressed a powerful desire to keep medical services in Tracy. If it is revenue based and pencils out hopefully there will not be additional taxes to residents. Zwach said he would like some input from the Council if members would like the Task Force to continue investigating the options and provide a recommendation. Ferrazzano said he thinks they do need to continue. The Council won't have the necessary information if the Task Force doesn't provide those options. Byrne asked if the City legally has any options regarding a centralized clinic. Zwach replied he doesn't know if there are other options for financing but the City could support the clinic without financial obligations. Stobb thinks the City has to support what gives the public the best medical care. Weiland suggested the best process is to get one, two or three doable options and then start to rule them out. To eliminate options at this point would shortchange the process. When a project of this scope is done you can run into many obstacles such as obtaining land, zoning, or whatever. He suggested to make sure there are no preconceived notions. Kerr stated just so everyone is aware you can always have special legislation but one of the things to be careful about is there is a tax base in Tracy, and one in Murray County but there is no tax base in Westbrook which is a private, non-profit hospital.

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

ATTEST:

City Administrator

Mayor

May 10, 2004

The regular meeting of the Tracy City Council was called to order at 6:30 p.m., Monday, May 10, 2004 in the Council Chambers of the Municipal Building. The following Council members were present: T. Byrne, M. Fraser, S. Ferrazzano, J. Otto-Arvizu, R. Stobb, R. Caron, and G. Torkelson. Also present were staff members: A. Koopman and F. Nielsen.

Ferrazzano asked for any additions or corrections to the minutes from the April 26, 2004 City Council Meeting. There being none, motion by Caron, second by Fraser, to approve the minutes as written. All voted in favor of the motion.

Ferrazzano asked for any additions or deletions to the agenda. There being none motion by Byrne, second by Fraser, to approve the agenda as now written. All voted in favor of the motion.

Kerr reported the Council received some information concerning the Charter cable franchise. On April 23 he received a return receipt letter from Arne Carlson with Charter along with some attachments which contained 23 items of contention. The Council also received a copy of a letter sent to Charter by Robert Vose dated April 8. Kerr talked to Vose today and he indicated he would respond to Charter's letter dated April 23. Kerr asked the Council to review Charter's letter and his memo over the next two weeks. He will have a response to Charter's letter before the next Council meeting and can at that time advise the Council the necessary issues to address.

Kerr doesn't believe there is any merit to one of the important questions raised by Charter wherein they claim the City is exceeding the five percent franchise fee cap by including "reasonable costs." He stated many of the issues are housekeeping items which all could have been brought up before the City passed this ordinance in March. Kerr added Prairiewave has absolutely no prob with an identical ordinance but Charter is choosing to take issue. Otto-Arvizu asked what kind of revenue would be anticipated if the City collects a fee of five percent of gross revenues rather than a flat fee. Koopman replied she doesn't have any figures but it exceeds the previous fee of \$2500. Otto-Arvizu said as she understands the fee would appear on the customer bill as a five percent fee and asked how the City would use that money. She asked why in effect is the City taxing the people. Kerr replied he doesn't see how it can be called a form of taxation. It is a fee to a franchisee for their opportunity to come into this town and take money out of this town. They will certainly pass those costs onto customers but he thinks it would be a huge mistake to not charge anything. Koopman stated the five percent fee is something most cities have gone to. She said the money goes into the general fund as revenue and it has previously been used for things like a new video camera. The City also pays for a person to video Council meetings out of that revenue. Koopman added the cable franchise fee is one of the items discussed last year when looking at ways to raise revenue.

Otto-Arvizu asked if the franchise fee would come from just cable or also internet revenues. Kerr replied he would have to check but thinks the fee is only related to cable television. Stobb asked if it would ever be to the City's advantage to request an individual other than Carlson to deal with on this issue, perhaps someone higher up the chain of command. Kerr replied he would pose that question to Vose. Kerr stated that he reviewed the Marshall ordinance which was negotiated by Brian Grogen and said some of it was very illuminating. Stobb said according to Kerr's memo Charter is arguing some things that are included in Marshall's franchise. Kerr said he had questioned why the City would have to evaluate both franchises if they know only one has a quality issue. The City would end up paying all the costs for the evaluation of the other. His opinion is Charter is trying to give Tracy the bare minimum amount of service they can for the money.

Kerr said he won't comment on the substance of Tholen's complaint against the police department but felt it was important to refer to City Code Section 9.22 Civil Service Commission. The Council is the appointing authority of the Police Civil Service Commission and the appointing authority for each police officer on the recommendation of the Police Commission. Kerr said the relevant part of that section refers to the authority of the Police Commission in regard to disciplinary action. A complaint may be filed with the secretary of the Commission, by a superior officer or by the appointing authority, which is the Council. The accused may file an appeal in district court if there is a judgement against them.

Kerr stated the Council if they choose may direct Kerr's office to draft charges and specifications. He stated he doesn't know if there are rules and regulations for the Police Commission presently. The Council's task will be to determine if there is probable cause to refer the complaint to the Police Commission. The case would then be an open matter and any hearing would be open to the public. Ferrazzano said based on the ordinance if someone has a valid complaint the Council directs the Commission to do an investigation. Kerr concurred and said there would be written charges and the accused would appear in their defense before the Police Commission. Ferrazzano asked to clarify that the Police Commission makes a decision in a case and the Council has no say in that decision. Kerr replied that is correct and added if there is a negative outcome the employee can appeal to district court. Fraser said the idea was to remove politics from the Police Commission. Kerr stated the Council has no part of the review but only refers the incident to the Police Commission if the Council feels the complaint has merit.

Kerr wanted to make it very clear that if the Council chooses to send the issue to the Police Commission everything thereafter is in an open session. Ferrazzano asked if the Commission has set procedures to follow. Kerr replied some investigation can take place before a public hearing, perhaps by interviewing witnesses. Ultimately those witnesses will have to come before the Commission in an open hearing because there is always a right of confrontation by the employee. If an employee who after investigation and trial by the Police Civil Commission is found guilty of inefficiency, breach of duty or misconduct is subject then to one of three possibilities, removal, reduction or suspension. Ferrazzano asked what standard of proof is there to get to those options. Kerr replied it is probably not beyond a reasonable doubt since it is a civil matter. Ferrazzano said when he sees the words "investigation" and "trial" he wonders what that would entail. If three people are on the Commission is it required to be a unanimous decision or a majority decision. Kerr replied that he doesn't know but at some point in time rules of procedure will need to be drafted and that issue would need to be specified.

Kerr stated he doesn't know the status of the Police Commission and there has never been an occasion that he has been consulted about these issues. All he can go by is the City ordinance. Byrne said he assumes before going any further the Council would have Kerr's office draw up charges. Kerr replied his office would also have to examine witnesses and the accused also has the right to counsel. He sees his office as enabling the Police Commission to reach its investigation. Ferrazzano asked if there is a transcript or minutes taken. Kerr replied a transcript would be required because if there is an appeal it would be needed. Otto-Arvizu's opinion was the Council had been given information warranting that they consider having an investigation done. Ferrazzano asked if he understood correctly that a closed meeting could be held by the Council to consider recommendation and investigation by the Police Commission. Kerr replied that was correct, the Council can determine if the complaint has merit and if not it goes no further. Ferrazzano asked if the employees involved be at the closed meeting. Kerr thought the Council would only consider the evidence and added the Council would also have to be schooled on the rules of the police department. There has to be a violation of those rules for a viable trial. Ferrazzano suggested a closed meeting following tonight's regular meeting to discuss Tholen's complaint. Stobb thinks an issue has been raised and needs an answer and believes the Council needs to go through the process. Ferrazzano suggested holding the closed meeting before determining if they would have Kerr's office to draw up charges.

Bob Gervais presented a request from the Chamber of Commerce to close Morgan Street between 3rd and 4th Streets for a street dance on Sunday June 6. Motion by Stobb, second by Fraser, to approve the request. All voted in favor of the motion.

Ferrazzano reported there were two applications received for the Hospital Board vacancy. Byrne and Torkelson agreed to interview the applicants prior to the next Council meeting.

Robinson asked for any questions about his monthly report. Ferrazzano asked about the progress on the water main on Harvey Street. Robinson replied they broke the project up into stages because replacement of the water main was funded through the surcharge fund and there was also a service line being replaced so that was kept separate. There is also a new fire hydrant being installed there so there are actually three projects. The main has been installed and tomorrow the service line and fire hydrant will be connected. Otto-Arvizu asked if someone was on duty at the compost site. Robinson replied someone is on site on Wednesday from 3 to 6 and Saturday and Sunday from 1 to

4. Otto-Arvizu stated she didn't want to see any confrontation and the person on duty does have a cell phone and can also take the license plate number down. Fraser asked if any progress has been made on the Central Park vandalism. Robinson replied that Chief Hillger has been working on the case and since last reporting there have been two more fires in the bathrooms which Hillger is investigating. Otto-Arvizu asked if the camera worked. Robinson replied during the second incident the camera wasn't angled right so they weren't able to see the vandals. Torkelson asked if the new airport mower was proving to save time. Robinson replied he believes so but they weren't able to keep a person mowing continuously. He will have a better idea when they can mow non-stop. Otto-Arvizu asked if the fire in the Central Park bathrooms only left a mess or will items have to be replaced. Robinson replied they will probably have to replace one toilet seat. He will provide Hillger with an itemized list of damages.

Hillger asked if there were any questions about the police activity log. Byrne said he noticed animal calls were up and asked if it was due to chicken the problem. Hillger replied there was one arrest regarding illegal animals. Hillger reported that the first arson at the Central Park bathrooms resulted in the arrest of three juvenile females. He added the camera being used isn't the best, it is high speed and has to be reviewed frame by frame. Fortunately Denny Schroeder worked with it and they were able to get what was needed. Hillger stated a couple weeks ago the officer's job was offered to a gentleman who accepted but then turned it down that Thursday. The Police Commission voted to offer the job to the next person on the list. Hillger has done a background investigation and the candidate has shown an interest in coming down here. Koopman added this candidate is the last on the roster.

Gervais reported the Sportsmen Show had a good turnout with 75 vendors. The Chamber rented a tent for the vendors and another for Brody the Bear and the lumberjack show. They should net about \$6600. Byrne asked what contributed to the increased cash flow. Gervais replied more vendors plus they were less aggressive on advertising this year since there was a track record of the show.

Gervais said a open house at the spec house was held on April 17 & 18 and 24-28 people walked through. There were two couples who were interested and one may be interested in one of the remaining Eastview lots. Gervais said the EDA apartments have been appraised and will be reviewed at the next EDA meeting. The EDA has considered the sale of those apartments and with a fair market price it may be a chance to put money back into the fund. The EDA will be making some payments from the down payment assistance program. Currently the interest rates are quite high and with some changes they would give out less money but more often. Right now the maximum \$12,750 which would change to a maximum of \$5000 but a zero percent deferred loan up to 30 years.

The EDA is working on a Business Assistance Subsidy policy which is an umbrella over the city to allow them to incorporate TIF and also the JOBZ zone policies. The corrections facility has been a big question but with the house and senate being so far apart on the bonding bill which includes the corrections facility. Part of the corrections facility includes the Faribault and Stillwater expansion but the house has cut a substantial amount of money out of both those projects with the idea of forcing the Department of Corrections in looking into private facilities. There are also bills written by Marty Seifert with information regarding the Department of Corrections to put out a request for proposals offering private prisons a chance to look into the State of MN. A lot has to do with the bonding packages right now.

The Chamber's treasure hunt day will be Saturday June 5. The idea is to attract people to town and by moving it to Saturday it will give people who work more opportunity to come. There will be numerous rummage sales and retail sales. The Chamber went with a 50's theme and a lot of store owners will follow that theme. Sunday Cocktail Steve and the Tablerockers will perform.

Koopman had nothing to add to her report. The majority of her time has been spent in meetings.

Ferrazzano presented an Airport Commission report. Steve Robinson and Brian Meyer from SEH Inc. were present to answer any questions. Rick Robinson explained government monies are available for the airport and one of the first steps is to prepare an Airport Layout Plan (ALP). To develop this plan an engineering firm had to be hired. The City sent out materials to three firms and the Airport Commission met and reviewed the qualifications submitted by Bolten and Menk Inc. and SEH Inc.

The Commission is recommending SEH for the project. Meyer stated he is the manager of aviation services for this region for SEH and based in Sioux Falls office. The FAA process allows a city to pick an engineer and the first thing looked at is updating the ALP. The City is eligible for reimbursement of 95% of project costs including the ALP. As projects come up SEH will draw up the scope of the project and the City would enter into a contract for each individual project. Meyer stated SEH is an ongoing resource for cities. Ferrazzano asked if the airport has a project if a rep from SEH oversee it. Meyer replied they would and added based on what the City wants they can provide someone full time or look at options for keeping costs down. Stobb asked if SEH is working with other airports in this area. Meyer said there is a big project starting in Canby and he has worked in Madison Montevideo, Pipestone, Longville, Long Prairie, Moorehead, Luverne, and Redwood Falls. Meyer has personally managed close to 80 different airport projects in 30 to 35 different airports. Motion by Fraser, second by Byrne, to approve the recommendation of the Airport Commission to hire SEH Inc. All voted in favor of the motion.

The Consent Calendar included the following: Water and Wastewater report; Municipal Accounts Payable; Police Monthly Maintenance log; and Deputy Registrar Transactions. Motion by Caron, seconded by Torkelson, to approve the above listed items. All voted in favor of the motion.

Ferrazzano referred to the unfinished discussion regarding the permanent structure. Byrne stated it was discussed at the last EDA meeting and the main question asked was does the EDA have the funds to finance the project. The answer is no, so the project is going to have to wait if tax dollars will not be used. Otto-Arvizu said she would hope that ends any discussion at this time. She suggested not to spend any money on any preliminary work until the City might have money at some future time. Stobb said the other entity in this matter was the Chamber. Gervais said they Chamber will spend \$3600 on tents this year. The structure was a great idea but it may not be the right time to do it. Council consensus was to table any further discussions.

Ferrazzano reported there will be a special Council meeting on May 25 at 6:30 p.m. Koopman stated the swimming pool report will be ready from Brian Peschina.

There being no further business motion by Byrne, second by Caron, to close the regular meeting to discuss the Tholen complaint against the Police Department. All voted in favor of the motion.

ATTEST:

City Administrator

Mayor

May 24, 2004

The regular meeting of the Tracy City Council was called to order at 6:30 p.m., Monday, May 24, 2004 in the Council Chambers of the Municipal Building. The following Council members were present: T. Byrne, M. Fraser, S. Ferrazzano, J. Otto-Arvizu, R. Stobb, R. Caron, and G. Torkelson. Also present were staff members: A. Koopman and F. Nielsen.

Ferrazzano asked for any additions or corrections to the minutes from the April 27 and May 10, 2004 City Council Meetings. There being none, motion by Torkelson, second by Caron, to approve the minutes as written. All voted in favor of the motion.

Ferrazzano asked for any additions or deletions to the agenda. There being none motion by Fraser, second by Byrne, to approve the agenda as now written. All voted in favor of the motion.

Kerr stated a DVD will be viewed which is a lead-in for the special Council meeting to be held on Tuesday, May 25. Brian Peshina and Jeff Coleman will be attending the special meeting to answer questions. Kerr said the video was filmed on April 8, 2004 with Brian Peshina as narrator. The film showed the various pools, the mechanical room, and the condition of the north wall which is a large item. The Council and those present viewed a DVD taken of the areas of concern at the aquatic center.

Byrne asked in regard to the cracking if the inspectors feel most of the cracks are deep. Rick Robinson replied the inspectors measured the depth of the cracks with gauges and will explain further at tomorrow's meeting. Stobb asked if there has ever been any talk about perhaps not putting a new pool on the site of the old pool that was leaking for years. Robinson replied he has never heard that comment. Kerr stated the film gives an overall perspective of the pool and said there was a question about winterization. Paul DeSmith said the issue came up at the end of the 2002 season. The City was supposed to get support from Olympic Pools regarding winterization which never happened. Don Polzine and DeSmith went over the pipework themselves and started making phone calls and drilling and putting in drainage plugs where they were concerned water would sit. The City had called USAquatics about how they were supposed to drain the water lines and they said Olympic didn't complete that provision so the City went ahead and did it. DeSmith stated over a period of two weeks they went down every day to look everything over and at the start of the 2003 season everything was fine. At the end of the process the City hired AquaLogic to do some of the things left undone on the punch list and they double checked that everything was done. According to the contract the City was supposed to get support for winterization. Kerr stated DeSmith is being unduly modest because there wouldn't have been a 2003 season if he and Polzine hadn't winterized the facility as they did.

Rick Nordahl was present to give a hospital report. He stated the Board of Directors meeting was held last Wednesday morning. April 30 is the end of the fiscal year for the hospital so year end financials came in showing a fairly positive year. There was some discussion regarding how the lease is structured. If the hospital makes money it gives the City a percentage but the lease carves out the clinic volumes and clinic revenues which generally operates at a loss. There was some discussion about how to change that to include the whole health center. The way the hospital does business is to try and put as much expense into the hospital as possible since it is cost based reimbursed.

The board talked about the Walnut Grove clinic and moving it into the new assisted living units that will be built in Walnut Grove. The thought was it would give a better and bigger client base but they are still negotiating some fees to see if it would work out. There is new leadership coming into the Balaton nursing home so volumes may increase over there. Nordahl said recently an employee opinion survey was conducted and 70 percent of the employees participated. Results will arrive in late July or early August. Nordahl stated the hospital is experiencing some serious office space issues and is moving a couple administrative offices to O'Brien Court.

The Board talked about a different direction for the Hospital Task Force now that Marshall has made the decision to go with Avera-McKenna. This decision sheds a different light on what the Task Force is doing and Nordahl thinks the focus will now be in a new direction. The Board talked about bad debt and the ability to capture some of the bad debt in charity care versus strictly bad debt. It would be better for the hospital if people were willing to fill out financial reports in order to qualify them for charity care. It also shows a commitment by the hospital to serve the community. If an

individual is unable to pay, the hospital is willing to look at writing that off as charity care. Nordahl added people generally don't like to accept charity in this area so they may need to look at renaming that program.

Nordahl said Garvin Corner was discussed as a possible location for a specialty center and the Board of Directors identified seven specialists they would like to bring in over the next 12 months including orthopedics, cardiology, oncology, and general surgery. There was a lack of consensus on which model to pursue, either rebuilding or building a new specialty clinic. Nordahl said there was a new marketing person, Robyn Madson, hired from north of Westbrook who will help Cookie Cooreman. Cooreman will focus on Tracy and Slayton and Madson will work typically on Tracy and Westbrook.

The hospital received a grant from United Way of Lyon County to support a Hmong culture learning session. It will be held on July 12 from 8:00 a.m. to noon and then a Hmong dinner will be served. The hospital also received a grant from Blue Cross Blue Shield to look at a community wide assessment to look at what the community needs are in regard to improving access to healthcare and other social service related health programs that people don't always know are there or how to use them. The goal is to develop a resource center so that they can be integrated into those different service modules. Nordahl thinks this will be a huge boost to local communities and believes there will continue to be a migration of Hmong people out of cities into rural communities.

Hospital staff and board was invited to a conference in Marshall on diversity on August 10. Nordahl stated Tracy Hospital will talk a little bit about the grants they received and the integration services they would like to provide. He said there was a brief long term care update and how some City Council members would like to help facilitate a meeting between the two parties so we could achieve a strong single presence in Tracy. Nordahl said there was a new physician hired but not a signed contract yet. Byrne asked if any progress has been made on window replacement. Nordahl replied the windows are here but they are waiting on a particular bathroom part. Once that is received it will take about five days per room to update.

Ferrazzano reported that he received a call from Mayor Burns in Marshall and their City Council approved the request allowing Tracy citizens to get Marshall resident rates for pool passes. Slayton chose to deny this request.

Kerr reported the David Anderson appeal of a special street assessment was heard on March 3 and the court provided a decision dated May 10, 2004. The City had four witnesses and introduced 20 exhibits which included a history of the original street improvement in 2001. The meeting minutes from the 2002 street procedure and a portion of the audio tape from that meeting was introduced along with zoning maps, the policy of the City to assess benefits, and the zoning regulations for land use.

Kerr stated one of Anderson's contentions is that he doesn't have access to his property on Front Street and that the City put a fence up along that street. An investigation showed that the fence is located on Anderson's property and he could have removed it at any time. Kerr said Koopman appeared for the City along with Con Rettmer and Don Polzine who both provided an historical background of the original improvement. Rettmer addressed where the present areas for residential use are located. The City's key argument is taking into consideration the highest and best use of property. Although Anderson's property is zoned commercial the highest and best use is residential in character. Based on the testimony received, the City won this case.

The Court found that the City's appraiser, Bill Weber, demonstrated the highest and best use. Weber's opinion was that Anderson's property had a land value of \$120,000 before the improvements and \$132,100 after the street improvements. Therefore the value was increased by \$11,100 which is in excess of the \$3700 assessed for those improvements. The City was required first to show a special benefit was given to the property owner, second that there is a uniformity in assessments between the property owners and third that the benefit was more than assessment. The Court also determined that Anderson's appraiser did not determine the highest and best use. Kerr added this is the first test the City has had with special assessments to his knowledge. The City was successful because they had the right witnesses and the right appraiser and what this says is unless a resident has an appraiser that will back their contention that they received no benefit to their property any court action is futile.

Kerr stated the Court quoted the City's procedure and chastised the City stating the procedure wasn't used as spelled out in the hearing notice. However the Court did conclude there was due process given to Anderson which was demonstrated by a transcript of the hearing. What was pointed out is if the City is going to use the hearing notice provisions they should either use the procedure or change it. If the City tries to go through the seven steps in the process the objector would at least go away with feeling that they were heard. Kerr suggested that be discussed at an adjourned meeting rather than the regular meeting. Motion by Byrne, second by Torkelson, to hold a special hearing if there are objections to special assessments. All voted in favor of the motion.

Torkelson stated he and Byrne met with both candidates for the Hospital Board position last Thursday. Dennis Emerson contacted Byrne last night withdrawing his application because of health reasons so therefore the recommendation was to appoint Chris Kamrud to the Board. Motion by Fraser, second by Stobb to appoint Chris Kamrud to the Hospital Board. All voted in favor of the motion.

The Consent Calendar included the following: The monthly Water and Wastewater report; Planning Commission minutes for May 3, 2004; and Municipal Accounts Payable. Motion by Byrne, seconded by Stobb, to adopt the above listed items. All voted in favor of the motion.

Ferrazzano presented a proposed Prairie Pavilion Lease which was adopted by the School Board. Byrne asked if Koopman had any other concerns. Koopman replied she didn't and added this draft was approved by the School Board. Motion by Fraser, second by Caron, to approve the lease agreement. All voted in favor of the motion.

Ferrazzano announced a Special Council Meeting will be held on Tuesday, May 25 at 6:30 p.m. Koopman stated it will be an open meeting to review recommendations for the pool and will be televised. Brian Peshina and Jeff Coleman will be present as well as Robinson, DeSmith and herself to answer questions. Stobb asked if there is the anticipation of any action on the Council's part. Kerr replied he doesn't think the Council will make any decisions but will get a lot of information. He said Gremmer and Associates also has other issues to address such as the mechanical room but he doesn't know if that report will be available.

Ferrazzano noted that the accounts payable report wasn't included with the agenda packet. Revised motion by Byrne and Stobb excluding accounts payable from the Consent Calendar. All voted in favor of the motion.

There being no further business motion by Byrne, second by Fraser, to close the regular meeting to discuss the cable franchise. All voted in favor of the motion.

ATTEST:

City Administrator

Mayor

May 25, 2004

A special meeting of the Tracy City Council was called to order at 6:30 p.m., Tuesday, May 25, 2004 in the Council Chambers of the Municipal Building. The following Council members were present: T. Byrne, S. Ferrazzano, J. Otto-Arvizu, R. Stobb, R. Caron, and G. Torkelson. Absent was: M. Fraser. Also present were staff members: A. Koopman and J. Kerr.

Kerr introduced co-counsel Jeff Coleman who has spoken to the Council by telephone. Kerr stated Coleman is an expert in construction litigation, a licensed engineer, attorney and active in ACI, the American Concrete Institute. He is a structural design engineer and has served as legal counsel for RB Inc. Kerr also introduced Brian Pashina with WJE, a worldwide engineering firm. Pashina is a forensic engineer who will provide a very in-depth report on the inspection of the pool.

Coleman wanted to assure the Council there is no question he won't answer but there may be some questions better answered in a closed meeting. Anything said in an open meeting can and will be held against the City. He said there is still some work ongoing but thinks the Council will find the report is pretty thorough. What will be discussed tonight is what has already been filed in court. Coleman stated WJE is a national firm with 18 offices over the U.S. and added it is one of the firms he tries to retain early so he has them on his side. Pashina has 31 years experience in his field.

Pashina stated he would be giving a Power Point presentation which will summarize the high points of his report. He said WJE is a consulting firm which employs structural architects and engineers and materials scientists. His company inspected and reported on the plunge pool, multi-use pool, diving well, splash pool, surge tank, retaining wall, concessions building and bath house. Pashina reviewed background information, conducted inspections, did some additional testing including core samples, did a structural analysis of the retaining wall, and produced a written report.

Pashina indicated the highlighted cracks on the drawings provided show cracks still present after removal of the diamond bright coating. Also indicated were delaminations at cold joints, numerous subsurface voids, and locations that were sounded which signaled voids. Pashina pointed out a section of floor that was placed after the original shotcrete was poured. A loose piece of concrete represents cold joint.

In the surge tank there were voids existing around the reinforcing bars and there is soft and friable setting mortar by all the handrails. Pashina referred to photos of exposed reinforcing steel bars, broken electrical grounding wires, and a wood piece embedded in the shotcrete found from a core sample. There was a photo of the retaining wall showing efflorescent staining which indicates the migration of water soluble salts and a separation at several construction joints.

Pashina said the specified strength of the pool concrete was 5000 psi and average compressive strength of the core samples taken was 9910 psi. The cracks in the pool concrete was indicative of normal shrinkage and not movements from settling or frost heave and the reinforcing bars appears to the specified size and spacing. There are workmanship relation conditions including voids, exposed steel, delaminated cold joints, friable handrail setting mortar, and embedded wood pieces. Testing of concrete indicated proper air content but petrographic analysis indicated deficient air content.

Pashina stated while the overall condition of the surge tank is good there are workmanship related issues. The hydrostatic relief valve was not installed correctly and this would have allowed water leakage into soils. While conditions require repair they are not significant to require removal of the unit.

WJE has concluded the retaining wall is significantly under designed and lacks sufficient capacity. The plaza deck condition is good overall and Pashina stated some cracking is normal. There are a few wide cracks present which suggest steel was omitted or not located within the slab. Some minor settlement of the deck slab is present but not enough to warrant replacement.

WJE recommendations for the pool include filling cracks, patching at the exposed reinforcing bars, patching voids, repairing cold joints, removing wood pieces and patching voids left by them, resetting the handrail posts, resurfacing the floors and replacing the diamond brite. Other repairs and issues will

be addressed by Gremmer and Associates.

WJE recommendations for the surge tank include coating or relining the tank, patching voids, chipping out and removing plastic reinforcing bar supports and patching those voids, and replacing hydrostatic relief valve. The retaining wall should either receive a strengthening retrofit or be replaced with a wall possessing sufficient load capacity. Plaza deck repairs should include removing and replacing the sealant along the base of the exterior wall, repairing the threshold of the service door and wide cracks either routed and filled with sealant or slabs possessing wide cracks removed and replaced.

Kerr asked Pashina to explain cold joints. Pashina stated when placement of concrete is interrupted a cold joint is when one placement stops and another starts. It can be due to either a normal break in daily activity or interruption of placement due to breakdown of equipment. Pashina explain it takes several days to place a pool.

Gremmer and associates was retained to review the items outside scope of WJE's work such as the overflow gutter and variations in the position of the gutter. They also reviewed the diamond brite coating, the hydrostatic relief valve, and electrical grounding system. Gremmer presented the scope of their work in a preliminary draft. The overflow gutter which is a stainless steel scum gutter around the plunge and multi-use pool varies in elevation along the top. It basically needs to be cut out and replaced to correct the variations in elevation. The diamond brite will require replacement and will require some surface preparation to accept that plaster. The splash pool gutter requires work as well to correct the maximum allowable variation in elevation. This work will require replacement of the one-inch tile band and caulk below the gutter. The hydrostatic relief valve was not properly threaded into the tube and needs to be installed correctly. The splash pool inlets were damaged during the removal of the diamond brite and need to be replaced. Gremmer concluded the main drain gratings for both pools do not meet code and require replacement. The existing pool heater power venter is undersized and needs to be removed and replaced. The exhaust vents on the exterior present a hazardous situation for the public. Gremmer recommends to provide a chain link fence enclosure to prevent anyone from getting near the vents.

Gremmer maintains the floor fountain blower can potentially be flooded if the pump is started before the blower. A check valve should be installed to prevent water from entering. Some of the piping is undersized in the mechanical room and pipe supports need to be reworked or replaced since many hangars are loose and don't support properly. The multi-use pool floatable anchors were damaged during plaster removal and need replacement. Gremmer states the electrical grounding wires of the pool have been damaged and will require a qualified electrical contractor to perform testing and repairs on the grounding system. State codes do not require that the system be verified by State inspectors but an electrical contractor will be required to sign off that the system meets the State electrical code and provide certification to the City.

Stobb asked if the staining on the retaining wall is from the hydrostatic valve leaking, the pool leakage or ground water. Pashina replied it could be a combination but it's unknown at this time. Ferrazzano suggested consulting with Coleman by phone at the next Council meeting. Kerr recommended providing questions ahead of time. Ferrazzano was concerned about testing the electrical grounding system after repairs are completed. Coleman replied it is his understanding the process involves testing during the repairs by a qualified electrical contractor as well as testing after the repairs are complete. Ferrazzano asked if Pashina could estimate how long it would take to complete repairs. Pashina replied he was not prepared to estimate and would first have to get the scope of the work then talk to contractors.

Ferrazzano asked what additional testing was needed. Pashina replied additional petrographic studies because there was an inconsistency found between WJE's testing and the construction testing. He thought the additional testing would be done on core samples already taken. There may be other issues that require additional testing and some additional items of concern that both Paul DeSmith and Rick Robinson have. Ferrazzano asked if there was a time frame when testing would be completed so the City can proceed with repairs. Coleman replied they were waiting for the final report from Gremmer.

Byrne stated the rebar was previously discussed in that it should have more uniformity and if it was tied down properly there should not be two to four inch variations. Coleman replied while he is trying to provide as much information as possible the City is also in litigation and he doesn't want Pashina's testimony to be compromised. Otto-Arvizu asked about the sounding process for hollow spots and if more testing will be required on hollow areas. Coleman replied part of the repair process will include sounding. Pashina added there will be 100 percent lamination sounding during the repair process.

Pashina stated on certain items they can predict what will have to be done. Other areas may be uncovered during the course of repairs and that issue will have to be covered in the repair contract. Stobb said if they City opts for the repair route can the public be guaranteed we will have a pool with the same life span. Coleman replied the question was best answered a closed meeting.

The public portion of the special meeting was closed and the Council continued with a closed meeting.

ATTEST:

City Administrator

Mayor

June 14, 2004

Council members toured the Tracy Hospital at 5:30 p.m., Monday, June 14, 2004. The regular meeting of the Tracy City Council followed and was called to order at 6:30 p.m. in the Council Chambers of the Municipal Building. The following Council members were present: T. Byrne, M. Fraser, S. Ferrazzano, J. Otto-Arvizu, R. Stobb, and R. Caron. Absent was: G. Torkelson. Also present were staff members: A. Koopman and F. Nielsen.

Ferrazzano asked for any additions or corrections to the minutes from the May 24 and 25, 2004 City Council Meetings. There being none, motion by Byrne, second by Fraser, to approve the minutes as written. All voted in favor of the motion.

Ferrazzano asked for any additions or deletions to the agenda. Koopman added (8F) Deputy Registrar transactions and (8G) Police activity report. Ferrazzano added (10A.2) paving South 1st Street. Motion by Stobb, second by Fraser, to approve the agenda as now written. All voted in favor of the motion.

Robinson reported on May 29 Tracy experienced very heavy rains causing flooding in and around the vet clinic. He stated the water flowing across agricultural land came from the west and southwest into the City. Water dislodged a lot of railroad ties that were caught in the pipes of County drainage ditch 23 on South 4th Street. Those along with a lot of corn stalks blocked the pipe causing backup. Robinson passed pictures of the debris in front of the drain pipes. He said after interviewing people at the vet clinic this is the third time in 16 years they have had severe flooding. County ditch 23 and county ditch 10 function to carry water flow out but South 4th Street acts as a dam and holds water back to the west. Robinson interviewed an engineer today and would like to request proposal from SEH Engineering for both short and long term plans to reduce the flooding problems. One thought is to install a larger storm sewer pipe running from the manhole by the vet clinic to the larger pipe in ditch 23. Robinson's concern is the City might not be able to build a big enough system to handle storm water and a possible solution is to dig dry ponds or other structures to hold water back and bring it in more slowly through the system.

Robinson said currently a 30 inch pipe runs straight west along an alley and turns north, is connected to a few catch basins on Greenwood Avenue. He said that pipe should also be extended further to west to pick up some flooding issues on Spring Street. This pipe connects to 12 inch pipe on South 4th Street which runs north to ditch 23. This pipe was well under water during the flooding. Otto-Arvizu said right by 515 Greenwood she checked the intakes to make sure they were clear. Robinson said the outlet for the pipe was underwater by 8 to 10 feet because ditch 23 was blocked by railroad ties. Byrne asked if the storm water caused the railroad ties to become lodged in the ditch pipes or were they carelessly thrown there. Robinson wasn't sure but said there is still one tie stuck in a 36 inch pipe halfway under Center Street but the county is going to fix that. Otto-Arvizu asked if the east end of Greenwood would be getting a larger storm sewer pipe. Robinson replied one of the options is to run a 30 pipe from the manhole near the vet center to ditch 23. In addition they may also connect to a 36 inch pipe on Front Street.

Otto-Arvizu left at 6:38 p.m. due to an emergency.

Nielsen asked about the picture of a pipe that appears to have come apart. Robinson replied the water and debris swirling around appears to have separated the pipes. The Highway Department will be repairing that. Stobb said problem needs to be fixed but it is not just a City problem with the water that comes in over fields from the west. Ronn Morgan stated he had 3 ½ feet of water in his basement. Every time the vet clinic is flooded so is he. Gerald Seehusen asked how big would the tile be running from Greenwood to ditch 23. Robinson replied the City was not going to do anything until they get a professional opinion. Jeff Farber said Robinson was talking about running a pipe from the vet clinic over to Front Street. Anderson stated all that is going to do is overload the pipe on Front Street because it's not big enough now. He said the proof is when the fire hydrants are flushed because the catch basins don't take that water. Anderson said another pipe running in will multiply the problem there. Robinson replied there is a 36 inch pipe under Front Street now, the legs that run to other catch basins are typically smaller pipes. He added the City would have an engineering firm make the determination of pipe size. Robinson stated the amount of water that comes from the west and southwest of town over the roads is uncontrollable. The City could not install pipes big enough

to handle the storm water so a long term project is to hold the water back. Anderson stated if water is held back to the south there is the risk of flooding the grade school. Robinson replied that is possible and that's why he is recommending an engineering firm look at the problem.

Ferrazzano said he wanted to be clear that this flooding has only happened three times in 16 years. Jeff Farber stated he has been at the Greenwood Nursery site for 24 years and it has flooded seven or eight times. Ferrazzano asked what could be done for short term. Robinson believes running a larger 30 inch pipe down 4th Street to ditch 23 will help. Koopman asked if the 30 inch pipe down Front Street empties into ditch 23 or 10. Robinson replied into 23 he added cleaning out ditch 10 will relieve some of ponding issues.

Gale Otto asked if the design of ditches 23 and 10 is to run water from the country into town because right now it sounds like the plan is to dam up the water with retention ponds. Robinson replied there are always outlets installed in retention ponds which will bring the water to ditch 23. Koopman replied that is where the City will get into a master drainage plan. All the City can work on now is a short term solution and will need to get an engineering firm on board to answer some of these questions.

Todd Hammer, Lyon County Ditch Inspector, stated Gale has a valid point, besides holding the water another way to relieve water is to divert surface and drainage water to ditch 23 since it has the room to take it. Farber said before the City built Greenwood Avenue water ran to the northeast but Greenwood acts as a dam as does 4th Street South. He added County ditch 10 wasn't designed to handle this much water. The City is working with an old system that needs to be improved upon. Koopman replied that is why the City feels it's important to get a plan in place to address these issues.

Anderson said if the City hires an engineer and he doesn't get the right information the City has the bill and still has the problem. Kerr stated the City has to address the problem but there has to be a county and City solution. The water is coming from farm land so there has to be some coordination of entities. Phil Nelson stated the County Engineer came to the conclusion the City should take inventory of what it has now and have it all mapped out. The county can furnish the pipe sizes in ditch 10 and this information can be given to an engineer to help him determine what is needed. Stobb made a motion to seek the services of an engineer. Nelson stated ultimately the water from the water shed has to come down to ditch 23 but there is an antiquated tile system in ditch 10. It was designed when the area was farm land.

Otto-Arvizu returned to the meeting at 6:52

Hammer distributed a map of the county ditches. Farber asked where the engineer was when a 30 inch pipe on Greenwood was installed going into a 12 inch outlet on 4th Street South. Otto-Arvizu stated what she remembers is the City was laying the groundwork for the storm sewer system which was done about 15 years ago. The cost at that time was too great to continue installing the 30 inch pipe. Hammer referred to the map he distributed stating in 1999 the County severed an outside tile coming from ditch 36 by Food Pride and put that water into ditch 23. The contention was these were two different systems and at one time the County was prohibited by State law to put any water from ditch 10 directly into ditch 23. At that time there was an engineer hired to determine the adequacy of ditch 23 and it was determined it was adequate to handle a 100 year storm event so the County consolidated the two ditches. Hammer stated at this point in time the County can only repair what exists, they can't make any improvements. They make improvements after receiving a petition from land owners along this system which would then have to be approved by County Commissioners. It would require 26 percent of the people on the system to make a valid petition. If approved the County would hire an engineer. Stobb said with that understanding he withdrew his motion and hoped a petition would be started. Hammer said the City would need to hire the City Attorney and determine if there is 26 percent of land owners where the improvement would pass over in favor of the petition. Or the City would also need 26 percent of the people in the watershed. This matter would concern both residents and non-residents. Hammer felt those living outside the City would not want to petition for an improvement because they don't have the water problem.

Koopman asked if Hammer would consider what they have been discussing an improvement.

Hammer replied any change at all to a ditch would be considered an improvement. Koopman said as long as they are not changing water from one water shed to another, they would simply be dumping water in sooner than it would otherwise get there. Hammer replied it depends how they would go about doing it. The County could simply repair the 12 to 15 inch tile all the way through which would be acceptable. Gale Otto asked if there was any possibility of diverting water into the ditch any earlier. Hammer replied that could be done but it would be done by the City, not the County. There are provisions in the statute allowing for some diversion but the improvement would be paid for by somebody other than those along the ditch system. Gale Otto asked if the current plan was made by an engineer. Hammer replied in 1910 was the system was put in there was a slough existing rather than schools, homes and streets.

Koopman said she thinks an engineer is still needed and they may be able to determine some more economical ways to hold or divert water. Stobb said he still agrees with hiring an engineer, he thought he was hearing the County could make the improvements for the City through a petition. Farber said this is one reason why nothing has been done in the last 24 years, the County gives it to the City and the City gives it back to the County. If the City doesn't do anything it won't get done. Hammer stated whether it's a City plan or a County plan it's still the property owners within City limits that will pay for it. Koopman said she agreed but thinks it can be a joint effort between County and City engineers. Farber stated ditch 23 runs out to the railroad tracks so why not continue 23 down to Highline road and follow it south to the intersection. You wouldn't have to build on but would catch a lot of the water before it reached town.

Stobb made a motion seek the services of an engineer and Caron seconded. All voted in favor of the motion. Anderson asked how the City's chain of command works. In January of 2002 he talked to Kerr about the legality of pumping water. In October of 2002 Anderson mentioned it before the Council. His opinion was the City was breaking the law and trespassing on his property and it doesn't make sense to try and dissipate 18 inches of water with two three-inch pumps. Ferrazzano asked if the City can pump water onto his land. Kerr questioned the word illegal. He said Anderson may have a right to damages but it was an emergency situation and the City has the right to take action in an emergency. Ferrazzano asked if there was something to do so water is not pumped onto Anderson's land. Robinson replied if the City wants to get rid of the water they could put a culvert under the road and let it flow naturally to the east so it won't flood the vet clinic. Gerald Seehusen stated the City can't do that. Robinson stated on Highline Road there are all sorts of culverts and all the farm land water across into town. He asked why the City can't keep it moving that way. Seehusen agreed that would work but it can't be done by culvert. Once one is removed it can't be replaced and the size of a culvert can't be increased.

Otto-Arvizu said while talking Sunday morning of the flood Farber and Anderson had done some talking about increasing the 30 inch pipe in the alley by 550 Greenwood and angling it out behind Anderson's land to ditch 23. Caron said the engineer would be the one to say what can be done. Anderson said that still doesn't answer his first question, how does the chain of command work and why wasn't a memorandum sent out to the department heads so they could notify employees not to pump water. When pumping the water could have been shifting farther to the north simply by pulling a couple more hoses out. Robinson replied the longer the hose the more line wash there is. Anderson replied it's still illegal to use a mechanical device to divert water. Nielsen replied he's not sure that's true, the rule has always been with water that you can rid of it to someone else you're welcome to do so. Byrne said that's what is happening with the farm land now, the water is coming into the City so it's the City's problem. Seehusen stated that's the natural flow of the water. Byrne said if the street wasn't there that would be the natural flow of the water. Seehusen replied when culverts are taken out you can't replace when you feel like it. It was done on County Road 9 and it created problems.

Otto-Arvizu said she is hoping an engineer can come up with a cost effective short term plan as well as long term. Farber asked if the City can set up a time line, he has heard this before and they still sit with the same problem. Otto-Arvizu said they can ask the engineer for a time frame.

Anderson every year the City takes assessment money from people along that ditch. Koopman replied the City doesn't assess for the ditch. Anderson replied once every five years the City uses resident's basements and businesses for a holding pond because the engineer wasn't very competent who ran a 30 inch pipe into a 12 inch. Otto-Arvizu replied even before the City put the 30 inch pipe by ?Gale Otto there were flooding problems. The City was trying at that time to piecemeal a solution but it

never went any farther. The City did put some intakes in the alley and on Cook Street. Seehusen said this was designed to go into a larger tile when the City could afford it. Robinson thought he could have a request for proposal by the next Council meeting. After that he would get an idea of a time line.

Ferrazzano presented a request from Greg Frederickson to sell intoxicating liquor before noon on Sundays. Koopman said if this request is considered by the City Council it would require an ordinance amendment. Stobb made a motion to draft an amendment to the ordinance, second by Byrne. Koopman said the next question is how early the City would allow him to sell. Nielsen stated it can't be any earlier than 10:00 a.m. Stobb made a motion to allow sales to begin at 10:00 a.m. Nielsen stated two ordinances would be required, one amending the current City ordinance and one to address a request from Frederickson to be issued a license. He added that each business requesting this license would have to attend a public hearing before the Council unless they wait until the time of Sunday Liquor License renewal. All voted in favor of the motion above.

Ferrazzano presented a request from the Southwest Minnesota Arts & Humanities Council for a contribution of \$150.00 Motion by Byrne, second by Caron, to approve the request. All voted in favor of the motion.

Ferrazzano presented a side yard variance request from Marlin Muenchow. Stobb said the Planning Commission recommended approval and there was no opposition from neighbors. Motion by Byrne, second by Caron, to approve the variance request.

The Chamber of Commerce presented the following Box Car Days requests:

1. The admission of Midwest Rides and Expositions and to waive license fee
2. Use of Central Park for a concert.
3. Use of City parking lot for a beer garden
4. Use of City water truck, road grader, and bleachers
5. Use of Central Park for "Kid's Day"
6. Use of Central Park for Family Day
7. A temporary malt beverage liquor license

Motion by Stobb, second by Fraser, to approve all seven requests. All voted in favor of the motion.

Kerr stated last year at the request of the Airport Board he served upon George Dobbelaere a notice to vacate the airport hangar has occupied. It was accepted by registered mail. In addition Kerr wrote Dobbelaere a letter which was never accepted. At this time the only way to get Dobbelaere out legally is to start eviction action in District Court. Kerr said the law does provide that the City can file a request to hold personal property to offset damages. Otto-Arvizu asked if Dobbelaere has been paying rent. Leonard replied he has been and believes he was paid through the end of June. Kerr said that makes a difference and the City may have to refund some rent money prior to filing in court. Motion by Byrne, second by Fraser, to proceed with the eviction.

Ferrazzano presented a proposal from SEH Engineering for an airport layout plan. Stobb asked how they propose a 155 percent markup to cover direct labor overhead when labor is itemized above and some of the overhead is listed below. Nielsen replied there are probably two reasons, overhead probably not the specific compensation to employee and the other reason is probably profit. Stobb said he has never seen this listed this way. Robinson said the City will only pay five percent of the costs. Koopman said that totals about \$2400 and added Nielsen had a number of questions which she faxed to Brian Meyer and he had no problems making those changes to the agreement. Koopman recommended approving the agreement contingent on incorporating those changes. Nielsen said the changes he suggested were the lack of time frame but he realizes there beuocratic approval - tell them expect to use the urgency they as professionals would deem necessary. Also the way it is worded either party can bow out with only seven days notice. The City is hiring them to do the work and the City wouldn't want to pay any additional money for services if they have to hire another company. Motion by Byrne, second by Fraser, to approve the agreement contingent on the changes suggested. All voted in favor of the motion.

Ferrazzano presented a proposal from WJE for additional testing on the swimming pool. Kerr said the issues was discussed with Jeff Coleman today and will be discussed further at the closed meeting. He said page two of WJE's letter to Coleman lists the charges for the recommended testing. It refers to the testing for air content in the concrete done by AET at the time of the original construction. Testing done since indicates some discrepancies indicating entrapped and not entrained air in the concrete. Testing will cost \$3200 and will be available within 10 days.

Hillger asked for any questions about his Department Activity Report. Otto-Arvizu stated since gas prices are so high she is concerned with keeping the four-wheel drive vehicle within the limited miles. Hillger said he is trying to hold each shift down to 45-50 miles. Each vehicle is still under in mileage. The tradeoff for getting the four-wheel drive is keeping it for six years and keeping it under 150,000 miles. They are well over five years on the Explorer and they still have 32,000 to go. Hillger believes the intrepid is also under the allotment per month over a 6 year span. He stated they are back to square one in the hiring process. He advertised for two weeks and received 11 requests for applications. To date he has received six back and needs to get together with Koopman and the Police Commission to arrange the written exam, physical agility and interviews all in one day. Hillger added he had 57 public nuisances and has to do a re-survey yet. Several have already been abated.

Robinson stated he has no written report since public works had been extremely busy. They installed the playground equipment in Sebastian Park, has done mowing, and has been preparing the flowers planters on Highway 14. Robinson added the Lions Club helped install the playground equipment. Stobb asked if they will be placing cement under the picnic shelter. Robinson replied they would along with about 1100 feet of sidewalk. They will probably leave some sidewalk out until the pool is repaired. There will also be four grills installed in the park.

Koopman stated the project is all part of the LAWCON Grant. Otto-Arvizu thanked the two public works employees who were up and helping all Memorial Weekend with the flooding.

Koopman said she had nothing new to report other than this Saturday they hoped to construct flower planters with help from the Legion and Lions Club. Byrne asked if Koopman found out anything about the testing of the lagoons. Koopman replied the engineers will be contacted about finishing the testing. There were 10.97 inches of rain in the last 30 days so that should be sufficient to complete testing.

The Consent Calendar included the following: Economic Development Authority minutes for May 7 and 21, 2004; Police Monthly Maintenance Log; Multi-Purpose Center minutes for May 10, 2004; Monthly Financial Report; and Municipal Accounts Payable. Motion by Byrne, seconded by Stobb, to adopt the above listed items. All voted in favor of the motion.

Hillger reported the City changed the public nuisance procedure this year in light of adopting the Administrative Fine Ordinance. He received a list of four options from Nielsen, the first was to process the way they have been in civil court, the second through criminal court, the third through the State statute on public nuisances, and the fourth through the Administrative Fine Ordinance. The recommendation was to use the Administrative Fine. Hillger drafted a letter and got Koopman's approval on it. Once he resurveys everyone will be notified of the status. If abated Hillger will let them know, if not he will send out a notice of fine of \$75 and will be given another deadline. If the nuisance is not abated by that deadline then it will be filed in court. Hillger said the City shouldn't be having this many nuisances every year and so many repeat offenders.

Otto-Arvizu asked how Hillger does a spring inspection. He replied he does a drive-by a section at a time looking for issues. Hillger said he will freely admit every year he misses several violations and there are always some brought to his attention after his inspection. In the past if someone brings an issue to his attention he asks if they want to sign a complaint. Otto-Arvizu said she always assumed every property is inspected. Hillger replied the process is lengthy enough as it is and it would be difficult for one person to inspect all properties. He added the original concept of the nuisance ordinance was for people to be able to report problem properties. Somewhere along the way the police department was directed to do this. Otto-Arvizu said she assumed every property was inspected as a fairness issue. Hillger said he drives through alleys and if he notices something he will inspect a yard and sometimes then finds something in a neighboring yard. A lot of the process is a judgement call on his part.

Otto-Arvizu asked if the ordinance is too vague. Nielsen replied part of the problem is if they try to be more specific they could end up with a 50 page ordinance that still wouldn't cover every instance. Otto-Arvizu said a main concern is something would attract or harbor rodents. Hillger said that is very vague and his judgement has been if it looks like a mess to him it's on the list. Stobb said in all the years Hillger has passed pictures down he has never disagreed and trusts his judgement.

Otto-Arvizu asked what if someone disagrees with a nuisance report. Hillger said they can let it ride through criminal court. Nielsen added a resident doesn't have to pay the fine and if they don't the Council can review the issue and decide whether they should proceed. Hillger said he is trying to get away from what has happened in the past. For instance someone has an unlicensed vehicles, he sends them a notice, they remove the vehicle and a month later there are two instead of one. Koopman stated part of the Administrative Fine Ordinance was to limit repeat offenders. Next year the initial \$25 fee will not be waived. She added this is a lot of responsibility for one person and maybe they need another person helping to conduct inspections perhaps with a checklist that each property has been identified.

Nielsen said he doesn't feel a whole lot of sympathy for someone with a public nuisance. They can simply fix the issue. Hillger said he previously had a conversation or two with Otto-Arvizu and thought he would bring this issue to light and see if the Council wants anything changed in the procedure. Barb Johnson addressed the Council and said she doesn't mind a City-wide cleanup but some were missed. When the inspections started she thought it was so neighbors weren't pitted against neighbors. Johnson didn't feel nuisance inspections should be done one day once a year. She felt it should be an ongoing issue. Hillger said the original intent of the ordinance was a way for neighbors to force others to clean up their yards. Koopman said the Council chose to implement the Administrative Fine Ordinance to help stop repeat offenders. Stobb asked if they could extend nuisance inspections to be done any time. Hillger said the problem he has with doing that is the heat he catches now. Ferrazzano replied that is the nature of police work. Hillger said except this isn't typically police work. Stobb suggested it doesn't have to be police doing inspections, it can be any City employee who is designated or a resident.

Otto- Arvizu asked if a citizen has to sign a complaint or can they verbally tell Hillger about a nuisance. Hillger replied the reason he hesitates is the number of people who want to get someone else in trouble. He is trying to get away from getting bogged down with this realm of his job. Stobb suggested for a while it might bog Hillger down but if it works this might eventually alleviate the problem. Koopman suggested maybe a partner could help. Stobb added the ordinance says any officer or employee of the City may implement a fine. Hillger said the only thing he will say about citizens coming to him is that if they are that concerned about a nuisance they should be willing to sign a complaint. Council members agreed the public should be allowed to report nuisances to Hillger. Ferrazzano suggested they continue to do inspections once a year and then if complaints trickle in slowly they can be handled. If Hillger ends up doing 60 a month the Council will look at the issue again.

Ferrazzano reported on a mayor exchange program hosted by LMC. He said this program is not just for mayors but for any elected official. He signed up with Vadnais Heights and will go to their council meeting and tour that city. All costs are reimbursed by LMC and there is a chance to get Tracy's name out there.

Ferrazzano stated he received a letter wondering why South 1st Street is not paved. Koopman replied it was eliminated from the 2002 street project at the request of property owners on that street. Ferrazzano asked if this is something that should be revisited in conjunction with the downtown revitalization project. Koopman said the issue was discussed at a public hearing and Stobb questioned it at that time. Otto-Arvizu thought the appropriate time to discuss the issue is when the City has another street project. Marv VanAcker said the last time there was a public hearing about paving 1st Street he, his neighbor and a representative from the elevator came before the Council to request that it not be paved. Ferrazzano said he wanted to set a precedence that if someone corresponds he will discuss the issue at an open meeting.

There being no further business motion by Stobb, second by Byrne, to close the regular meeting to discuss swimming pool issues. All voted in favor of the motion.

ATTEST:

City Administrator

Mayor

June 28, 2004

Council members toured the Tracy Hospital at 5:30 p.m., Monday, June 14, 2004. The regular meeting of the Tracy City Council followed and was called to order at 6:30 p.m. in the Council Chambers of the Municipal Building. The following Council members were present: G. Torkelson, M. Fraser, S. Ferrazzano, J. Otto-Arvizu, R. Stobb, and R. Caron. Absent was: T. Byrne. Also present were staff members: A. Koopman.

Ferrazzano asked for any additions or corrections to the minutes from the June 14, 2004 City Council Meeting. There being none, motion by Fraser, second by Caron, to approve the minutes as written. All voted in favor of the motion.

Ferrazzano asked for any additions or deletions to the agenda. Koopman moved (5B) SEH Drainage Proposal under legal issues (4B); added (4C) SEH South Street Proposal; and (4D) Aquatic Center design proposal. Motion by Stobb, second by Fraser, to approve the agenda as now written. All voted in favor of the motion.

Kerr informed the Council that Nielsen drafted Ordinance #287 extending hours for the sale of liquor on Sundays. Kerr thought it was written well enough to waive the first reading and set the second reading and public hearing. Nielsen used language in the State statute to draft the ordinance and the way he read the statute a public hearing is required each time an establishment applies for the extended hours of sale. Kerr stated he called liquor control today and they have a different take on it so he recommends that Nielsen contact them and then properly advise the City Council. Kerr added the Council can at least call for a public hearing at the next meeting to discuss the ordinance. Motion by Caron, second by Torkelson, to set the second reading and public hearing at 6:35 p.m. on July 12, 2004 on Ordinance #287. All voted in favor of the motion

Kerr reported that he received copies of a Drainage Proposal and of a South Street Proposal to review earlier today. His recommendation is to include in the indemnification that not only would SEH hold the City harmless but also their sub-consultant. This was amended and SEH sent a revised proposal this afternoon. The South Street Proposal was amended in the same fashion. Robinson stated he and Tom Greenfield met with SEH and spent about half a day looking at storm water issues. He said SEH proposed to look at both short term goals and also some longer term goals. SEH's estimated cost is \$13,100 along with approximately \$4000 for a surveyor for an estimated total of \$17,100. Robinson reported that SEH has done a lot of modeling in other towns and has a lot of experience in wet ponds, dry ponds and retaining ponds. He said SEH looked over a study done in 1980 by HEL that looked at storm water plans covering the entire City. SEH thought they could use some of this information and apply it to their plan.

Otto-Arvizu stated at the last Council meeting the leaks at the lagoon were discussed and she wondered if SEH might be of help with that issue. Robinson replied Winseth, Smith and Nolting did the previous water balance study and wanted to wait until the 2002 sewer separation project was completed and to wait for wet year to complete the study. Robinson contacted them and they are going to begin collecting data again.

Robinson stated the first step to be taken by SEH in regard to the flooding problem will be to look at short term solutions by evaluating the existing storm sewer or surface rerouting options. Phase two will look at long term solutions and consist of reviewing potential detention ponds areas west of Highline Road and within school properties. Ferrazzano said when discussing the issue at the last Council meeting indications were that Lyon County won't be helping the City with this project so the engineering costs would fall on the City. Koopman replied that is true but there may be some construction that needs to be done outside City limits that the County would take part in. She added ultimately those benefitting from any improvements will contribute towards the cost. Stobb stated either way the City is going to pay and made a motion to approve SEH's proposal. Fraser seconded the motion. Otto-Arvizu asked where the money to pay for the project will come from. Koopman replied the Surcharge Fund. All voted in favor of the motion.

Robinson referred to a proposal from SEH for the South Street water main project. He stated the main on the north side of South Street was installed in the early 1900's and continually breaks. The

proposal is to take all services off that line and transfer them to a 12 inch line across the street. The City would abandon the four inch main on the north side and approximately 20 to 24 service connections would be transferred. In addition there will be five new fire hydrants and four connections running eight inch mains across South Street so the lines could be looped into the 12 inch line. Robinson said he previously received a quote from RLK but thought it was a little high. He got another quote from SEH which was considerably lower. Motion by Torkelson, second by Stobb, to approve the SEH agreement not to exceed \$5400. All voted in favor of the motion.

Kerr stated he received a faxed proposal for design services for the aquatic center from Brian Pashina this afternoon. It is a combined proposal between WJE and Gremmer and Associates and gives two options, a repair option and a removal and replacement option. WJE's estimated cost for the repair option amounts to \$30,000 and Gremmer estimated cost is \$28,650 for a combined total of \$58,650. The majority of a replacement design would be Gremmer's responsibility and their estimated cost is \$66,400 while WJE's estimate is \$9,000 for a total of \$75,400. Kerr said given the significant cost the Council has to decide if they want to address the removal and replacement option.

The proposal included a breakdown of design responsibilities for both Gremmer and WJE. The repair plans include consultation with a representative from Southern Grouts & Mortars out of Miami Florida to determine what is required to prepare the surface of the concrete for replacement of the diamond brite surface in order for a warranty to apply. It was also suggested that someone from Gremmer meet with the Southern Grouts rep but that meeting has not been coordinated yet. WJE will prepare a project manual including bidding and contracting requirements, technical specs and drawings. WJE will coordinate the design work and documents from the two firms. A field report will be prepared by WJE after each visit but the length and frequency of site visits is yet to be determined and the cost was not included in the proposal amount. Ferrazzano said basically the City will be contracting with WJE and Gremmer for how often we want them here on site.

Ferrazzano stated one option is to have another meeting later this week so the Council has some time to absorb this information but his thought is every indication has been this is a repair job rather than replacement. Even if the City opts to go with removal the City may not be compensated for replacement through legal action. Stobb asked if the City is waiting for any additional testing information that may say the pool must be replaced as opposed to repaired. Kerr replied they are doing more petrographic analysis on core samples but his understanding is that testing is not something to base this decision on. Stobb asked if the mechanical issues have been thoroughly checked. Kerr reviewed the division of responsibilities table included with the design proposal. He said WJE and Gremmer will confer with the Department of Health about any safety issues.

Otto-Arvizu said she was concerned that even to explore the possibility of a rebuild would cost an additional \$75,000. She felt the Council has followed every recommendation from those inspecting and thought it was logical to order specs for repair versus the rebuild. Stobb added one thing to remember is if the repair doesn't have the expected life span there is a legal recourse. Stobb made a motion to accept the proposal from WJE for \$30,000 for repair design specs and Torkelson seconded. All voted in favor of the motion. Otto-Arvizu made a motion to accept Gremmer's design proposal of \$28,650 and Torkelson seconded. All voted in favor of the motion. Ferrazzano asked if the City will receive a timetable. Kerr replied it will be his intent to ask and he will inform the Council as soon as he receives the information.

Koopman reported an application was submitted by Mace's Dining Hall and Saloon requesting a split liquor and Sunday liquor license. The required fees were prorated for the remainder of the year. Motion by Stobb, second by Fraser, to approve. All voted in favor of the motion.

Robinson reported Carol Skaja on North 3rd Street has a failed sanitary sewer service line. Her existing line crosses two other properties and the City has no record of easements necessary to replace the existing line. In addition there is no accessible sewer line on North 3rd Street for Skaja and her neighbors Bob and Rosemary Anderson. Robinson thinks the City has an obligation to provide an accessible sewer line for these properties. Skaja and the Andersons would be responsible for the lines from their homes to the sewer main. Robinson added North 3rd is a fairly new street and recommend to run the line under the sidewalk which isn't in great shape anyway. The estimated cost is about \$7500. Stobb made a motion to approve the project and Caron seconded. All voted in favor of the

motion.

Otto-Arvizu stated she asked to put the compost site hours on the agenda after receiving a phone call from a resident claiming the hours were difficult for her. Otto-Arvizu asked if any other Council members had received complaints. No one indicated they had and Caron stated they would never be able to please everyone. Otto-Arvizu said the resident who called her said she had talked to various people who didn't agree with the hours. Stobb said he has been very pleased with how the public has accepted the hours although he was sure they are inconvenient for some. He said the Council should seek to find the best hours but shouldn't continue to change them based on one complaint. Ferrazzano asked if there have been any violations since the hours were implemented. Robinson replied not one.

Koopman reported Jason Steffens has accepted the City's offer of \$500 to purchase his building located next to the Liquor Store. Motion by Caron, second by Fraser, to approve the purchase. Kerr asked who will pay the closing costs. Koopman said she didn't think Steffens would.. Kerr thought it would be wise to purchase an abstract. Koopman said the City will get a quit claim deed for the property. Stobb asked if there are any costs the City may run into over the next few months in purchasing the building. Koopman replied she couldn't think of any other than they may check into the cost of demolition. All voted in favor of the motion.

Ferrazzano presented a resolution restricting parking on the designated bike path along Highway 14 which allows parking when there is an auction held at Midstate Equipment Consignment Service. Ferrazzano asked if this resolution can also include parking by the soccer fields on Pine Street. Koopman replied this resolution only relates to Highway 14 and that would have to be addressed by a separate resolution. Hillger stated on Highway 14 there are a lot of semi's and delivery trucks parking by Food N Fuel and Amoco and he wondered how the Council wants the police to enforce that. The Council agreed delivery trucks are there for such a short time and they didn't want to impede any business. Motion by Stobb, second by Caron, to adopt the parking resolution. All voted in favor of the motion. (Res. No. 2004-15)

The Consent Calendar included the following: Economic Development Authority minutes for June 4 and 16, 2004; Monthly Water and Wastewater report; Hospital Board minutes for May 19, 2004; Firemen's Relief Association minutes for May 3 and June 7, 2004; and Municipal Accounts Payable. Ferrazzano asked the Council to approve only the first four items until they had some time to review the accounts payable. Motion by Stobb, seconded by Torkelson, to adopt items A through D. All voted in favor of the motion.

Accounts payable were reviewed by Council members. Motion by Stobb, second by Fraser, to approve the accounts payable. All voted in favor

There being no further business motion by Stobb, second by Torkelson, to close the regular meeting to discuss pending litigation and charges against the police chief. All voted in favor of the motion.

ATTEST:

City Administrator

Mayor

July 12, 2004

The regular meeting of the Tracy City Council was called to order at 6:30 p.m., Monday, July 12, 2004 in the Council Chambers of the Municipal Building. The following Council members were present: T. Byrne, M. Fraser, S. Ferrazzano, J. Otto-Arvizu, R. Stobb, R. Caron, and G. Torkelson. Also present were staff members: A. Koopman and F. Nielsen.

Ferrazzano asked for any additions or corrections to the minutes from the June 28, 2004 City Council Meeting. There being none, motion by Caron, second by Fraser, to approve the minutes as written. All voted in favor of the motion.

Ferrazzano asked for any additions or deletions to the agenda. Koopman added (5A) property acquisition; (6D) hospital report; she moved the aquatic center report (9E) under Reports (6E) and along with that a resolution; and she added Police Activity Report to the Consent Calendar. Motion by Byrne, second by Torkelson, to approve the agenda as amended. All voted in favor of the motion.

Ferrazzano opened a public hearing at 6:35 to discuss Ordinance No. 287 extending the hours for the sale of liquor on Sundays. Koopman stated a revised draft allows businesses currently holding Sunday liquor licenses to sell under the extended hours without making a special application. Nielsen added the revision eliminated the public hearings on a case by case basis. He talked with someone at State Liquor Control and they said this is an acceptable ordinance. Nielsen said the way the State Statute is worded indicates hearings are required but the simpler way which is acceptable to Liquor Control is the revised draft. Motion by Otto-Arvizu, second by Stobb, to adopt the revised version of Ordinance No. 287. All voted in favor of the motion.

Nielsen stated there was some confusion on his part and on Jason Stephens part in regard to the sale of his commercial building next to the Liquor Store. Nielsen reported the legal description wasn't any good but it's probably the description that has been used for many years in the past. He said he finally ran down the correct legal description and put together a purchase agreement. Stephens is anxious to sell but Nielsen felt the agreement should be approved by the Council. In addition there are some commitments the Council probably wasn't aware of such as the City will have to pay the second half of the property taxes. Nielsen also stated a quit claim deed offers no guarantee to the nature of the title and there is no guarantee that Stephens has a title to the property.

Stobb said the owners previous to Stephens had purchased the building in the 1980's and he asked if since that time anyone has contested ownership. Nielsen replied there was in fact a court case he was part of where Joe Smarzik claimed ownership, however he was unsuccessful. Stobb asked if the court ruling further substantiates ownership. Nielsen replied the former owners purchased the building from the State who owned it due to non-payment of taxes. That under the normal course of events does not lead to a marketable title. Smarzik had claimed that the County had not gone through the proper procedures in declaring the property tax-forfeiture but he lost that case. Nielsen added no one since has made claim to it to his knowledge. Byrne made a motion to authorize Ferrazzano to sign the purchase agreement and Caron seconded. All voted in favor of the motion.

Bob Gervais reported that he received an updated list of the Community Block Grant applicants. He said what is encouraging is he originally hoped to do ten commercial projects and there have been 20 applications turned in. One project is completed, six are in progress, two are waiting for bids and two in the application process. For rental properties there would be 15 grants available but there have only been two applications turned for improvements to 15 units. Gervais stated the Antler Apartments project has opened for bids. There are 25 grants available for residential properties and 18 applications received. Only one out of 18 applications has been denied. Gervais said this is a two to two and a half year process because they don't want to overload local contractors.

Gervais said the EDA still owns the spec house, he thought they were getting close to getting it sold but the deal fell through. The EDA just sold one of last two remaining lots in the Eastview Addition. The EDA will need to start looking at other land for developing future lots.

Recently a loan was made to the Pit Stop to install a mini golf course which has dwindled the revolving loan fund. Gervais recently talked with Lyon County Development Director Kris Harris

who is working with two individuals on a couple projects in Tracy. Gervais reported the current EDA loans are all stable and up to date.

The Annual Chamber Box Car Days will be held September 3 through 6 and they will not be holding a street dance this year. Instead the Chamber is looking at a DJ and Karaoke in the beer tent. There are nine girls competing for Miss Tracy this year which is up from previous years.

Chief Bryan Hillger reported testing and interviews were held last Wednesday for a new officer. Only two out of six applicants showed up. The results of the written test showed the two candidates in a virtual tie. Hillger stated two out of the three Police Commissioners have someone in mind and in about a week the department will have someone on board. He will bring the new officer in to meet the Council once hired.

Rick Robinson asked if there were any questions about his monthly report. Otto-Arvizu stated after a bad rain at Swift Lake Park the mowing was done which tore up grass but it has since been filled in. Robinson replied mowing has been difficult with all the rain and the mowers have frequently been stuck. Otto-Arvizu stated she bikes out there almost daily and talks to many people who are very appreciative of new bike path. She was recently biking with an elderly gentleman who asked why there were so many weeds along the path. Robinson replied they used a mixture called 50B from the DOT who had told the City the first year would look tough. After the first freeze and the plants drop their seeds it will be safe to spray next year. Plus the prairie grassed will eventually come.

Koopman referred to her written report and stated the most shocking news is the last paragraph relating to the possible loss of local government aid if the issue is not resolved in the legislature. This would be the 2005 local government aid payment which is what the City will be dealing with in entering into the budget session. Fraser asked if that is certified in late July. Koopman replied it is and there is no indication there will be a special session. It all depends on how the Governor interprets the law, either by the letter of the law or the intent of the law. Koopman said the Governor can either call for a special session and allow the legislature to enact that part of the bill. Her understanding is there was no debate in either the house or the senate, they were both in agreement about the intent of the law. This year because there are so many political issues attached to the bill the Governor has indicated he will follow the letter of the law which means the City could lose \$95,000. The question then is does the City levy additional money for the 2005 budget.

Ferrazzano referred to a special use permit request from the Auction Haus to hold consignment auctions at 800 Craig Avenue. Koopman stated the report on the request is in the Planning Commission minutes. Stobb made a motion to accept the recommendation. He stated auctions are an allowed special use under the zoning ordinance. Stobb added there are some building code issues involved with the business but they don't pertain to the special use request. Fraser seconded the motion and all voted in favor.

Ferrazzano reported a Special Use Permit request was submitted by Amada Horner at 173 9th Street. Stobb reported the Planning Commission recommendation was to deny the request. The application was somewhat vague regarding how the building would be used. The Special Use Permit request was denied by lack of a motion.

Motion by Caron, second by Torkelson, to approve the Fire Relief Association annual financial report, Schedules I and II.. All voted in favor of the motion.

Otto-Arvizu stated the Council met at the hospital on June 14, 2004 to get a heads up on what might be developing in possible improvements at the hospital. At the time Koopman explained there was a tight time line if the City wants to get a referendum on the November ballot for those improvements. The City has to notify the County Auditor 49 days in advance to do so. Otto-Arvizu said at the June Hospital Board meeting the urgency of proceeding was discussed. She said Murray County has definite projects in mind and is already lining up their financing. They have gone so far as having an architect draw up plans to the point they are ready to let bids. Otto-Arvizu said the Board thought it was imperative Tracy also proceed and they were assured a pro forma to help make decisions about necessary improvements would be received within three weeks and a special Hospital Board meeting would be called. Otto-Arvizu called and talked to Rick Nordahl who said all the necessary

information had been sent to the Larson & Allen Accounting Firm but he had no information beyond that.

Koopman stated she talked to Jarred Gilbertson today, the new regional vice president for Sioux Valley representing this area. He informed Koopman that pro forma has now been delayed until some time in August. She expressed a concern about the September deadline for placing the issue on the November ballot. Koopman said she and Otto-Arvizu thought the Council should be made aware of the situation and get some feedback about how the Hospital Board should proceed. Byrne asked if a reason was given why the pro forma was delayed. Koopman replied they say they can't put together a pro forma until they determine what each of the three hospitals are going to have for specialty services but at the last board meeting she thought it was clearly stated that Tracy Hospital wanted a pro forma based on having oncology, cardiology, general surgery and orthopedics. Koopman said the concern is the time line and Murray County already has plans into the architect for their orthopedic surgical suite. Otto-Arvizu added their financing is already in place and they have signed on an orthopedic surgeon. She said since last January Koopman and she have been very strong advocates for progressing and determining where different specialties would be located. They have asked for pro forma's repeatedly and now it's already July and there is still nothing available. Otto-Arvizu said until she started calling there had been no communication from Sioux Valley that the process had been put on hold.

Byrne asked if there was any reason no one from the hospital was available to give a status report. Koopman replied they would normally come to the last meeting of the month following the Hospital Board meeting. Byrne thought Sioux Valley should give a detailed reason for delaying the pro forma. Otto-Arvizu stated since last December the task force has been meeting to discuss these issues but since April the task force has been inactive. Now the chairmen of each hospital board has been asked to meet to discuss the issues the task force was previously discussing. That did not come as a vote of Tracy's Hospital Board, but rather the hospital administration or Sioux Valley corporation asked them to come in lieu of the task force. Fraser asked if the chairmen have attended a meeting like that. Otto-Arvizu replied they have been down to Sioux Falls once and are planning a follow up meeting at the end of July. Fraser asked if anyone knew the results of that meeting. Koopman replied the Board hasn't had a meeting to discuss it.

Stobb asked if a letter from the City council be in order asking why we did not get a proforma when we did stipulate which specialties we wanted and asking why the task force is not meeting as originally planned. He suggested sending it to local hospital administration and the new regional vice president letting them know we're concerned with the lack of progress. Otto-Arvizu stated the decision making will ultimately come from the Council. As a Hospital Board there is a commitment to do what it takes but there is a lack of discussion about key issues at board meetings. She was also concerned that the board has never said they want the three Hospital Board chairmen to represent the board as a whole.

Byrne said the other issue is if Sioux Valley does nothing it takes Tracy out of the game. The Council is the body to make the decisions but if nothing is brought to the Council they have nothing to base a decision on. Otto-Arvizu said the appearance is Murray County Hospital is definitely moving forward and has gotten to the point an architect has drawn up plans and is poised to let bids. They say they have stopped at that point but they also just announced that they have signed on an orthopedic surgeon. Otto-Arvizu's didn't feel the City could go to the people asking for money for hospital improvements until costs and improvements are specified. Stobb thought the Council should let Sioux Valley know that Tracy is not getting the attention we think we should be getting. Otto-Arvizu thinks we have put ourselves in a position of great trust and some vulnerability.

Kerr said he likes Stobb's approach and thinks if Sioux Valley is meeting with the three chairmen from the respective boards the City should remind them that this Council in no way, shape or form gave authority to the Tracy Hospital Board chairman to do that. He suggested the letter should maybe go beyond the vice president. He thought it would be more appropriate to send it to Dave Link, Executive VP, and Kelby Krabbenhoft, President and CEO, and copy it to the other individuals. Stobb said he agreed with Kerr and the higher up the chain of command they send the letter the better. He made a motion to have a letter drafted to Sioux Valley. Otto-Arvizu added Sioux Valley had assured the Board the pro forma would be received in three weeks and they found out only today Sioux Valley

wanted to put it on hold. Byrne seconded Stobb's motion and all voted in favor.

Ferrazzano referred to the Aquatic Center financial report and a resolution approving \$200,000 to be loaned out from the Medical Center Trust Fund to the Aquatic Center. Koopman said she will try to have a monthly report from this time forward showing any additional expenses. Stobb asked what kind of balance that would leave in the Medical Center Trust Fund. Koopman replied roughly \$600,000. Motion by Stobb, second by Fraser, to adopt the resolution. Otto-Arvizu said to clarify for the public this is considered a loan which will be paid back into the fund. Ferrazzano asked if borrowing more money from this fund was anticipated. Koopman replied the Council just approved a \$58,600 expenditure which will come out of this money and it depends on the expenses that accrue. As they enter the construction phase the expenses will continue to accrue along with legal expenses. All voted in favor of the motion. (Res. No. 2004-16)

Motion by Byrne, second by Torkelson, to approve the following Off Sale 3.2 Malt Beverage Licenses:

FOOD N FUEL
TRACY EAGLES CLUB
SANDER'S EASTSIDE
AMOCO

All voted in favor of the motion.

Motion by Torkelson, second by Stobb, to approve the following Off Sale 3.2 Malt Beverage Licenses:

TRACY EAGLES CLUB
SANDER'S EASTSIDE
TRACY LANES
THE PIT STOP

All voted in favor of the motion.

Motion by Stobb, second by Byrne, to approve a plumbing license to Jenniges Plumbing and Heating. All voted in favor of the motion.

Ferrazzano presented a resolution approving a grant agreement with the FAA for the airport project. Motion by Torkelson, second by Byrne to adopt the resolution. All voted in favor of the motion. (Res. No. 2004-17)

The Consent Calendar included the following: Planning Commission minutes for June 7, 2004; Multi-Purpose Center minutes for June 14, 2004; Police Monthly Maintenance Log; Municipal Accounts Payable; Firemen's Relief Association minutes for July 6, 2004; Revitalization minutes; Library Board minutes for June 29, 2004 and Police Activity Report. Motion by Caron, seconded by Fraser, to adopt the above listed items. All voted in favor of the motion.

There being no further business motion by Stobb, second by Torkelson, to close the regular meeting to pending litigation and charges against the Police Chief. All voted in favor of the motion.

ATTEST:

City Administrator

Mayor

July 26, 2004

The regular meeting of the Tracy City Council was called to order at 6:30 p.m., Monday, July 26, 2004 in the Council Chambers of the Municipal Building. The following Council members were present: T. Byrne, M. Fraser, S. Ferrazzano, J. Otto-Arvizu, R. Stobb, R. Caron, and G. Torkelson. Also present were staff members: A. Koopman and F. Nielsen.

Ferrazzano asked for any additions or corrections to the minutes from the July 12, 2004 City Council Meeting. There being none, motion by Fraser, second by Torkelson, to approve the minutes as written. All voted in favor of the motion.

Ferrazzano asked for any additions or deletions to the agenda. Koopman added (4A) a special use permit under Legal Issues; (6D) the Airport Commission report; and indicated the closed meeting should include pending litigation. Ferrazzano added (10B) a proclamation for Big Buddies month and Otto-Arvizu added (9A) a letter regarding the compost site hours. Motion by Caron, second by Torkelson, to approve the agenda as amended. All voted in favor of the motion.

Nielsen referred to the special use permit request from Amada Horner that was denied. He said the Council took no action at the last meeting but he and Koopman wanted to recommend that the Council take action by motion for that denial. Motion by Byrne, second by Fraser, to deny Horner's request for a special use permit. Otto-Arvizu asked if the request was denied because the house is in an R-1 district and asked what the difference is between this and Beierman's request. Koopman said Beierman's request was approved through an amendment to the zoning ordinance allowing for an antique shop to be established in a residential zone by special use permit. Stobb said Horner's request made mention of an office and she was less than specific on her application. Kerr suggested making reference to the findings of the Planning Commission. Byrne and Fraser amended their motion to state Horner's request was denied based on the finding of fact conducted by the Planning Commission. All voted in favor of the motion.

Koopman reported she will be conducting interviews for the Administrative Assistant position next week. Ferrazzano and Torkelson volunteered to be on the interview committee.

Bob Gervais referred to his memo requesting use of the Central Park bandshell on Saturday, September 4th for a concert. He said Jason Steffens requested to put on a concert, but part of the concern was the requested time of 8 p.m. to 11 p.m. since the park is in a residential area. Gervais indicated it is a free concert and they will play a variety of music styles. Ferrazzano didn't see a problem with the requested time. Stobb said there is a nursing home nearby but wasn't sure if the noise level would be a concern. Byrne stated most nursing home residents are in bed by 7:00 or 8:00. Otto-Arvizu said she would be more comfortable with concert hours from 7:00 to 10:00. Gervais didn't feel that would be a problem, the band is more interested in just playing and wants to get their name out there. Motion by Fraser, second by Caron, to approve concert hours at the bandshell from 7:00 to 10:00 p.m. All voted in favor of the motion.

Koopman reported she was able to contact four Council members last Wednesday about testing of the electrical grounding at the pool. Paulson & Clark Engineering wanted to do the work last Friday so Koopman conducted a poll. She added the Council will need to ratify the decision at tonight's meeting. Stobb said Paulson & Clark's proposal says they arrange and coordinate the testing by independent contractor. Kerr said Ryan Electric was out with Paulson & Clark who directed the testing. Kerr stated their report is not ready but the issue will be discussed further in a closed meeting. Motion by Byrne, second by Stobb, to approve testing on the electrical grounding at the pool by Paulson & Clark Engineering, Inc. All voted in favor of the motion.

Ferrazzano reported that bids for the Hollett Street bypass project came in about double the engineer's estimated cost. RLK is recommending the City rebid the project. Stobb made a motion to reject all bids and Byrne seconded. Koopman said the City doesn't need to specify when rebidding will be done and the MPCA was notified the City will be rebidding this project. They had previously granted an extension but as long as the City is making progress they will continue to extend the deadline. All voted in favor of the motion.

Koopman reported as part of the LAWCON Grant a picnic shelter was built for Sebastian Park by the High School Building Trades Class. She said customarily when the class does a project they are compensated by a contribution of equipment to the Building Trades Department. The class is requesting scaffolding at a cost of \$542.38. Koopman felt this was a very fair expenditure in terms of the benefit received by the City. Motion by Torkelson, second by Caron, to approve the expense. All voted in favor of the motion.

Koopman stated Homer Dobson stopped and gave her a verbal report on behalf of the Airport Commission. They received a request from Dave Algyer to use a portion of the administration building for office space as well as hangar space for a new business. According the Dobson there is not sufficient room in the main hangar for another plane and the concern of the Commission is they are still in the process of acquiring more equipment for the airport weather station and once the equipment is installed there would not be sufficient room in the existing office. The Airport Commission's recommendation was to deny Algyer's request. Ferrazzano stated he went to see the main hangar and he doesn't think there is enough room to run a business from it.

Otto-Arvizu said hangar used to be for anyone who had a commercial business, such as crop spraying. She asked how the hangar is being used now. Koopman replied the hangar is currently being rented out to Bill Baxter and she wasn't sure if he had one or two planes in it. Otto-Arvizu asked if their would be merits for the City in having a commercial business in the hangar. Koopman said she couldn't answer those questions as the only information she has is the letter from Algyer which doesn't go into detail. Ferrazzano stated any business is advantageous but in this case there is no room in the main hangar and suggested if Algyer wants to build his own hangar the City could accommodate that. Otto-Arvizu asked for the status on the Dobbelaere eviction. Kerr stated Dobbelaere is not in Minnesota and he has been unable to locate him. The next option is to publish the eviction to establish jurisdiction but Kerr has to do some more investigation into the matter because an eviction is different than a regular lawsuit. Otto-Arvizu said she is concerned this is someone attempting to establish a business that could connect Tracy with other cities. Fraser asked if it's true there were three or four airplanes in the main hangar at one time. Koopman replied planes tend to be much larger now than they used to be.

Gervais stated the EDA has talked with Algyer numerous times and it may be a case of the right place but the wrong time. Ferrazzano asked if the City has ever explored building new hangars. Byrne thought that was the number two item on the list of improvements. Koopman said she doesn't think the City can get reimbursed through FAA for new hangars. Byrne said Algyer had told him there is a federal program but there is a long waiting list. Koopman thought it was because hangars are revenue generating. Ferrazzano asked if the next time the Airport Commission meets if they can discuss if they want more hangars since at the present time there are not enough. Gervais asked if this is something SEH out of Sioux Falls would review or have any recommendations about. Koopman didn't think that would be a specific part of the airport layout plan. Byrne asked if the hospital would be able to use any space at the airport. Cookie Cooreman stated the doctors that fly in use their own planes and usually fly in during the morning and out in the afternoon. Byrne made a motion to deny Algyer's request based on the lack of hangar space but referred the issue back to the Airport Commission to discuss the need for more hangars. Otto-Arvizu seconded the motion and all voted in favor.

Ferrazzano presented a resolution approving an increase in pledged securities at Minnwest Bank South in the amount of \$500,000. Motion by Stobb, second by Byrne to adopt the resolution. All voted in favor of the motion. (Res. No. 2004-18)

The Consent Calendar included the following: Monthly Water and Wastewater report; Hospital Board minutes for June 16, 2004; Monthly Financial Report; Multi-Purpose Center minutes for July 12, 2004; and Municipal Accounts Payable. Motion by Stobb, seconded by Fraser, to approve the above listed items. All voted in favor of the motion.

Ferrazzano asked Cookie Cooreman if she wanted to make any comments about the Hospital Board. Cooreman stated at the July 21 meeting the Board talked about putting together a communication plan. The goal was for all three hospitals to be on the same page. When the Tracy Board meets Slayton and Westbrook should get at least a brief overview about what was discussed. At the end of

the board meeting Ferrazzano was appointed to work with Cooreman about putting together a report of the main points discussed to post and distribute. The same thing will happen with the other hospitals.

Otto-Arvizu stated she received a letter regarding the compost site hours along with pictures. The individual who sent it had taken pictures of a couple of area compost sites, which she believed were Marshall's and Cottonwood's, which are open to the public all hours. Otto-Arvizu suggested if people have very strong feelings about the City's hours not being accommodating they need to contact the City or Council members. Changes are not going to get very far with only one or two calls. Byrne said he assumes no one else has received any calls. Otto-Arvizu stated people need to contact all the Council members personally if the compost hours are really an issue. Stobb said he doesn't want to say it's not right to contact the Council, but suggested instead of contacting all members if letters could be sent to all the Council or included with the agenda packets.

Otto-Arvizu said another concern in the letter was that people will find somewhere else to do their illegal dumping. Ferrazzano said in that case the City at least won't be fined. Stobb added or the City won't lose the compost site due to illegal dumping. Byrne felt if the public really wants the Council to do something they should be willing to sign their letters. Ferrazzano said if there is enough said he doesn't want to be debating this issue every month. Stobb asked if the letter or pictures indicated if the other dumps were staffed. Otto-Arvizu replied they are not staffed. Stobb said it would be interesting to talk to those cities about how they handle illegal dumping.

Ferrazzano stated Representative Marty Seifert will be in Tracy to discuss what happened or didn't happen at the latest legislative session and what to expect at the next session. The meeting will be Tuesday, July 27 from 6:30 to 8:30 at the Med Club. Stobb said on that note it was reported in the press that the Governor will allot the proposed government aid as planned. Koopman stated the Governor is following the intent of the law versus the letter of the law. Otto-Arvizu asked if the government aid was still short compared to previous years. Koopman thought the City was ahead of where it was in 2003. She said she would email a report tomorrow comparing the past two years with 2004.

Koopman reported the Regional LMC meeting will be held in August this year. It is usually held in October but it was decided this will give more time for cities to give input on the policies that will be lobbied for in session. The closest meeting is in Laverne on August 3 starting at 2:30 and anyone is welcome to attend. Social time and dinner will be starting at 5:30.

Ferrazzano stated he received a letter from Western Community Action asking Tracy to proclaim August as Big Buddies month. Motion by Otto-Arvizu, second by Byrne, to authorize Ferrazzano to sign the Big Buddies proclamation. All voted in favor of the motion.

There being no further business motion by Byrne, second by Fraser, to close the regular meeting to pending litigation and charges against the Police Chief. All voted in favor of the motion.

ATTEST:

City Administrator

Mayor

August 9, 2004

The regular meeting of the Tracy City Council was called to order at 6:30 p.m., Monday, August 9, 2004 in the Council Chambers of the Municipal Building. The following Council members were present: M. Fraser, S. Ferrazzano, J. Otto-Arvizu, R. Stobb, R. Caron, and G. Torkelson. Absent was: T. Byrne. Also present were staff members: A. Koopman and F. Nielsen.

Ferrazzano asked for any additions or corrections to the minutes from the July 26, 2004 City Council Meeting. There being none, motion by Stobb, second by Fraser, to approve the minutes as written. All voted in favor of the motion.

Ferrazzano asked for any additions or deletions to the agenda. Ferrazzano added (10A) a public hearing for compost site hours. Motion by Caron, second by Torkelson, to approve the agenda as amended. All voted in favor of the motion.

Ferrazzano introduced Kathie Christians who has been hired to replace Jamie Leonard as Administrative Assistant.

Koopman stated this will be the first look at the 2005 budget. Each department head is present to discuss changes to their budget requests. Koopman stated there was no change to Mayor and Council, she added \$1,000 for a possible hospital referendum vote in 2005. Koopman added \$500 to the Administration budget for travel conferences due to the International Institute of Municipal Clerks conference which will be held in St. Paul next year. She increased printing and publishing based on what was spent this year. Other contractual services was increased by \$1,234 which includes the postage machine, Secure Benefits, the copy machine and other similar items.

Jim Kerr requested a five percent increase to cover several different areas. He requested the ordinary services retainer be increased from \$30,900 to \$32,445 and non-ordinary services be increased from \$125 per hour to \$131.25 per hour. The hourly court rate increase request was from \$150.00 to \$157.70 per hour. Postage and supplies amounts are still in the 2004 budget because his office failed to bill for those expenses.

Bob Gervais requested \$30,000 for the EDA revolving loan fund. The Economic Development Reserve included a request for \$81,250 for acquiring and demolishing blighted properties. Southwest Minnesota Housing Partnership has a proposal which includes mortgage counseling to move people out of blighted homes into better homes within the City of Tracy. The money would also cover appraisal fees. Hopes are to recoup the costs through a federal grant. The program is very pro-active and will target substandard or vacant housing. Otto-Arvizu asked if the City would front the money but recoup it through the grant. Gervais replied \$50,000 would hopefully be recouped through the grant. The remainder would be the City's cost. SW MN Housing would approach people on behalf of the City and this would be a chance for people to get into better homes. Koopman said they initially looked into the Block Grant target area. Gervais added the target area now runs from 6th Street to 1st Street East between Emory and South Streets which will open up grant money to more people since not all of it is being utilized. It would also be preferable to relocate people within the target area and that way they can double or triple up on grant money.

Gervais said he would not know about the relocation grant until next spring. He added Worthington has come up with a very aggressive ordinance for property cleanup. Koopman said she had the opportunity to talk to a Worthington Council member and he said the ordinance has been very effective. She said she hasn't had a chance to review the ordinance yet. Otto-Arvizu said the City has talked about pairing civic groups for labor with the City providing materials for those in need. Koopman replied the Planning Commission has talked about making paint available and they are trying to work with Western Community Action about administering the program. They are looking at coordinating the program for those who can't afford the paint. Ferrazzano asked if the Council budgets \$80,000 if they can unallocate the money if the grant doesn't come through. Koopman replied the Council always has the right and obligation to approve any expenditure. They can always allow the money to accumulate and reduce the budget the following year. Gervais said they have initially based the project on 10 houses and he has an unofficial list of target properties. Koopman added they would also work with a developer and look at using TIF money.

Gervais stated the Home Loan Assistance program has undergone some changes. The maximum loan amount used to be \$13,750 but is now \$5000. The reason is the program now increased to 115 % of median income. The program will give out less money but will give it more often. Gervais said he has only given out one loan since he started.

Koopman stated the Municipal Building budget includes \$3000 for the purchase of a buffer/floor cleaner.

Hillger the Police budget includes a \$200 increase in office supplies and a \$1500 increase for motor fuels and lubricants. He is up to full staff and gas prices continue to increase. Hillger included a \$1000 increase in maintenance and repair of equipment and an increase of \$1000 for travel conferences and schools. He has been cutting back on training due to budget concerns but it can't continue without affecting continuing education classes. Hillger said typically a two to three day class is about \$300 plus his background investigation costs come out of this fund. With a new officer fresh out of school there will be additional classes required.

Koopman stated the fire department has requested an additional \$2000 for their truck fund.

Robinson requested an increase of \$2500 for part time wages for the Street and Parks budget. Stobb asked if the compost site worker wages were coming out of this budget. Robinson replied they are. Stobb noted there are monies in Other Financial Use fund which are not designated so he wondered if some can be used for the compost site. Koopman replied to keep in mind it all comes under the general fund. It's just that the compost site is more related to streets and park activity. She said they could do a budgeted adjust for the bottom line but as long as the Council knows this was an approved expense that was not budgeted. Stobb asked if they could then decrease budget under other financial uses to offset those expenses. Koopman replied until she does a complete balanced budget it's difficult to answer.

Robinson requested an increase of \$1000 for motor fuels due to increase in prices. Equipment maintenance and repair includes \$4000 to replace snow blower tires which are rotted out. The telephone budget includes a \$500 increase for a pal phone for the building inspector. Printing and Publishing went from \$0 to \$300 to cover ads for the snow ordinance and several other public reminders. Other Contractual Services is up \$2500 for diseased elm trees and the City Gardener contract. Robinson stated equipment and improvements shows the largest increase with \$25,000 budgeted for consideration of a bathroom facility in Sebastian Park. The City received LAWCON Grant for the playground equipment and he thinks there is a need for a bathroom facility as well. Otto-Arvizu asked if there has been any further vandalism in Central Park and how the City handles the costs of vandalism repairs. Robinson replied there hasn't been any vandalism and repairs are taken out of the Streets and Parks budget. The remaining \$11,000 he budgeted would be used to put wood chips around the existing playground equipment and \$1000 for trees. Stobb asked if the wood chips are a special material. Robinson replied they are engineered wood chips and are needed to make the park handicapped accessible. Wheel chairs can drive over the wood chips as opposed to sand or rocks.

Robinson stated the Water and Sewer fund includes \$10,000 for the maintenance and repair of equipment. One of two City wells must be pulled out of the casing in late 2004 or early 2005 and the drop pipe must be replaced. The water tower should be cleaned inside in 2005 at a cost of \$2000. Robinson said \$1000 was budgeted for repair of the public works building. Several bathroom fixtures are rotted, some doors are rusting through, and the roof is leaking. Travel Conferences and Schools is up \$500 as Robinson would like to send one City employee to water and wastewater school. Equipment and Improvements was increased \$7500 because approximately 12 fire hydrants are not in good shape or are not working at all and some water main gate valves need replacing. He also suggested the City should also establish a water meter replacement program.

Koopman stated there is no change to the Library fund at time because Vicki Olson is on vacation. She said \$46,000 was budgeted for Community Ed for the aquatic center which is subject to change. The Airport budget, as explained in Robinson's memo, includes an increase for a 24 x 24 foot garage to house the airport mower.

Robert Ochocki presented the Multi-Purpose Center budget which included some an increase of

\$1000 for maintenance of the building and an increase of \$2000 for miscellaneous purchases for resale.

Ron Radke stated the two biggest increases for his budget are part-time wages and equipment and improvements. Hopes are the patio project will begin next year.

Koopman stated at the Council meeting she will present a balanced budget for first review. September 13 will be the last opportunity to discuss what will be submitted for the preliminary levy which must be submitted by September 15.

Robinson presented his monthly report stating the City crew has been working on installing 100 feet of sidewalk in Sebastian Park, working on the playground equipment and doing some tiling in the park. The City has also been doing a lot of mowing and they are lining up the North 3rd Street sewer project. Patchwork on the asphalt on Harvey street has begun. Otto-Arvizu asked if Robinson was increasing the contractual services budget for help with the mowing. Robinson replied mowing help is not contractual, it's part-time help. Otto-Arvizu asked if he was increasing man-hours. Robinson replied not necessarily, they have always had two part-timers and one additional who worked after 5:00 p.m. He said the part-time budget has always gone over in past and in previous years \$2500 of the part-time budget went for part-time help at the pool.

Radke stated there is nothing new to report other than he is gearing up for Box Car Days.

Hillger asked for any questions about his monthly report. Ferrazzano asked when the new officer would be working solo. Hillger replied it will be a couple weeks yet.

Gervais said he is working on acquiring more land to develop for Tracy housing. He said the land between the elementary school and the high school isn't currently utilized but there is a concern with flood water out there. The EDA is down to one developed lot in the Eastview addition and there are not a lot of available lots in town. Gervais stated the Community Block Grant is moving along and the target area has been expanded but it is a long process which will probably take until September 2005. The spec house is still available and he has listed it with two agencies for a finders fee and is looking at listing it with a broker.

Gervais said Box Car Days is a month away and there will not be a truck and tractor pull this year due to the lack of volunteers. The Chamber is sponsoring a pigeon race from here to Watertown. It's an automated system so whichever bird reaches home first will send a signal by cell phone. There will also be mechanical bull rides and truck mud races on Sunday.

Stobb asked if there is more land available in the Eastview addition. Gervais replied east of Andrees there is some undeveloped land and two lots on the west across from Bob Bruder which have water and sewer but a gravel front. They are smaller and therefore less marketable lots. Stobb asked if there was any thought of developing lots south of Prairieview. Gervais replied he has talked to Johnny Glaser about land on the east end of town.

Koopman reported that Dale Johnson Jr. has resigned from the Police Commission and the City should advertise to fill the vacancy. Ferrazzano said Todd Radke applied when the Council appointed Bernie Holm. He asked if it would be fair to appoint Radke. Stobb said he has no objection but asked if they changed policy about advertising for vacancies. Ferrazzano thought that was only for Council positions. Motion by Torkelson, second by Caron, to appoint Radke to the Police Commission. All voted in favor of the motion.

Kerr reported the Council has a copy of a letter sent to the three Police Commission members regarding an orientation session on the charges against Chief Hillger. He said the Commission should receive the same materials that the Council has considered but until they have a full Commission the meeting should be delayed. Ferrazzano asked why the other parties involved wouldn't be invited to the orientation. Kerr said when reviewing the rules of the Commission they should know what parameters there are in regard to the investigation. Ferrazzano thought the participants would want to know what the ground rules are as well. Kerr replied the meeting is to educate the Commission, the participants will come in later. He said no prejudicial information would be given and the

Commissioners will be given the same materials the Council previously received. Ferrazzano thought in fairness all the participants should be present to hear what is told to the Commission. Caron thought the Police Commission activity would all take place in an open meeting. Kerr replied not at this point in time. He said up to this point the City has very carefully kept the charges against Hillger in confidence and at the appropriate time the charges will be served.

Fraser agreed with Kerr that if the meeting is strictly orientation there wasn't a need for others to be there. Otto-Arvizu said the meeting would help the Police Commission to understand the parameters of the process and how they would conduct themselves. Kerr stated they would review the ordinance and the rules and would have nothing to do with the merits of the case whatsoever. Stobb said he would think that kind of meeting could have been held without being discussed at the Council meeting. Ferrazzano asked why this issue was brought up. Koopman said the issue was brought to her attention by the Commissioner that resigned. Koopman said Kerr asked her to include the issue on the agenda so it could be brought to the Council's attention. Ferrazzano asked if the issue should be voted on. Stobb didn't think the Council needed to approve the meeting. Ferrazzano asked if the City code includes that this type of meeting needs to take place. Koopman replied it's not stated anywhere but this is a situation that has not happened for many years and it's important to do things properly so there aren't any repercussions.

Kerr stated earlier this month Bruce Clark with Paulson & Clark and Ryan Electric tested the electrical grounding of the pool and found some issues. After reviewed their findings Jeff Coleman thought it was in the City's best interest to conduct additional testing. Paulson & Clark submitted a proposal for additional testing with a second meter at a cost not to exceed \$1500. They will be here Wednesday to conduct the tests. Motion by Fraser, second by Torkelson, to approve the proposal. All voted in favor of the motion.

Nielsen reported there is some interest in purchasing lots in the industrial park. If the Council wants to proceed a public hearing would be required to determine the property is no longer needed for public use and is available for sale. He added this is a very preliminary request by a party is interested in putting up self storage on part of the property and the remainder would be held for possible expansion. Otto-Arvizu asked if the issue has been discussed by the EDA. Torkelson replied he hasn't heard anything. Otto-Arvizu thought it would be appropriate that since the EDA is closest to this issue they should discuss it. She also wondered since the City is still looking at a prison if that land might be needed. Nielsen agreed the EDA is possibly in a better position to go over the nuts and bolts of what the interested party would like to do with the land. Otto-Arvizu made a motion to refer the issue to the EDA. Stobb seconded and all voted in favor of the motion.

Ferrazzano referred to a memo from Chief Hillger with a request from Dave Bosacker for a street closure on the 300 block of 9th Street on Saturday, September 11 from 8:30 a.m. to 5:30 p.m. to hold a household auction. Motion by Stobb, second by Torkelson, to approve the request. All voted in favor of the motion.

The Consent Calendar included the following: Economic Development Authority minutes for July 9 and 23, 2004; Deputy Registrar report; Multi-Purpose Center minutes for August 3, 2004; Municipal Accounts Payable; and Election Judges Slate. Motion by Torkelson, seconded by Stobb, to adopt the above listed items. All voted in favor of the motion.

Ferrazzano reported he had received a letter about the compost hours which was unsigned. He requested to hold a public hearing to give people an opportunity who want to say something about the hours. Ferrazzano said rather than getting letters piecemeal it would give residents an opportunity to speak out. Otto-Arvizu made a motion to hold a public hearing at 6:45 p.m. on August 23, 2004 and Torkelson seconded. Stobb said he is open to suggestions but the public and the Council has to be aware they can't please everyone. The only way to do that is to leave the dump open all the time and the City tried that but it failed. Otto-Arvizu asked if there would be time to check with Minneota, Cottonwood and Marshall about how they handle their compost sites. Koopman replied she would check with them. All voted in favor of the motion.

Ferrazzano opened the floor to Seth Schmidt. Schmidt stated he would like to officially and respectfully request that the meeting with the Hospital Board and Sioux Valley be kept open and not

closed. He passed out copies of the open meeting law and referred to the statute being used to hold a closed meeting. Schmidt said he had three points to make, and the first was a question regarding the language in that statute, "to discuss specific marketing activity and contracts." He asked if tonight's discussion related to that narrow scope. Schmidt's second point referred to the same subdivision which includes the phrasing that a closed meeting can be held only if goods or services do not require a tax levy. He said within the last month there was reference to the hospital issue going to the voters about a bond levy. Schmidt said if this discussion regards the levy it would be violation of the open meeting law.

Schmidt stated if the decision is made to have a closed meeting that is to be done by a vote of the Council. He said the language does also note that if the meeting is closed and the proceedings are taped that two years after the meeting or when the hospital or organization takes action on the issues discussed that the information becomes public. Schmidt believed it was in the public interest to keep the meeting open. Kerr replied they are in fact dealing with the lease with Sioux Valley. The Council and Hospital Board will be meeting with representatives of Sioux Valley to discuss the lease. Kerr said in regard to any possible tax levies the statute states that the Board of Directors may not discuss a tax levy, bond issue or other expenditure unless the expenditure is directly related to a marketing activity in a closed meeting. The call to hold a closed meeting was done on the basis of whether or not an open meeting could cause serious consequences in regard to competition, that is competition among medical services.

Stobb said he was trying to test his memory and asked if what Schmidt presented pertains to hospital boards. He stated about 10 years ago Council members were told there were three reasons to hold a closed meeting, for a union contract, personnel issues, or pending litigation. Stobb asked how they would resolve these questions. Kerr referred to Statute 144.581, Subd 1 which refers to a municipality that owns a hospital. There is an exception to the open meeting law only for hospital boards, but the Council being the governing body functions as such. Otto-Arvizu asked if a motion had to come from the Council, the Hospital Board or do both. Kerr suggested both groups should close. Otto-Arvizu made a motion to close the City Council meeting to discuss hospital marketing activity and contracts and Fraser seconded. Stobb said he still didn't know if he was totally clear on the closed meeting issue. He said Subdivision 5 says they can hold a closed meeting and Subdivision 1 says that the City Council falls into that category making them eligible to do so. Kerr replied that the Council is the only operative board working under the guidance of the Hospital Board. All voted in favor of the motion above.

Claire Hannasch Chairman of the Hospital Board requested a motion to close the meeting. Motion by Liz Jacobson, second by Linda Fultz, to hold a closed Hospital Board meeting. All voted in favor of the motion.

ATTEST:

City Administrator

Mayor

August 23, 2004

The regular meeting of the Tracy City Council was called to order at 6:30 p.m. Monday August 23, 2004 in the Council Chambers of the Municipal Building. The following Council members were present: M. Fraser, S Ferrazzano, J. Otto-Arvizu, R. Stobb, R. Caron, G. Torkelson and T. Byrne. Also present were staff members: A Koopman and F. Nielsen.

Mayor Ferrazzano asked for any additions or corrections to the minutes from the August 9, 2004 City Council Meeting. Motion by Fraser, second by Caron to approve said minutes as written. All voted in favor of the motion.

Mayor Ferrazzano presented two additions to the agenda, under (6c) variance request and (6d) Industrial Park lots and (6e) Denny Emerson. Motion to approve the agenda as amended by Byrne, second by Torkelson. All voted in favor of the motion.

Mayor Ferrazzano presented a legal issue if Police Commission meeting should be open or closed. The Council has received information from Hillger and Kerr and Ferrazzano asked if they wanted to add anything to what they had sent to the Council. They did not want to add anything. Ferrazzano indicated that he did not see any harm in having it open, but did see a lot of harm in having it closed. Motion by Fraser, second by Caron to have the Police Commission orientation meeting open to the public. All voted in favor of the motion.

A discussion followed on the activity at Central Park and Byrne deferred this issue to Otto-Arvizu. Otto-Arvizu indicated that there has been a lot of concern with relationships within the city. The paper has stated that Chad Anderson, the principal at the high school, has convened a task force to promote good community relations with different ethnic groups within the city. She told Anderson that she was very pleased that he had done this and he indicated that they have had one meeting and said that it went very well. If there are any concerns, such as with the Hmong community, that they be presented to members of that committee, Chad Anderson or Pastor Herr. Otto-Arvizu indicated that she would be attending the next meeting and become involved with this committee. The next meeting is scheduled on October 3, 2004 at either 6:00 or 7:00 p.m. This will be announced in the newspaper. Anyone is invited to the meeting, but would like to keep the numbers manageable. Ferrazzano indicated that he would be open to being a member of this task force. The minutes from these meetings will be published. Chief Hillger thought it would be a good idea to assign one council member to work with a liaison from the Hmong community to present more city matters as Anderson said that his task force was going to do with more school issues. Otto-Arvizu was concerned if the general purpose is for the communication and relationships, etc., forming yet another task force would be duplicating something that is already established. Ferrazzano indicated that if there are members of the Hmong community that have concerns, they can talk to anyone on the council, and in the meantime they could contact him.

Koopman has received two resignations from the Senior Center Board, Ralph DesLauriers and Ruth Helgemo. Helgemo's resignation is due to health and the DesLauriers due to what was thought to be frustration. Koopman read a letter from DesLauriers indicating that the board members have tried very hard to make improvements and update the center with very little help from the outside or from within the center. He indicated that there are a few members that if they do not get their way, threaten to go to the city manager or city council without going through the board first. He said that the board had asked the city representative to keep track of expenses and receivables in the center, so they can keep track of profits and loss. This representative told the board that she has not done this for seventeen years and is not going to do it now. If a profit is not shown, members will not volunteer anymore and feel they are in a no-win situation and no where to go for help. Koopman said that the city can let them know concerning their profit as long as the information is received to make a report. One of the fund raisers, supplies were purchased and there was no record kept and different people were purchasing supplies without designating what the supplies were for, so it was impossible for the city to give them a report back. Everything is transacted through the city books and audited. After this incident occurred, Koopman met with the board and instructed them that all future purchases have to be run through the director who is responsible for accounting for those purchases. Authorization is needed to advertise to fill those vacancies. Also Sheila Leonard will be resigning as she may be moving and also health reasons. It was the consensus that we advertise to fill the

vacancies.

Ferrazzano opened the hearing to public testimony to receive input on the compost site hours. Claire Hannasch was wondering if the compost site could be open on Wednesdays and Saturdays from 8:00 a.m.-5:00 p.m. and then Sunday afternoons. This would extend the days and give people more time to get out there and not make it open all the time. Harold Hoffman thought the compost site should be open as before since it is a public place and residents need someplace to dump their compost, just like they do their garbage, like they need water and sewer. He indicated that Marshall has managed to keep theirs open. Connie Fisher indicated that she has an empty lot and she used to bag all the compost but no longer does this as it is difficult for her to get out to the compost site. She had an incident where she bagged it Monday evening and was not able to get it to the site until Saturday. She would like to see it open every day and if not that, then extended hours. Jack Alf has a lawn business and takes five loads out in a day. Otto-Arvizu indicated that they are allowing someone who does tree trimming to go there whenever they want and Ferrazzano indicated that he could be provided with a key also. Elaine Fisher says that she has always taken great pride in how her yard has looked and she thinks that everyone she has has equal opportunity to dump at the site, whether business or individual. With working out of town, it is not convenient for her to get there and thinks it should be open as it has been in the past.

Ferrazzano asked what the penalty is if caught with stuff out there that they should not have. Koopman answered that it could be closed and not allow them to ever again use it for a compost site. She indicated that the city is not unique. This same problem has been experienced by three communities that she was instructed to contact. Marshall is open 24/7 and not staffed and they indicated that if problems persist, it will be closed. Minneota is open 8:00 a.m.-10:00 p.m. and is then locked by the police. They do have an individual who monitors the compost site, however, he is never out there at the same time. Cottonwood is having problems and the administrator has voiced concerns to the council and they are looking at the possibility of closing it. Otto-Arvizu asked if it is cleaned up, could PCA shut it down? Rick Robinson indicated when there are violations, the city workers would have to pick it all up, take it out to Larson's and then call them to let them know. There have been bed springs, decks, entertainment centers, washing machines, insulation, etc. Hillger suggested a yearly user fee. Stobb suggested putting the camera in plain view with a sign. Robinson said it would have to be battery operated as there is no power out there. Barricades have been placed to prevent people from getting in at different locations. Ferrazzano was wondering if there was a better camera that could read a license plate. Ferrazzano said that the city would not want to pay for someone to sit out there to monitor the site when it was open. Hoffman indicated that the signs are not sufficient as they cannot be read from the car. Hillger was wondering about extending the evening hours. Hannasch suggested having it open later in the day. Otto-Arvizu suggested a motion activated camera. Ferrazzano asked Robinson to research the price on a better camera and bring it back to the next meeting. Motion by Byrne, second by Torkelson to have the compost site open from 10:00 a.m. until sunset and then have it locked by the police department. All voted in favor of the motion.

Koopman then returned to the issue of the Senior Center Board resignations and indicated that the director has been instructed to keep an accounting to help in the future to get out the reports that are needed. Otto-Arvizu also questioned the issue of improvements and not getting any help with that. Koopman indicated that this is in the area of getting help from other board members.

Ferrazzano presented the variance request. Koopman indicated that in July a public hearing was held for Stephen Ostgaard for variance request to construct an addition and a garage. The Planning Commission recommended granting this variance. Motion by Stobb, second by Caron to approve the variance request. All voted in favor of the motion.

Bob Gervais indicated that at the last city council meeting there was a proposal to purchase two lots in the industrial park. At that meeting it was decided to turn it over to the EDA board to determine whether it would interfere with any further projects out there and it would be the EDA board's recommendation to go ahead with the potential sale of those two lots. Some consideration would have to be given to extend the tar road out further and the responsibility for this. Gervais suggested that the additional costs would want to be recognized in the bid price for the lots. Koopman suggested that it would be the responsibility of the person who purchased the lot to finance extending the road

and putting in utilities. Byrne indicated that the person purchasing the lot would like to know the total cost before he purchases the lots. The ballpark estimate by Gervais and Robinson was around \$12,000. Koopman indicated that before anything is done, a public hearing needs to be held to determine that the property is longer needed for public purpose and authorize a sale, and at that time the conditions are determined that are to be attached to the sale. Robinson will research pricing of extending the road and utilities before the next Council meeting. Byrne was wondering if the zoning could be changed to accommodate that type of business on Highway 14. Koopman indicated that the zoning would not have to be changed and the Planning Commission decided that this could be allowed under the existing definition. Motion by Byrne, second by Caron to have a public hearing September 13, 2004, 6:45 p.m. regarding the sale of these lots and also have Robinson research pricing for extending the road and utilities. All voted in favor of the motion.

Denny Emerson had some concerns regarding more physicians and the hospital. He had left some papers with Otto-Arvizu showing that the federal government has money for rural hospitals. Otto-Arvizu indicated that the hospital board is waiting for a financial analysis of what each site is going to be able to handle financially in their communities and this will be available in September. She explained that Tracy cannot be solo and handle all the specialties. Cookie Cooreman has been watching for grants and making applications for things we could qualify for. There may be programs that we do not qualify for. Emerson feels that we need to recruit and keep more family physicians in this town. He thinks there needs to be some type of incentive to keep the doctors here. Ferrazzano indicated that it is Sioux Valley's decision as to what they pay the physician's.

Koopman said that at the last Planning Commission meeting they discussed the need for a commercial nuisance ordinance. In 1991 a similar ordinance was considered by the Council and was met with opposition from various business owners. This time a letter was sent to every business owner within the city and requested their attendance at a public hearing that was held to get input on what would be a doable ordinance. Four business persons were present and three of them strongly voiced opposition and felt that it was not necessary. After discussion it was concluded that it may be beneficial to establish a task force to establish some guidelines for the development of some type of commercial nuisance ordinance. The Task Force would consist of business owners and a member of the Planning Commission. Koopman has received a couple sample ordinances since that time to be used as a guideline. It would start out with the task force and in order to enforce it, it needs to be in ordinance form. At this time there is something for residents, but nothing that pertains to commercial. Otto-Arvizu suggested also someone from the Revitalization Committee and Koopman suggested that a business person from the Revitalization Committee could serve in both capacities. Stobb made a motion to advertise for four volunteers from the businesses and one Planning Commission member for this task force, second by Byrne. All voted in favor of the motion.

Ferrazzano asked if there were any questions regarding the resolution of transferring \$46,000 from the General Fund to the Aquatic Center Fund. Motion by Caron, second by Torkelson to adopt said resolution. All voted in favor of the motion. (Res. No. 2004-19)

The Consent Calendar included the following: Monthly Financial Report, Municipal Accounts Payable, Cemetery Commission Minutes, Water and Wastewater Report, Multi-Purpose Center Board Minutes and Planning Commission minutes. Motion by Stobb, second by Byrne to approve the above listed items. All voted in favor of the motion.

Koopman indicated that one thing that was not mentioned in her budget memo was that in included 27 payrolls. There will be 27 payrolls this year, however, the last payroll of the year will not be posted until next year, 2005. She indicated that this budget has been a challenge. The 2005 budget represents an overall increase of 9%. General Fund increases by 12.8% and Debt Service is an increase of 4.9%. This is due in part to 3% salary increase. The Street Department budget includes \$25,000 for a bathroom at Sebastian Park. No bathroom facilities are available and a port-a-potty was brought in. Two years ago the council made an agreement to budget annually for park equipment update. At this time the \$5,000 is not included in this budget. If this was funded, the overall levy increase would be 9.8%. In Economic Development, Koopman did not include anything for the Revolving Loan Fund transfer. The bank balance is currently \$29,748. Before the end of the year \$15,000 will have been received in loan repayments and another \$15,000 transfer that is budgeted in 2004. The fund balance would be \$59,748 to be used for future loans and the city also has access to

the Minnesota Community Capital Fund. Gervais is checking with Lisa Onken from Southwest Minnesota Housing Partnership about the possibilities of the city using monies designated for the home loan assistance program and if they could be used for the acquisition/demolition of dilapidated houses. Gervais not able to get an answer from her today, so he is not sure if these monies could be for this purpose. Koopman also included \$40,000 from the General to Home Loan Assistance fund to represent the City's share for this grant. She noted if we are going to apply for a grant, we need to demonstrate that we have a financial need and we have the money set aside to meet our obligations.

Koopman is not recommending any increases in legal services. A 5% increase was requested. Since August, 2003 there has been a 28.5% increase in the base salary for legal services based on the Legal Services agreement. Ferrazzano indicated that the contract was reviewed last year and the flat fee was increased so that more things could be included under ordinary legal services.

Koopman recommended an increase of \$4,000 in the Fire Department Equipment Replacement Fund. Capital outlay, in addition to equipment would be expended from this Fund. Koopman indicated that the Fire and Street Department will be providing, an updated depreciation schedule. What has been happening is that the city has been buying or acquiring equipment that has not been recognized in the depreciation schedule. In anticipation of a revised depreciation schedule of the Street Department, Koopman has increased that equipment replacement transfer by \$20,000. Koopman indicated that money was borrowed from the Medical Center Improvement Fund to purchase the amenities for the Aquatic Center. This loan was to be paid back through a combination of fund raisers and donations, but with the pool being closed it is difficult to go out and raise monies. There have been no donations because of that. She questioned if we delay this payment or forgive the loan. The annual loan payment of \$20,000 has not been included in the budget. Koopman summarized that two primary areas that could change the overall levy increase are the amounts appropriated for the acquisition/demolition of dilapidated buildings and the bathroom facility in Sebastian Park equaling a variable of \$65,000.

Ferrazzano suggested waiting another year for the Sebastian Park bathroom facilities and continue with the port-a-potty. Koopman suggested that maybe a city organization would be interested in donating money for the bathrooms and would be worthwhile putting the word out for this. The only concern with the port-a-potty would be with LAWCON, as this was addressed in the application. Caron stated that the park equipment needs to stay as nothing has been done for a couple years. Ferrazzano agreed along with everyone else that the park equipment needed to be improved. Gervais suggested that if there is no money put into the Revolving Loan Fund for next year, and it came to a point where the EDA needed the money, he questioned if the EDA could approach the City Council for additional funding. The council agreed to this condition.

The Council briefly discussed the acquisition and demolition of dilapidated buildings. Gervais spoke with Orlin Bruss and there are some properties that will be coming up on the tax forfeiture list, and we would be able to save some money going this direction. Gervais suggested making a list of the substandard residential properties in town going on the tax forfeiture list. Byrne stated he felt it was a worthwhile program so the city can be improved and make available some lots for private individuals to develop. Ferrazzano and the council felt that this is a worthwhile expenditure.

Ferrazzano said in regards to legal services, this will be determined at the attorney's meeting and when time comes to do the contract, this will be figured out. Koopman suggested that they maybe should start talking about an agreement at the next attorney's meeting so everything is more clearly defined.

Ferrazzano did not see any problems with the Fire Department or Street Department budgets. Koopman reminded the council that figure may change once the depreciation schedules are received. Ferrazzano asked how it was coming with the acquisition of the vacuum. Mr. Robinson reported that there will be a demonstration on Wednesday.

The Council agreed that the Aquatic Center Loan should not be forgiven, but delay this year's payment and make it a 21 year obligation. It was the consensus that no special meeting is required to review the preliminary meeting. Koopman informed the Council that she will send out revisions before the next meeting with a memo.

Stobb questioned if there was money set aside for pool repair work and construction. Koopman indicated that they will continue to draw from the Hospital Trust Fund as long as possible. This was chosen versus bonding which would cost additional due to bonding fees, etc.

Ferrazzano stated that the meeting on September 13, 2004 will not be televised as there is no camera person to work that evening.

Motion by Byrne, second by Caron to adjourn. All voted in favor of the motion.

ATTEST:

City Administrator

Mayor

September 13, 2004

The regular meeting of the Tracy City Council was called to order at 6:30 p.m., Monday September 13, 2004 in the Council Chambers of the Municipal Building. The following Council members were present: S. Ferrazzano, T. Byrne, M. Fraser, R. Caron, J. Otto-Arvizu, G. Torkelson and R. Stobb. Also present were staff members A. Koopman and F. Nielsen.

Mayor Ferrazzano asked for any additions or corrections to the minutes from the August 23, 2004 City Council Meeting. Motion by Torkelson, seconded by Byrne to approve said minutes as written. All voted in favor of the motion.

Mayor Ferrazzano then asked for any additions to the agenda. 9 (e) Police Activity report was added. Motion to approve the agenda as amended by Byrne, seconded by Stobb. All voted in favor of the motion.

Koopman then presented an emergency ordinance granting an additional twelve (12) month extension to Ordinance No. 278, establishing a moratorium on the siting of adult uses principal Kerr explained that the Planning Commission has used the maximum time that can be used in preparing this ordinance. The Commission has done a lot of work already but at this time they are not ready to present this to the Council. March 10, 2003 and then again March 8, 2004 an extension was established and now more time is necessary to complete the ordinance. They would like this extension to allow adequate time to complete the Comprehensive Plan and to initiate zoning changes for the purpose of protecting the planning process and the health, safety and welfare of the citizens of Tracy. This emergency ordinance shall extend said Ordinance No. 278 retroactive to and including September 10, 2004 for an additional period of twelve (12) months to and including September 10, 2005. Motion by Stobb to adopt this emergency ordinance, second by Fraser. All voted in favor of the motion.

Koopman informed the Council that there will be a vacancy on the HRA Board as one of the members will not longer be able to serve due to health reasons. Authorization is needed to publish this vacancy. Motion to Stobb, second by Fraser to publish the vacancy on the HRA Board. All voted in favor of the motion.

Bill Chukuske expressed his concern regarding the process of starting of a storage business in a B-1 zone and indicated that he had discussed this with the Planning Commission to build rental storage units. He was advised by the Commission that he needed to obtain a special use permit for this. Chukuske wants to know exactly what has to be done and if this special permit is required, then it would not be transferable to a new owner if he wanted to sell the property. Koopman advised that the Commission had discussed this issue and did not see a need for any change in the zoning regulations for a storage business. Otto-Arvizu agreed that Chukuske is making quite an investment and it would all be meaningless if in the future he would be unable to sell it. Mayor Ferrazzano stated that they did not want to set up any roadblocks for anyone thinking of starting businesses in the city. Koopman indicated that the next Planning Commission meeting will be held on Tuesday, October 5, 2004 at 6:30 p.m. Chukuske indicated that it would be fine as he is not expecting to get this all in order before the end of this year anyway. Mayor Ferrazzano assured Chukuske that if things are not moving fast enough for his business plans, that he should let the Council know so that arrangements can be made to move this process along more rapidly.

Robinson then presented a cost estimate for the Industrial Road Extension of 4th Street East. Short, Elliott Hendrickson, Inc. estimated the cost to construct a 430 foot extension with curb and gutter, sanitary sewer, manholes and water services for six services would be \$101,310.00.

Chukuske then questioned if the city has an actual industrial park. He feels that as a member on the EDA board, that the EDA has their hands tied in this matter. There are no developed lots available. He also asked if there was a larger or developed industrial park, what this would mean to the taxpayers. Mayor Ferrazzano agreed that the city has an industrial park in name only. There is nothing to attract new businesses. Byrne agreed with Ferrazzano. Otto Arvizu also agreed that the basic goal of the industrial park was to get businesses to come to Tracy to create not only businesses, but also jobs. Chukuske indicated that Cottonwood has a developed industrial part and they have new

businesses coming there. Otto-Arvizu indicated that it would maybe be beneficial to inquire how they are developing their industrial park. She commented that an industrial unit should generate jobs, but storage units do not. Chukuske asked how many lot owners at the Tracy industrial park do have employees and do we want to have an industrial park for people to purchase lots no matter what the business is? Koopman indicated that the lots were developed in mid 70's. The last lot sold was to Lavoy's Repair. His business has expanded to include a tire business which does have employees.

Gervais commented that when you have housing development, you develop it with streets, utilities, etc. as a selling point and probably due to finances, this was not done at the industrial park. The same procedure should be in effect at the industrial park. If a business wants to build at the industrial park, it becomes a lengthy process. They cannot come and select a lot, buy and be ready to operate in a short period of time. Gervais felt that this process needs to be reviewed as we are holding ourselves back. Mayor Ferrazzano asked Gervais if there is any grants for industrial parts. Gervais indicated that there really are not grant opportunities out there for industrial parks. Byrne commented that maybe it was better to eat some of the cost for development of the industrial park now than just to leave it sit. Otto-Arvizu indicated that it takes about 20 years for taxes to pay for the development and that is just to break even and at this rate, we are subsidizing people's property. Koopman indicated that all the lots are owned by the city of Tracy. Mayor Ferrazzano commented that knowing this information concerning the lots, we could do some developing and hope they sell or do nothing and hope they sell. Stobb felt that development would maximize the opportunity to sell lots, but then there are still reasons not to develop them also. Mayor Ferrazzano asked Gervais to research if there is any possible grant money for this purpose and if not, then action should be taken to find a direction to take regarding the industrial park. Otto-Arvizu felt that the projected development of the park should be discussed by the EDA or Planning Commission and initiate a plan to decide which direction should be taken. Gervais indicated that there are roughly 13 lots and some are not serviced by a road. Mayor Ferrazzano indicated that Gervais should first to check to see if any grant money is available, and if there isn't, then the Council can deal with the issue. He agreed that something needs to be done as undeveloped lots are not a good thing.

Dave Algyer informed the Council that he has been a pilot for 20 years and a resident of Tracy for 30 years. He would like to operate an air charter freight business from the Tracy airport, but there is no hangar space available at this time. He would still like to do this if he could rent office space and be given a reduction in airplane fuel. He had approached Homer Dobson regarding this request and was told that the answer was no last time, it is no this time and he could take his business someplace else. After contacting the FAA, he was directed by them that if there is space available he cannot be turned down. Byrne asked if he was thinking of putting up a new hangar. Algyer said he knew of someone that was very interested in putting new hangar space at the airport. He said he would also like to see the development of a public waiting list for hangar space. Stobb commented that he had observed the office space, had not seen any activity there and was wondering if there were any reasons that Algyer could not rent some space.

Homer Dobson, Airport Commission Chairman indicated that Algyer was the one that had walked away from their conversation and not himself. Dobson indicated there is equipment located in the existing office and more will be placed this month. Because of this, the office needs to be secured when no one is there so the equipment is not disturbed. Caron indicated that the Airport Commission had met some time ago and noted that Algyer was not notified of the meeting. Mayor Ferrazzano said that the decision made last time by the Council was that there is not enough hangar space available and this is a different issue because this time the request is to rent office space. Mayor Ferrazzano asked Robinson if he could check into the office space and see if some remodeling could be done that would allow some privacy and security for both parties to have their equipment in the office area. Algyer suggested a touch pad type security system for the door. Nielsen asked if the Airport Commission has reviewed Algyer's proposal and if not, then they should consider it. Mayor Ferrazzano asked if Algyer's request for reduced cost on fuel could be accommodated. Algyer requested a cost of about 10-15% above the cost. Dobson indicated that the maintenance on the pump is very costly. Byrne commented that maybe it would be better to have a larger tank so that quantities larger than the 2,000 gallons could be purchased. Otto-Arvizu questioned what other airports do in this situation. Algyer indicated that other airports usually give some kind of perks to any incoming businesses at the airports.

Dobson indicated that he is very open to having a private party construct more hangar space. He said that this issue needs to wait until the new airport layout plan is completed. This plan is in progress and will indicate where new hangars can be built. Dobson said that officials from the Airport Security Administration will be here on Thursday, September 23, 2004 at 11:00 a.m. to review airport security issues. They are visiting every airport in the state and advising on how to make the airport as secure as possible. Dobson informed the Council that Tracy Schmidt from the Department of Transportation said that there is no availability of funds for airport hangar constructions. Dobson indicated that there is an individual who inquired about two months ago that he would like to move in and have a repair station at the airport. Mayor Ferrazzano suggested that the Airport Commission try to work something out as hangar and office space are different issues

Police Commission Chairman Thad Lessman stated that the Police Commission had received a letter from Gary and Theresa Tholen stating that they were withdrawing the charges against Chief Hillger. After discussion by the Police Commission at the September 2, 2004 meeting, it was voted to ask the City Council to reconsider whether they wanted the Police Commission to continue the investigation of the complaint. Byrne indicated that the only thing he was concerned was if, since Chief Hillger was the accused, would he want to proceed with the investigation to exonerate himself. Mayor Ferrazzano told the Council that he had received a note from Chief Hillger telling the Council that he did not want the investigation to continue with the main reason for him to exonerate himself. Motion by Caron, seconded by Torkelson to withdraw the charges and not require the Police Commission to further investigate the charges against Chief Hillger. Upon roll call, the following vote was recorded: voting aye: Byrne, Caron, Fraser, Stobb, Torkelson and Ferrazzano. Voting nay: Otto-Arvizu. The motion carried.

Stobb commented that he hoped that the Police Commission can get the complaint procedure in order so that when a complaint is received, neither party is subjected to scrutiny and the complaint can be taken care of in a timely manner. Byrne agreed and stated that this has been a year long process and because of this, it grew into something that was out of control. Lessman indicated that they are ready to fine tune the process so that when a complaint comes in, direction is given as to where it goes from there. Byrne indicated that they do not want the Police Commission to run the day to day operations of the Police Department. Koopman indicated that there are Police Department policies and procedures. Otto-Arvizu asked who is responsible for overseeing these policies and procedures. Kerr answered that there are policies and procedures for the Police Commission and there are also policies and procedures for the Police Department. He feels that maybe the policies and procedures for the Police Department are not adequate and that the Police Commission has been nonfunctional for many years.

Jeanne Hillger indicated that a simple issue is being made complicated. She indicated that it is the police chief's responsibility for the day to day operations and the police commission's responsibility for the hiring, firing and discipline in the police department. Chief Hillger is the one that oversees the polices and procedures for the police department and they are very available for review by whoever wants to see them. She indicated that a complaint form needed to be reviewed and then an unbiased investigation of the complaint needed to be done. Mayor Ferrazzano indicated that the present process of dealing with a complaint is not working and there is a better way for this to be dealt with. He suggested to Lessman that at the next Police Commission meeting, they work on the complaint procedure and present it to the council. If this is not completed by the next council meeting, he would like the commission to give an update on what is happening with this procedure. The next Police Commission meeting will be held Thursday, September 23, 2004 at 2:00 p.m.

Ron Radke reported that Box Car Days was very beneficial for the liquor store. The amount that is taken in each year is basically the same. He indicated that they did \$12,130.22 additional sales of what they usually do in the time period of Thursday, Friday, Saturday and Monday. Byrne asked if there were any other activities happening soon. Radke indicated that there is one possibility at the Prairie Pavilion next year. Radke also asked if the city is going ahead with bids to demolish the city owned building next door as he is still interested in constructing an outdoor patio in that area. He is hoping that the demolition can be done before winter so that construction can be started in the spring. Nielsen made them aware that common wall issues need to be investigated.

Gervais reported that the Spec House is still on the market after changes which included a laundry

room on the first floor, bigger bedroom and bigger bathroom. Gervais reported that discussions with the school continues regarding the buying of the property between the elementary and high schools. Gervais feels that a cul-de-sac design would be appealing to those looking for lots for building a new home. This area is approximately 14 acres and room for 28 homes. He sees this as a win-win situation for both the school and the city as it would bring in new families, more students and a larger tax base. Stobb commented that most people when looking at lots, look for those lots that are larger. Gervais indicated that he met with a class from Southwest State University and they are doing an economic survey of the city of Tracy. This is to find out what type of business and development the residents of the city would like to have. Any completed surveys can be given to him and he will give them to the class. Gervais also mentioned that he has been talking to Chris Howard, the industrial arts instructor from the school, to work out a plan where his students would be working on renovating some of the sub-standard housing in Tracy. This would give the students some hands on experience. EDA would purchase the housing for the students. The city would get a renovated house that can be put back on the tax rolls. Gervais said that he is looking into the possibility of a technical grant of \$15,000 from the Blandin Foundation for reduction in cost of broadband services. Gervais thanked everyone for their help during Box Car Days. The 400 volunteers worked hard to make it a success.

Robinson reported that in August the Public Works has been installing side walk at Sebaton Parks. They will start to till areas that are in need of new grass. Mayor Ferrazzano asked how the jetter vac truck has been working. Robinson said that the new truck has been in operation just about everyday and they are very happy with it's performance. Robinson said that repairs to the water plant are in progress. The media has been removed from the filter and they have started with the welding and bracing the tank. Tomorrow they are going to be replacing nozzles in the bottom and then the media will be placed back in when this is done. Robinson estimates that they are about 1 ½ weeks away from completion of work on the first tank and then they will start work on the second tank. Robinson reported that 90 diseased Elm trees have been marked for removal due to Dutch Elm Disease. He indicated that Campbell Tree Service will start with removal on September 20, 2004. Koopman noted that the cost for removal of boulevard trees are shared equally between the city and the property owners. All costs for removal of trees on private property are the responsibility of the property owners. The city will be providing two men and a truck for removal. Property owners have until October 2005 to complete payment of these costs and if someone has difficulty paying, a payment plan will be worked out with them. Robinson indicated that the most expensive cost is \$1,000. Mayor Ferrazzano was wondering if, with the removal of these trees, if there would be a shortage of shade trees in the city. Robinson indicated that he has started a city tree farm to help replace the trees that are removed. Kerr mentioned that a lot of residents are also replacing trees that they have had removed.

Koopman said that she will be attending the League of Minnesota Cities conference on October 10, 11 and 12, 2004. Because of this Mayor Ferrazzano has suggested that the schedule the regular Council meeting date to Monday, October 4, 2004. A special meeting will be held on Monday, October 11, 2004 at 6:30 p.m. for awarding the bid for repair of the Aquatic Center.

Kerr indicated that in the report from Paulsen and Clark, it was stated that the original contractor did meet code and there are no bonding issues at the pool. P & C indicated that if he had done the specifications, he would have bonded the drains as there is a requirement that they be five feet from the edge of the pool. Motion by Stobb, seconded by Torkelson to ratify action for additional electrical bonding at the Aquatic Center. All voted in favor of the motion.

Kerr indicated that the Plans and Specifications for repair of the aquatic center are not printed but are done. Caron indicated that Robinson was to have these plans on September 13, 2004. He is concerned that the first deadline has not been met. Koopman advised that even though the plans have not been received, they should not hold up advertising for bids. She indicated that an addendum can be added to the bid for any minor addition or change. Koopman said that she trusts Brian Pashina and if he says that they are done but not printed, they should go ahead.

Kerr indicated that the city will receive bids until October 7, 2004 at 11:00 a.m. The bids will then be evaluated and the award will be considered on October 11, 2004 at 6:30 p.m. There will be a mandatory meeting of all interested contractors on September 28, 2004 at 10:30 a.m. These interested contractors need to be present for their bids to be considered. The total repair cost is estimated at

\$486,000 plus 30% contingency fund for additional costs. These estimates were prepared by Wiss, Janney Elstner Associates, Inc. Kerr will be sending this cost to companies AquaLogic, BizGuard, and Pool Builders before this pre-bed meeting. He also indicated that there will be milestones that need to be met and if not, there will be penalties.

Caron asked who would be the day to day overseer. Kerr answered that Robinson, DeSmith and Engel will be doing this. Koopman said that they will be doing the monitoring, taking field notes and then reporting back to the Council. Otto-Arvizu said that crucial areas need to be identified and that Robinson cannot be held accountable for some issues. He needs to monitor that deadlines are being met. She indicated that critical issues need to be inspected by the professionals.

Caron asked about recovering of costs in lawsuit. Kerr said that all costs should be but will not make any promises on attorney fees. These attorney fees may be to some point, but not all. Kerr reminded the Council that the City is seeking liquidated damages, which, if received would help off-set the attorney fees. Ferrazzano asked for a motion to accept a resolution approving plans and specifications and ordering the advertisement for bids for the repair of the aquatic center. Motion by Byrne, seconded by Stobb to adopt said resolution. All voted in favor of the motion. (Res. No. 2004-20)

Koopman presented the proposed property tax levy for 2005. After incorporating changes that were approved at the last Council meeting, they will be looking at an overall levy increase of 6.4%. The General Fund levy will increase 8% compared to the previous 12.8%. Koopman received a revised depreciation schedule for the street department equipment. Koopman indicated that the Fire Department is still in the process of developing their depreciation schedule and have assured her that they will have it completed by Monday. Koopman noted that the 2005 preliminary levy will be certified on September 15th and the Council will need to approve December 6, 2004 as the date for the TNT hearing and December 13, 2004 for a continuation hearing if needed. Mayor Ferrazzano asked for a motion to adopt a resolution approving the proposed property tax levy for 2005. Motion made by Caron, seconded by Fraser to adopt said resolution. All voted in favor of the motion. (Res. No. 2004-21)

The consent calendar included the following: Police Maintenance Log, Economic Development Authority minutes for August 6 and 20, 2004, Police Commission minutes for August 26 and September 2, 2004 and Municipal Accounts Payable. Motion by Byrne, seconded by Caron, to adopt the above listed items. All voted in favor of the motion.

Robinson presented a quote from Supercircuits, Inc. of \$2,500 for a camera setup for identifying cars entering the compost site. He estimated the price for running electricity to the site at about \$3,000. Robinson asked since the site is not in the city limits, can the Police Department prosecute anyone caught doing illegal dumping. Caron agreed that they have had disagreements with the Sheriff's Department as to who's jurisdiction the site is. Koopman said that even though it is out of city limits, they could provide evidence to prosecute. She indicated that the illegal dumping is never going to quit unless someone is caught in the act of illegal dumping. Byrne felt that the camera can pay for itself if the illegal dumpers are caught. He felt that the camera in Central Park has helped decrease the amount of vandalism there. Robinson was concerned about taking the Public Workers away from their work to review the tapes. He felt that the Police Department should be given the tapes to review the evidence. Otto-Arvizu was wondering if the Police Department could do some of the review during the night by the on-duty officer. Mayor Ferrazzano questioned about the life of this camera. Stobb indicated a need for signs that tell the public that the site is monitored by the camera and then there would be a need to safeguard the camera. Robinson stated a safebox would be used to mount the camera on the pole and the safebox would be constructed of bullet proof glass. Otto-Arvizu said this way the camera could be brought in during the winter when the compost site is closed. Motion by Caron, seconded by Otto-Arvizu to approve the purchase of a camera plus wiring in the amount of \$5,500.. All voted in favor of the motion.

Robinson called attention to the matter in his depreciation schedule regarding the present snow blower. In 1999 the City purchased a new snow blower to use for loading snow. This was a model 800 and was purchased with the idea of saving money. Robinson indicated that it is a light duty machine and the repairs each year have been costly. He said they have found a used 1993 MP3 blower from an airport with only 10 hours of use on it. This would cost \$40,000 compared to the cost of a

new one which would be \$89,000. Even though it is not new, it has low hours due to being at an airport and the owner is taking a hit because of it's age. If the 800 model was sold for \$30,000 and with the history of \$2,000 to \$5,000 in repairs each year, this would be a good move to purchase the low hour blower to keep the repair budget in check. The City could then use the money from selling the 800 model to put in the equipment replacement fund. Motion by Stobb, seconded by Byrne to approve the purchase this 1993 MP3 snow blower. All voted in favor of this motion.

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

ATTEST:

City Administrator

Mayor

September 27, 2004

The regular meeting of the Tracy City Council was called to order at 6:30 p.m., Monday September 27, 2004 in the Council Chambers of the Municipal Building. The following Council members were present: S. Ferrazzano, T. Byrne, M. Fraser, R. Caron, J. Otto-Arvizu, G. Torkelson and R. Stobb. Also present were staff members A Koopman and F. Nielsen.

Mayor Ferrazzano asked for any corrections or additions to the minutes from the September 13, 2004 City Council Meeting. Motion by Fraser, seconded by Torkelson to approve said minutes as written. All voted in favor of the motion.

Mayor Ferrazzano then asked for any additions to the agenda. Legal issues 4(a) Aquatic Center report, (b) Easement Agreement and 6©) Airport Commission Meeting was added. Motion to approve the agenda as amended by Stobb, seconded by Byrne. All voted in favor of the motion.

J. Kerr indicated that there will be a pre-bid meeting at the Aquatic Center on Wednesday, September 29th and at noon there will be a post pre-bid luncheon at the Red Rooster and all council members are invited. The engineers that will be present at this luncheon will welcome any questions that anyone would have for them. Brian Pashina will be at the luncheon. Kerr then referred to the Bid Form as well as a List of Drawings. Kerr called attention to Page 2, Item 3d. Work at least five full working days per week and 3e. Complete all work in Fall 2004 and Spring 2005 per the following schedule. 3e. included I. which listed work items to be completed by milestone dates of December 1, 2004, ii. Substantial Completion : May 5, 2005 and Final Completion: May 19, 2005. Kerr also called attention to Page 3 Summary of Work there is the description of work that is to be done and in detail what the concrete repair will be. It was also discovered last week that USA did not have any soil borings made for any part of the project, and these will have to be made to properly install the new retaining wall. We will be getting a proposal for that also. Included in the Base Bid Total is General Conditions (including demolition, mobilization and fees not included below) and then it goes on with specifics of Concrete Repair, Crack Repair, Retaining Wall, Sealant replacement and Other Work. This is done by unit prices as that is probably the only way they can approach this matter. There is also a list of drawings for the Council to review. Kerr stated that if the items listed to be completed by milestone December 1, 2004 are not completed by that date there will be liquidated damages at the rate of \$800 per calendar day. There will also be liquidated damages for failure to meet the Substantial Completion date and the Final Completion date. The key will be in the regard to the bids and the extent of the bids will be how many contractors will be at the pre-bid meeting. Kerr indicated that the Council had been E-mailed the list of contractors that have received the Plans and Specs. Most are considered pool contractors.

Mayor Ferrazzano asked Robinson if he and Paul had looked at the Specs when they came. Robinson indicated that they had seen them and stated have not seen any problems up to this point.

Mayor Ferrazzano then presented the Easement Agreement. Robinson explained that with the camera setup it was not possible to go with the battery operated camera and will require an electrical line. An Easement Agreement with Nicole and Dru Larson was drafted which would allow for a power line to run from the substation to the gate of the compost site. Robinson indicated that the entrance to the compost site is where the vehicles will be the slowest and the camera will be able to photograph the vehicle. Stobb asked if this camera would be able to visualize anyone doing any illegal dumping and was any consideration given to putting the camera on the site. Robinson stated that it could be done, but the expense would have gone up to run the power that far. Otto-Arvizu explained that there are several areas to dump and one camera could not cover all the angles in the dumping area. Mayor Ferrazzano agreed that the camera cannot pick up the individual dumping items, but if an illegal item was discovered, they would be able to identify the cars that had entered the site in a certain time frame. Nielsen identified one area of change done earlier today on Page 2, Paragraph 2C, the first line says "To pay for any damage to planted crops or tile lines." Nielsen indicated that Koopman and Robinson have had an opportunity to view the amended copy. Motion by Byrne, seconded by Fraser to enter into this Easement Agreement. All voted in favor of the motion.

Mayor Ferrazzano informed the Council that Wilmar Engel submitted an application for appointment to the HRA board. Motion to approve said appointment by Stobb, seconded by Torkelson. All voted

in favor of the motion.

Mayor Ferrazzano then referred to the EDA report regarding the EDA/Chamber position. Dennis Fultz requested to take a look back and see what has happened over the past couple years in Tracy. He recalled the difficulties and disappointments with the change in school administrators, issues with Chief of Police, and swimming pool issues. The community has had to wrestle with a lot of negative issues, but they need to look forward with a positive outlook and work together as a team. He indicated that pluses that are happening include increasing enrollment in the schools, medical facilities looking at new initiatives, main streets has improved with the help of revitalization grants and new generation of businesses that are being established. Business here is more specialty and unique businesses and the businesses on Highway 14 are doing well. Eastview Housing Addition is full. He indicated that we need to look to the future and acknowledged the great work that Bob Gervais has done and projects that he and the EDA want to work on is increased area for commercial industrial development. Fultz indicated that the lots in the current industrial lot are tied up or bought. The EDA is presently looking at one potential site that has promise. Another area that needs readdressing is housing lots. One area of great promise that the EDA has at the present is that a Community Development class at Southwest State is using Tracy as class project. This class of 37 students breaks down into 4-5 groups and look at the community and try to figure out what businesses or services that we need and contact people that are interested in setting up in Tracy. Byrne commented that this class did this in Wabasso last year. Fultz explained that now Wabasso has three or four leads that they are following up on. He indicated there are areas around Tracy that are designated to help businesses get established. He feels that Tracy is positioned quite well and maybe another grant should be written for some way to help downtown or other spots. Fultz indicated that the prison is still a long shot, but still worth working towards. He also stated that the railroad renovation is happening. Fultz feels that this is all more than a part time job for an EDA director and if the Southwest State students find prospects, it is going to take time to check this out. Gervais has no time to follow up on things like that, being part time. Fultz asked the Council to consider making the EDA director a full time position. He realized that the EDA is late in the budgeting process but questioned if they could rearrange or reprioritize some of the dollars to make some changes so that Gervais can be full time as EDA Director in 2005. Fultz asked that the Council consider this proposal.

Lori Hebig indicated that the Chamber of Commerce Board met on Friday in reference to Gervais becoming full time in the EDA. This would create a vacancy in the Chamber position. The Chamber board member present unanimously agreed to support this proposal. It was felt that with momentum that is happening in Tracy, they would be moving backwards if they do not find a person that has the time that is needed to help the EDA move forward with the opportunities that are available right now and coming up in the near future. Reluctantly the board feels it would be a good move, because they feel that Gervais has done a phenomenal job as a Chamber Director and feel he could be utilized better if he focused on EDA on a full time basis. Hebig indicated that they felt these positions may overlap somewhat at times and that is something that could be negotiable. Mayor Ferrazzano asked if this is something the Council would like to do, what steps need to be taken. Byrne indicated that this was a concern also at the EDA meeting, that the money has been set and it is too late to budget for it and where would they get the money otherwise. Caron asked how much they would need to come up with for this year. Koopman indicated that this would not be implement until 2005. For 2005 the salary is set at \$38,409 of which roughly \$18,000 would be reimbursed by the Chamber. Basically the city would have to come up with another \$20,000 of revenue from somewhere. Koopman stated that there is \$13,225 budgeted for Louise Noomen, part time secretary. If those monies were used to off-set the salary of a full time position would only have to generate an additional \$7,000. Caron asked what the Chamber planned to do with Noomen. Koopman indicated that she is strictly under the EDA but does do a lot of Chamber work. The City is providing a secretary so that Gervais has more time to spend on EDA issues. Byrne indicated that the EDA Board needed to start with the City Council in letting them know what is going on and then go from there. Mayor Ferrazzano asked the Council, from a philosophical view is this something they want to do. Gervais stated that he would like to challenge the Council with what the EDA has coming forward depending on what comes from the discussion on the Industrial Park. Gervais indicated that he is looking for commitment from the Council for what direction they want to go with Tracy. There is discussion about a new industrial area, a new housing development and it takes someone full time to market them. He stated that we cannot wait any longer for people to come to Tracy because Tracy

is here and we have to go out and actively pursue industry, retail, and housing. He stated that the EDA needs the Council to get behind what they are trying to do and allow an opportunity to move forward. The EDA Board did not go in depth into the budget, but Gervais feels that both positions warrant themselves to be single. Gervais feels that both positions would pay for themselves in the long run. Stobb stated that he feels that whatever is put into the EDA, in the long term, would pay off. He indicated that he would support doing it if the funds are available. Mayor Ferrazzano received consensus from the Council that everyone would be willing to split the positions from a philosophical standpoint. He indicated that the Council should think of where this money possibly could come from by the next meeting. Gervais informed the Council that Noomen is not interested in being Chamber Director's position. Byrne explained that when this was discussed at the EDA meeting, Noomen would stay on in the EDA position as a secretary at 20 hours per week. Caron asked if there was a full time EDA Director, would there still be a need for a part time secretary. Gervais stated that Noomen's big project has been the Child Care Facility. She is familiar with the Chamber and the EDA as far as the positions go and if possible, Gervais would like to see her stay on. Koopman indicated that she would like to see some direction as to where the \$20,000 could be cut as she has gone through everything before she presented with a 6% increase, which she felt was quite substantial. Koopman indicated that the only thing would be if they took the secretary salary, apply towards the full time director or delay this for one year. She stated that she would like to see it go forward, but from a financial standpoint, that is the only thing that she could come up with. Even with depletion of the entire Other Financial Use Fund would not make up for the difference. Otto-Arvizu commented that the Other Financial Use funds is needed for when extraordinary things happen through the fiscal year that were not anticipated. She stated that she does not have a problem with the concept, but she feels that the timing is off. With the preliminary levy already set, she stated that she would be willing to look at this for next year. Stobb asked about Dept. 463 Unallocated and what those monies are being used for. Koopman indicated that \$ 24,000 used for insurance and bonds \$3,850 for licenses and taxes and \$32,313 for transfers out for the Senior Center. Mayor Ferrazzano again indicated that they should wait for the next meeting and see what kinds of alternatives are available to look at. Stobb commented that if they cannot do it now, maybe later on there will be monies that could be used for this and they may have to go back and reconsider some items as we did before.

Gervais indicated that at the last council meeting he was asked to talk to the EDA concerning the direction for the current industrial park or look at a new direction. He reported that the EDA explored expanding the current industrial park and also looked at the property on the south side of Highway 14 just west of the city limits. He used Cottonwood as example. All industrial development is on Highway 23. The consensus at the EDA meeting was to look along Highway 14 rather than expand the current industrial park. Gervais indicated that he did meet with some of the property owners of the land west of town on Highway 14 and they are interested in possible sale. This will be discussed further at the next EDA meeting this coming Friday. Gervais stated that he had spoken with Robinson about some infrastructure costs. Gervais indicated there was a grant this past year for infrastructure development that would cover up to 50 percent of the infrastructure cost. He reported that at this point, the EDA would like to look west of town before expanding the current industrial park. Byrne added that they had discussed the option of moving the softball fields, which are part of the current industrial park. This would also open a spot for a business on Highway 14. Stobb questioned if another industrial zone on west side of town would be a viable industrial park. He noted that it does not have quite the visibility but is close to Highway 14. He wondered if there is utilities close to that. Gervais said they did talk with Syverson's and it is part of the JobsZone. It does have rail service which could be beneficial to some, utilities are close in some instances on South Street. There is 62 acres available south of Highway 14 and the exposure would be a huge benefit.

Hollett Street Bypass project was introduced by Robinson. Robinson explained that there is a structure at 219 Hollett Street where the sanitary sewer comes into this structure and also has outlet for storm sewer. MN Pollution Control has put this in the waste water permit that the city has, that the structure has to be manually controlled, locked and alarm system to notify the city in the events there are bypasses. A whole new structure needs to be constructed with dialers and alarms. Project was delayed due to timing and engineering and did go to bid in July. Robinson commented that the engineer estimated the cost \$177,000. When the bids were received ranging from \$397,000 to \$298,000. The bids exceeded the balance in the surcharge fund and the bids were rejected. Robinson

said that the engineer felt by bidding later in the year and requiring a lower grade pipe would cause a 20% reduction in the overall cost. Robinson then presented an alternate plan for the Council to consider. This structure is located in Chet Erickson's front yard. He indicated that to be in compliance with MPCA all that would have to be done is to put in this structure. The first plan was to move structure out of his yard and put in Werner Park but Robinson indicated that is where expenses get high. The structure itself with a dialer system, and lockable gates is a \$35,000. Robinson indicated that he spoke with Mr. Erickson and suggested that the City consider buying his house, install the structure then resell the house. Mr. Erickson was receptive to this idea. If the city would purchase the property, put in a structure that complies and then resell the house with the understanding there is this large underground structure located on this property, the city could save an estimated \$125,000 to \$175,000. Byrne asked if there were other pipes or lines involved in this project. Robinson stated that the line does go under Mr. Erickson's and the neighbor's to the east. Normally the city would go with the engineer's plan and move the utility pipes into the right-of-way. Robinson suggested that with this kind of money savings, the pipes could be relocated on both East Hollett Street and Second Street when they were scheduled for a complete rebuild. Robinson noted that with this situation the city has to move quickly because MPCA A is wanting some answers on how this project is progressing. Robinson requested permission to proceed with an appraisal or rebid the project. Koopman asked when MPCA's deadline is. Robinson responded that the deadline was August, 2004 and we have not received verification of our requested extension. Notice should be received this week, however, at this point they do not have to give us an extension. It was engineered and the bids came in too high and the bids were rejected. Koopman made aware to the Council that once deadline is in place, the MPCA has a legal right to impose a fine. Byrne asked what the fine would be in a situation such as this. Koopman indicated that on the list from the League of Minnesota Cities there have been some communities that have been fined \$15,000 per violation. She was not aware of what the issues were for the fines. She noted that we have already bypassed twelve times this year and so there is a great concern. Byrne commended Robinson for coming up with a less expensive alternative. Mayor Ferrazzano felt that the city cannot wait on this and they do not want to pay a fine. Stobb asked if there had been an conversation regarding an Easement on this. Robinson responded that this question had been asked but had not received an answer. He stated that he and Koopman had talked with Mr. Erickson on this issue. Motion by Byrne, seconded by Caron to proceed with the appraisal. All voted in favor of the motion. Mayor Ferrazzano again expressed appreciation for Robinson coming up with alternative for the city in a difficult situation.

David Alyger commented that he would still like to meet with the airport commission and discuss the possibility of obtaining office space and reduction in fuel reduction. Mayor Ferrazzano asked Koopman to contact them and make them aware that they need to meet before the next Council meeting on October 4, 2004. Motion by Byrne, seconded by Caron to direct the Airport Commission to meet and present a recommendation regarding this issue by the October 4th City Council meeting. All voted in favor of the motion.

Mayor Ferrazzano presented the resolution declaring property no longer needed for public purpose. The property included a 1977 Ford Jetter Truck, 1999 Sno Blower - SnowGo and the International snow hauling truck. Robinson stated that the snow blower they discussed at the previous meeting was purchased from the airport in Denver. This was picked up in Wisconsin by Paul DeSmith who used his own personal vehicle and trailer and was compensated \$.375 per mile plus fuel. He went on city time and there was no overtime involved. Motion to adopt this resolution by Stobb, seconded by Byrne. All voted in favor of the motion. (Res. No. 2004-22)

The Consent Calendar included the following: Monthly Water and Wastewater Report, Cemetery Commission minutes for August 26, 2004, Monthly Financial Report, Firemen's Relief Association minutes for August 2 and September 7, 2004, Municipal Accounts Payable and Pool Litigation Report. Motion by Byrne, seconded by Stobb to approve the above listed items. All voted in favor of the motion.

Koopman indicated there are no additional issues with the 2005 budget, and stated that the budget will be appearing on every agenda between now and when the Truth and Taxation Hearing is scheduled in December.

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

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of the motion.

ATTEST:

City Administrator

Mayor

October 4, 2004

The regular meeting of the Tracy City Council was called to order at 6:30 p.m., Monday October 4, 2004 in the Council Chambers of the Municipal Building. The following Council members were present: S. Ferrazzano, T. Byrne, M. Fraser, R. Caron, J. Otto-Arvizu, G. Torkelson and R. Stobb. Also present were staff members: F. Nielsen and A. Koopman.

Mayor Ferrazzano asked for any corrections or additions to the minutes from the September 27, 2004 City Council Meeting. Motion by Caron, seconded by Torkelson to approve said minutes as written. All voted in favor of the motion.

Mayor Ferrazzano then asked for any additions to the agenda. Legal Issues 4(a) Aquatic Center Report, 5(d) Street Department Report and 10 (a) Withdrawal from City Council Election. Motion to approve the agenda as amended by Fraser, seconded by Stobb. All voted in favor of the motion.

J. Kerr indicated that the best way to describe this situation to the Council and the public was to read the E-mail that he had sent to the Council on October 1, 2004. Significant development in the pool repair process arose because the manufacturer of Diamond Bright, SGM, reversed it's position for the installation of the new Diamond Bright. Kerr indicated that he also enclosed Brian Pashina's e-mail which describes this new issue facing the engineers and the city. He indicated that his opinion is that SGM is no longer credible and clearly are attempting to shield their warranty from any possible consequences. Jodi Dahms of Gremmer supports other options and hopefully, more information will be available for next Monday's Council Meeting. The bottom line is October 7, 2004 bid opening date is no longer viable because Diamond Bright cannot be installed with the present design preparation and the perspective bidders are being advised accordingly. Kerr indicated that today a telephone conference including Koopman, Robinson, Paul DeSmith, himself with Dahms and Pashina was held. Kerr indicated that basically Diamond Bright is not possible as they will not give warranty with the conditions that there is to work with. Kerr indicated that SGM was paid \$2500 to come here. They did this and had a lengthy discussion with Robinson, Dahms, Pashina and they went over it. Then Kerr was at the luncheon along with John Market and he recalls the discussion concerning the rough and uneven base and Market was asked if there was problem with putting on Diamond Bright more than their standard recommendation of three-eighths to one-half inch and they indicated that this would not be a problem and in fact it might be better. Kerr then sent them a letter requesting information and reminding them of the contract. Pashina also requested this information from them. Kerr indicated that he also called Phillip Greggs the leader in Florida and he indicated that he would start the report immediately, and a report was never written. A sales representative ended up writing the and this report which was unacceptable to Pashina. Pashina then wrote them back indicating that this was unacceptable wrote insertions as to what was wanted. Pashina then sent on September 24, 2004 to the sales representative some insertions to put in the report. Pashina was concerned about what was under the insert D. Pashina thought that "the existing surfaces of the walls and floor are rough and uneven. The roughness and unevenness are acceptable and will not alter the Diamond Bright warranty even though this will require the thickness of the new Diamond Bright finish to exceed the three-eighths or one-half inch thickness recommended in the Diamond Bright installation manual." It took the SGM representative a week to get the report back and it was faxed to Kerr and dated 10-1-04, this clause was not in there. Pashina then called the representative who told him that he knows he had given him that information but his supervisor, Phillip Greggs, would not let him include that clause. Kerr informed the Council that Pashina told the representative that it was designed with that understanding. The representative agreed and apologized and told Pashina to call Greggs. Pashina felt it was not necessary to call Greggs. Dahms came up with a different solution called a PVC liner, which has stainless steel gutter and is put out by Murtha Pools Products. They will be getting more information on that. Another company that has something similar to Diamond Bright called CL industries which has products called Sunstone and Crystalcrete. The preliminary recommendation at this time was to use Sunstone. Sales and representatives from this company will be getting information to Dahms tomorrow. This would be a cost of the total cost of 30-40-%. The cost of the Diamond Bright and installation was about \$115,000. Kerr advised that with this difference in price, any decisions should be made cautiously. Kerr indicated that the prices of alternatives are being evaluated. He is unsure of when this will be completely evaluated. Kerr indicated that the PVC is very attractive from this standpoint after finding out that Diamond Bright lasts on about 8-15 years then it has to be redone. Otto-Arvizu asked if they should be glad that this

did not work out? Kerr indicated that there would be a latex type of preparation if they would go with the Sunstone from CL Industries. Kerr agreed that the PVC liner looked very attractive due to maintenance issues. Robinson agreed that the surprising fact was that the Diamond Bright only lasted about 8-15 years and then has to be redone with a cost upwards of \$100,000 or more. If Diamond Bright would be used then a fund would need to be started to maintain it in later years. Robinson described that the way the PVC stainless gutter is made the uneven area and voids would have to be filled to make a smooth surface. The floor of the pool would be PVC and then when it goes up the walls it would change over to stainless steel. The PVC floor comes in one foot widths and solvent welded together and attached to the stainless steel, and the wall is also a gutter. Robinson indicated that the Sunstone would be similar to the Diamond Bright. Otto-Arvizu asked if the Sunstone would have the same longevity as the Diamond Bright. Robinson answered that they do not know at this point. The engineers are just looking into that and do not have specifics at this time. Byrne asked how many years of service the PVC has. Robinson indicated that there is a 15 year warranty and is made by a manufacturer in Italy. He indicated that the installation is much shorter than the Diamond Bright as you do not have the cure time involved. Koopman addressed that this is for the multi-purpose pool and the splash pool would be different. Robinson stated that the large pool and the splash pool are run separately. The large pool has a surge tank. The splash tank has a large gutter that acts as the surge tank, so the PVC would not work unless it was custom made. Robinson felt that at this time the engineers need time to evaluate these products. Otto-Arvizu asked that when they thought they were getting a pool for 25-30 year life, were we not made aware that the Diamond Bright would last that long? Koopman indicated that she does not remember anyone making the comment about the limited life of the Diamond Bright. Ferrazzano asked if what we are waiting for is a call back next week to find out what will be the best choice. Kerr stated that some redesign will need to be done. Robinson explained that three parties were capable of bidding were at the pre-bid meeting, there was one that was not capable of bidding and there was another party there just looking at some mechanical issues. Ferrazzano asked that with either option will the walls need to be sanded down and was this something that was not anticipated that would need to be done. Robinson said that with the original installation the contractor put the Diamond Bright on too thick in places, and apparently when the pool was built, the low spots or dips, and these voids were filled with Diamond Bright as a filler. This was discovered when it was removed. Manufacturer will not allow it to be put back in that thick again and will not stand behind the warranty on this. Stobb questioned if there is any work that could be bid this fall without knowing what the final covering will be inside. He indicated that some companies would be very anxious to get started to meet deadlines and it would be a shame to hold them up if only portions of the repair work needs to be rebid. Robinson indicated that cold joints could be cut out, cracks could be filled, parts of gutter system to be replaced but if they go with the PVC liner with the stainless steel walls, that contains the gutter assembly, so it would not make sense to do the gutter repairs now. Kerr stated that they should be receiving some preliminary information tomorrow and after that have a date for a telephone conference on that matter where some decisions made and recommendations to the Council but that is all that is known at this point. Mayor Ferrazzano indicated that hopefully something will be known before the next meeting and if not, then he would call a special meeting to see what can be done. If something is known, he indicated that he did not want to wait till the end of the month. This needs to be acted upon as soon as possible. He also questioned that we had paid the Diamond Bright company to give a report about how this was applied. Kerr indicated that we wanted to make sure that we could fulfill all the requirements of the warranty so it was felt that the best people to do this would be the company. They "came up short", and they will not be allowed to walk away from this and some demands will be made on them such as them returning the \$ 2,500 and if there are some consequential damages because of later bid opening, this may be looked at also. Kerr said on a joint effort, a letter will be sent to them and let them know what is expected.

B.Holm presented the Police Commission minutes from the last meeting and felt that they were quite thorough. The Police Commission recommends if it would be an easier process if it is made legal by the definition of the ordinance. Mayor Ferrazzano questioned if basically what their recommendation was that Koopman be defined as Chief Hillger's superior officer and she would make a decision if something needed to be referred to the Police Commission or City Council. Koopman indicated that she has not had time to review this with Nielsen yet and was wondering if this would require an ordinance amendment. Kerr had indicated that superior officer pertained more to departments where there is lieutenants or sergeants. Byrne questioned Chief Hillger that if he was not satisfied with the decision made by the Police Commission, he could go further. Chief Hillger was in agreement with

having Koopman as his superior officer and confirmed that he would go above the Police Commission if not satisfied with their decision. Motion by Otto-Arvizu, seconded by Byrne to approve Koopman to be defined as superior officer as recommended by the Police Commission. All voted in favor of the motion.

Koopman also remarked that if the Council felt that a ordinance amendment was necessary we could wave the first reading and set the second reading at the public hearing. Motion by Byrne, seconded by Stobb to do as stated by Koopman with the hearing held on October 25, 2004 at 6: 35 p.m. All voted in favor of the motion.

H. Dobson reported that the Airport Commission met this morning with Dave Alyger to consider his requests made at a previous Council meeting. Alyger had requested renting some office space in the administration building at the airport. Discussing with Robinson the need to construct a wall because of security reasons, the construction of the wall and addition wiring that is needed would cost an estimation of \$1,000-\$1,500. With that figure in mind, the Airport Commission decided that the rent would be \$200 per month which included the office space, utilities and snow removal. Alyger's offer was \$25.00 per month. After Alyger left the meeting this was further discussed and the Airport Commission then decided to request \$125 per month. In his desire for reduction in cost of aviation fuel, the commission decided it was not wise to go that route. The price per gallon at the Tracy Airport is 0.50 cents less than the neighboring airport and they will be going up 0.10 cents a gallon this week and this has been consistent. The Commission feels that it is not wise to start this practice as far as what others may request and the cost of maintenance of fuel facility. Byrne asked what the square footage would be once the wall is constructed and Robinson indicated it would be about 8 feet by 12 feet and this is normally not heated. Koopman indicated that this cost of \$2.50 per gallon pays for the fuel but does not pay for the maintenance of the fuel facility. The last repair bill was in excess of \$4,000. This is a very costly facility to maintain and the state does not reimburse any of the repair cost. Ferrazzano verified with Dobson that the Commission requests rent of \$125 per month and no cut in the price of aviation fuel. D.Alyger commented that other communities are willing to offer free office space, reduction in fuel and reduction in the cost of hangar rent. He feels that \$125 per month is too much and without the other reductions in cost, he would offer \$25 per month. He also questioned if a wall is really needed if he is the only one going in and out of there. Robinson stated that in the airport budget there is no monies left to put in this wall. If this wall is put in, somebody has to pay the cost of construction. There may also be some costs for utilities as this area is not normally heated. Dobson indicated that the purpose of the wall is to separate this office area from the equipment that is already placed in this area. Motion by Otto-Arvizu, seconded by Byrne to offer the use of office space, at a rate of \$125/month including utilities and snow removal, with a signed lease of one year and no reduction in fuel. All voted in favor of the motion.

Dobson reported to the Council that the individuals from airport security, spent a brief time at the airport and were satisfied with what they saw. Hangars are locked and secured, the ramp is lighted at night so if there are any aircraft there, they are visible, part of the airport is fenced and they were told that future plans included more fencing to be placed. Dobson would like the see the initiation of the process of checking for legalities and ramifications for private party building of hangars. There are some interested parties that would like to do this. Other communities that have this have an agreement that after a certain number of years, it reverts to the city. Some parties do it as an investment.

Otto-Arvizu explained that last Wednesday the Hospital Board met and there will be more in the paper next week. The public is interested in the future of the medical facilities in the city and the Board is working very hard to look at the future viability of the hospital. An Action Committee was developed with Koopman, R. Nordahl, J. Schons, and C. Hannasch. Their duty is to walk through the facility and look at ways to use some monies to upgrade the facility to make it as efficient as possible. The Hospital Board will then work it out in dollars and cents to see how it could be used to bring in revenues and then present the pros and cons to the public. She feels the hospital is a large part of community and something that is relied and depended on and the decision should not be made by such a small group. We need to educate the public and let them help. It has been stated to the Hospital Board that procedures bring in money and if there are no procedures there is no money. Consults are not a money making activities. She believes that the Action Committee is designed to provide inside knowledge of the hospital, and can focus on the practicality, efficiency and the

improvements so things can be accommodated to make money for the facility. They are optimistic they can make something happen but it will take some money. Koopman stated that the public needs to understand that if we do not start to generate revenue, eventually all we will have is a clinic. She indicated that this is not meant to be threatening but action will need to be taken. The first Action Committee meeting is scheduled for October 5, 2004 at 3:00 p.m. and once a conclusion is reached, this information will be presented to the public and ultimately will be looking at referendum. She indicated that they are going to check into the option of a revenue bond and there may be an issue with the revenue not being able to take care of the bond in its entirety, but would help offset that cost and ask the people to help fill that gap with a levy and once they get into this they will know the bottom dollar to do this project. A couple public forums will probably need to be held to make sure that everyone is well informed. Otto-Arvizu indicated that Slayton is poised to let bids as they are in great need of improvement. The Tracy facility has been rated a much better plant than Slayton. Tracy does not hold the edge of having an orthopedic surgeon, but it is felt that a general surgeon could be here and that is the reason to possibly have new surgical suite but this is kind of preliminary. A proforma is based on what you put in for assumptions and are on round two of proformas. When it talks about where specialties would be held, the ones that were projected for Tracy would not produce any inpatients and once again cutting revenue. They are still keeping the Task Force between the three facilities to see where we can go as a group, but Otto-Arvizu indicated that this is getting cloudy in terms of ability to move forward as a three in one type of facility. There are some significant issues that need to be reviewed.

Robinson reported that there is a need for additional part time help. He explained that they have had to perform projects beyond what they normally do. They have had projects such as the Sebastion Park LAWCON Grant and the Highway 14 beautification project. Because of this they have fallen behind in the normal scheduled seasonal work. He indicated that in the next two weeks, Paul will be having back surgery and Tom and Denny will be on scheduled vacation leave. This allows only two other employees to work on the diseased tree removal which is expected to last another month or maybe more. Robinson's request is for money for part time help for approximately four weeks at the cost of \$2,250. He also indicated that the part time budget for 2004 is used up. He told the Council that there are projects such as tree trimming, alley tree trimming, park spraying, Sebastion Park tilling and seeding, mulching, dump flushing, sweeping, etc. that they would like to do yet this fall. There is also the need for compost site clean up and illegal dumping has occurred again at the site. Motion by Stobb, seconded by Otto-Arvizu to look towards other financial uses funds to support part time help for the street department. All voted in favor of the motion.

Robinson brought to the attention of the Council that the easement was finalized on Friday to run the power line out to the compost site. He indicated that clothes, gas cans, drywall materials, other construction materials, plastic insulation, etc. have been illegally dumped at the compost site. Wiring will be completed as soon as possible to support the installation of the camera.

Robinson stated that there is a party that is interested in purchasing the property west of Denny Lanoue's warehouse and south of the water tower. Boundaries of the property and the name of the owner is trying to be established. Gary Garrels will be going to the courthouse to find documents concerning the lot size. Some of the public works equipment that is there can be disposed of. The things that need to be stored could be placed on the asphalt pad west of the state stop. A six foot white fence could be put around that pad. The cost of the fence would be roughly estimated at \$1,500 to \$1,700.

Koopman informed the Council that with the legal descriptions that she was able to get today, does not define the area that is being looked at. She is hoping by the next meeting they will have this information.

Mayor Ferrazzano then presented the Off-Sale liquor license for the Casey's Retail Company. Koopman indicated that the application is in order. Motion by Stobb, seconded by Byrne to approve the application. All voted in favor of the motion.

The Consent Calendar included the Municipal Account Payable. Motion by Caron, seconded by Stobb to approve the Municipal Accounts Payable. All voted in favor of the motion.

Koopman then presented her report for funding of the EDA position. The only addition to the memo that she thought about was prior to this being a shared position, rent was received from the Chamber of Commerce for rent of the office space. If this is no longer a shared position, this would generate \$190 per month for rent. Byrne indicated that the EDA had discussed this issue and they came up with recommendation to reduce the \$40,000 transfer from the General Fund to the Home Loan Assistance fund to \$20,000 and apply this difference to the EDA salary. They had also discussed that in fairness of the financial situation of the Chamber, that the rent be deferred for the first year that this is done and then start in 2006 with collection of the \$180 rent. The EDA felt that deferring the rent would help out the Chamber since they will now have to pay for a Chamber executive. This would fund the money for a one time only from other sources and then it can be budgeted in the future. Otto-Arvizu expressed her concern if in the future they will be able to sustain a full time EDA director. She feels that it would be tragic if they later discovered that they would not able to afford it. Motion by Byrne, seconded by Caron to take \$20,000 of the Home Loan Assistance Fund to apply to the full time EDA salary. All voted in favor of the motion.

Koopman indicated that a new job description would not be necessary as one is already in practice.

After further discussion, Mayor Ferrazzano indicated that since they just learned about this tonight, that the rent issues should be put on the next agenda for more discussion.

Koopman indicated that Lary Parker has withdrawn his name from the City Council race. She received a letter from him on September 30. She did contact the Secretary of State's office and candidates are allowed to withdraw within two days after closure of the filing date. Because he was beyond the deadline, his name will still be on the ballot, he can notify the public of his wishes and if he were elected he can chose to accept or not accept. If he chooses not to accept they have to follow the regulations of the Charter to fill the vacancy.

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

ATTEST:

City Administrator

Mayor

October 25, 2004

The regular meeting of the Tracy City Council was called to order at 6:30 p.m., Monday, October 25, 2004 in the Council Chambers of the Municipal Building. The following Council members were present: S. Ferrazzano, T. Byrne, R. Stobb, G. Torkelson, R. Caron. Absent were: M. Fraser and J. Otto-Arvizu. Also present were A. Koopman and F. Nielsen.

Mayor Ferrazzano asked for any corrections or additions to the minutes from the October 4, 2004 City Council Meeting. Motion by Torkelson, seconded by Caron to approve said minutes as written. All voted in favor of the motion.

Mayor Ferrazzano asked for any additions or deletions to the agenda. Addition of Legal Issues, 6 (b) Aquatic Center Report. Motion by Byrne, seconded by Stobb to approve the agenda as amended. All Voted in favor of the motion.

Mayor Ferrazzano presented the public hearing on Ordinance No. 289, an ordinance amending City Code Chapter 9, Section 9.22, POLICE CIVIL SERVICE COMMISSION. This change makes the city clerk/administrator, in addition to a superior officer or appointing authority, able to file charges against the Chief of Police. Motion by Byrne, seconded by Stobb to adopt Ordinance No. 289. All voted in favor of the motion.

A report on Storm Water Master Drainage Plan was presented by Steve Robinson from Short Elliott Hendrickson in Worthington, MN. This plan is needed for areas in the southwest portion of the city because of recurring flooding problems in areas such as Greenwood Nursery, the school bus garage and the Brockway-Brown Veterinary Clinic. S. Robinson indicated there are eight drainage basins affecting this area and five of these are located outside the city limits. A majority of this water is flowing through the school property and ending up in the low spot by the nursery, bus garage and veterinary clinic. There is storm sewer to carry the water to the ditch, but this is only a twelve inch storm sewer which is greatly undersized. Causes of this flooding area: 1) Large drainage areas that are coming into the city; 2) types of soil that cannot take that large amount of rain and there is large run-off; and 3) the undersized storm drainage system to get the water out of this area. All the storm sewer systems converge through the school property and end up in the low area. The soil condition cannot be corrected. Things that can be done are to restrict the water as it comes into the city and enhance the drainage system to get the water out of that area. They recommended controlling the water from entering the city by constructing three dry retention ponds on farmland area on the southwest side of the city. The water would drain in a controlled manner. These would not be wet ponds. These are large ponds of six to nine acres with an average depth of five to five and one-half feet. City of Tracy is in a low spot with water flowing toward it. To enhance drainage, there are two options: 1) Enlarge the storm sewer that would start northeast of the school property, continue along 4th street and discharge into Judicial Ditch 23. This is a somewhat expensive at \$460,000. The pipe is very large at sixty-six inches in diameter to downstream end, pipe coming to school property would be forty-two inches in diameter. 2) rather than extending the storm sewer pipe from the bus garage to ditch, construct open ditch along Front Street which outlets into J.D. 23. Storm sewer pipe would be extended over to the northeast corner of the school property and there is existing thirty inch pipe that serves this area by school. The inlet by the bus garage would be tied into this storm sewer pipe and on the east side of 4th Street extend the storm sewer pipe south to cross under Front Street and then empty into the ditch. The cost of this option is estimated at \$268,000. Cost of the three ponds is estimated at \$2 million at this point. Those were the major steps and there are a couple minor steps that would need to be taken. One is where there is some flooding west of the country road due to one small culvert that runs under the county road and it would take three thirty-six inch culverts to remedy this. Elementary school has water coming in from the south, there is a twenty-four inch culvert that crosses the county road and goes into the area between the driveway and an eighteen inch culvert that comes out. There is one culvert that crosses from a residential area and the storm water pond would help control the water going into that area. Neither of the two phases by themselves are sufficient and both need to be incorporated. One or the other will greatly improve the situation. Mayor Ferrazzano asked if they were to do things in stages, which one is recommended to be done first. S. Robinson recommended to improve the storm sewer pipe from the school property up to Front Street and then over to Judicial Ditch 23. The ponds are future endeavor. Robinson indicated that they started looking today at some possible funding sources for it and some agencies may have grants or matching

funds. Since it is time consuming to go through the funding application process and this is locked in how the project ranks and may be a couple years out for money to be available. S. Robinson recommends to proceed with this phase of project to begin work next spring and check out funding agencies and grant possibilities for the retention ponds. The school property was not looked at in depth to see what could be done to take care of their drainage problems, except providing an outlet for the storm water off the school property. Improvements on the school would have to be taken care of by the schools or looked at closely to see if tile would help or grading and possible other storm sewer. Stobb wondered if they were aware there is a tile going across the school property. He was also wondering if Ditch 23 can handle all this. S. Robinson felt that it would. He has also talked to Area Two MN River Basin out of Marshall and their agency could fund projects only dealing with the retention ponds, but not the piping. Their money is based each year on a legislature bonding bill and at this point they have no money to allocate. Stobb asked how the water is drained in the ponds and how it is handled when the ponds are on land that the city does not own. S. Robinson indicated that there would be a small discharge pipe at the bottom of the pond that would go under the road and discharge similar to the way it does now. S. Robinson says that option one would be installing pipe within the right of way. It would cost approximately \$200,000 more if that option is taken. Where acquiring property would require acquisition and easement to go through. This is a project for the good of the community, the council has the authority to take steps as necessary. S. Robinson indicated that he likes the open ditch better as it is easier to maintain, and in the future if this property is developed, pipe can be laid in the open ditch and can be covered up and filled in as necessary. Mayor Ferrazzano asked if anyone had any questions for S. Robinson. School Superintendent Marlette asked if Robinson felt the biggest problem was the water which is coming from the outside farm ground, and he is wondering why that is not corrected first. He indicated that when it rains heavy, it is flooded from the southwest corner of the school to the ditch and homes and schools are under water. Why not start at the source versus in town? S. Robinson indicated that this is due to cost and the city has indicated that they may have the money to do that step now and do the high cost of the ponds later. S. Robinson indicated that there is not a plan yet as how to get the water across the school property. Kerr agreed that there is a natural waterway that comes from the west and with plans for the outlet and this should be addressed by the ditch authority and maybe the City of Tracy does not have to finance this project by themselves and some authority is needed from the ditch authority to do some of this work, which is the county commissioners. Byrne was wondering if they were not told by the county that they would not help with this project. Kerr indicated that there is a mechanism for petitioning within the statute and should be interacting with the county before any definitive steps are taken. Koopman indicated that the county does have a copy of this plan and a meeting will be set up to discuss it. Nielsen indicated that what needs to be kept in mind is the distinction between the county saying they will not put any money into this project versus the ditch authority assessing the cost. Stobb asked how the city would pay for the initial step. Koopman answered that there is enough money through the surcharge fund which is what the money would be used for in addition to the utility fund. The Council will have to decided how to replenish the fund through assessments as it is an improvement to the property and if the Council wishes to proceed, phase one can be accomplished. The public hearing process will be needed to determine costs and how that cost would be recaptured. We can still look at funding sources and working with the county to see if this is improvement of the ditch. Motion by Stobb, seconded by Torkelson to proceed with the first step of the process. All voted in favor of the motion.

V. Olson reported that at the September 27, 2004 Library Board meeting a recommendation was made concerning two points. First it was suggested that they close at 6:00 p.m. on Thursdays instead of 8:00 p.m. The second suggestion was that Sheryl Peterson, Library Aide be considered a Library Aide/Resident Technician. Olson reported that the library has seven computers and are a great deal of work. Peterson has taken classes and is in contact with Plum Creek technicians. They feel that by closing at 6:00 p.m. on Thursdays, they would be able to fund her Position 1 on the pay scale to Position 2. Motion by Byrne, seconded by Torkelson to approve the new position description of Library Aide/Resident Technician. All voted in favor of the motion.

B. Holm presented the Cemetery Commission report. At the Council Forum some questions were raised and Holm was invited to respond to those questions. Mayor Ferrazzano indicated that the issue he was concerned about was the project of the cemetery fence taking seven years to complete and would like a report on the progress of this project. Holm indicated that he started as Superintendent of the cemetery six years ago, starting in 1998. 1999 is when they started the project

and tried to work out a plan to use some existing materials to provide something to look decorative. He had come up with a plan to use two chains and this was approved by the Cemetery Commission. Holm had talked to welders and devised plan to weld the chain and still have a certain amount of drop each ten feet. The Cyclone fence was removed in early Fall 1999. Pillars were dug in and put in the Fall of 1999. Gates were built and painted in the Winter of 2000 and put on the pillars. In December of 2000, they started welding the chain on. In the Spring of 2001, they started to paint. The painting of the chain continued in 2001, 2002, and 2003. The weather held some things up as painting cannot be done in fog or rain. This project has been ongoing for about four years. Presently 650 feet of chain is finished, welded, primed and painted. Sixty-five posts have been treated so paint will stick. The first year Holm did 400+ feet of the chain by himself. Presently there is 750 feet of chain that is welded on, seventy-four posts to be cleaned and painted. There are an additional eighty posts that need to be prepared for welding and also get the 800 feet of chain to be welded. When finished there will be over 2000 feet of chain. In February of 2004, the Cemetery commission set a goal to be finished in 2005 and in order to do that, the chain should be brought in and welded so can lay over one year and then it can be cleaned, primed and then painted. There are some volunteers to help and hopefully can start as early as we can next spring to finish it. Welders will not weld on galvanized posts and so it is marked, ground off and then welded on. Mayor Ferrazzano asked if there were any questions on this timetable. Holm indicated it is in his job description to coordinate volunteers to help with this, but not solely his job to finish this project. When this project was started it was started with donations from families that had family buried at the cemetery and if they cared to be on the memorial board, there was a minimum donation of \$50 for this. These donations were used to buy materials and the Commission wished to stay away from using these donations to pay for labor.

Hollett Street Bypass Project was presented by R. Robinson. Robinson has recommended that the engineer revise plans and get started. Black dirt and grass will be brought right up to the cement to conceal the structure more. An electrical control panel will be sticking up in the center out of the ground. Stobb indicated that since it will be in a residential area, that the city will make it look as nice as possible. Koopman indicated that the price is close to \$50,000. This project started out at close to \$400,000. Motion by Caron, seconded by Torkelson for Robinson to begin the project as he has outlined in his report. All voted in favor of the motion.

Robinson indicated that the library roof has leaked in the past and now has gotten worse so that books are getting wet and the library has a musty smell. The lower roof has been worked on by Buysse several times. The upper roof flashing has pulled loose and that is where the water is getting in. Also on the roof there is a low spot where roof has sagged a bit and has advised that a new drain be placed there so that water does not pond. The Buysse Roofing bid is \$2,942 and the drain would be an additional \$780. Piping has to be run from the drain to the back of the building. That part is plumbing work and the quote from G&H Plumbing is \$1,759. The total would then be \$5,481 for repairs to the roof. Another Company, Navaho Roofing wanted to put another roof over the one there with a quote of \$14,000. Robinson recommends all three projects being done at the same time. Robinson will try to get one other quote on the plumbing work. Motion by Stobb, seconded by Torkelson to approve the repairs by Buysse and a bid for the plumbing not to exceed \$1759. All voted in favor of the motion.

Koopman presented Ordinance 290, an ordinance amending City Code Chapter 3, Section 3.10, ZONING ORDINANCE. Koopman indicated that this would be the first reading if the Council feels that this has merit, the Council can waive the first reading and set the second reading and public hearing. The Planning Commission did review this matter and recommended that the Council consider amending City Code Section 3.10 relating to changing the B-1 zone to allow storage facilities and the language would be similar to that as is listed under the I-1 section of the zoning ordinance. Motion by Stobb, seconded by Byrne to wave the first reading and set the public hearing for November 8, 2004 at 6:40 p.m. All voted in favor of the motion.

Kerr presented the Aquatic Center report. In the repair process, Dahms and Pashina are looking at Sunset Pearl, which is more expensive but supposedly has a lifetime warranty. R. Robinson and Kerr met with Tom Martin, the marketing representative for Sunstone. S. Engel was also there and they discussed four different products. Dahms was very interested and took a product board for the Sunstone Pearl. The Sunstone Pearl looks more substantial than the Diamond Bright finish. This is more a pebble type product and "lifetime" warranty which Dams was told that in Minnesota

“lifetime” is done in twenty years regardless. Robinson had questioned that if they went with the PVC liner, would the joint repair be necessary? Dahms responded that in his opinion, the structure such as the cold joint needs to be repaired and could become worse if not fixed. Pashina will be reviewing all the E-mails today and another conference call with Pashina this week and then they can get down and determine the product that is going to be used. Byrne questioned if this Sunset Pearl can go on thicker than the other product. Robinson indicated that the way Sunset Pearl would be applied is the way the pool currently exists they would spray on a tack coat, then they would apply a scratch coat which is their product without the stone in it. Once this is dry, then another type of chemical treatment would be used and then they would put on the final coat of three-eighths to one-half inch thick again which actually has the stone in it. They indicated that their product is better than Diamond Bright because of the quality of the stone in the plaster. Byrne asked if the thickness repair work would then be able to be eliminated and the Sunset Pearl will go through their three step process to repair this. Robinson verified that no other leveling process would have to be done. Stobb brought to attention that water quality is also part of the warranty and was wondering if the water at the pool would allow the warranty to be good. Robinson indicated that the first twenty-eight days are the critical days on the plasters and there are two ways to control this. They are concerned with the thin scale that builds up on this new plaster. One method is to go in the pool and scrub the walls which would almost be impossible and the other way is through chemical treatments for twenty-eight days to cure the product properly. Kerr indicated in his E-mail to the Council is the question of whether that coat would be susceptible to water through emulsion. Pashina wanted to talk to a representative from Sunstone and possibly has not done that yet. Once this is done, it can be redesigned and have beds out and then have a second pre-bid meeting as there are possibly more bidders interested. An E-mail from Dahms and had spoke with Charlie from Midwest Plastering and evidently Midwest Plastering is the company that we would want to apply the final coating as they are well recommended and may be interested in bidding the whole project. Hopefully more interests would mean less money. Mayor Ferrazzano indicated instead of having another special meeting, if the Council says here tentatively that they are okay with it, that we should go ahead with it. He commented that he is trying to save steps and get something going. Robinson indicated that the cost would be 25% increase of cost of the previous option. Mayor Ferrazzano asked a litigation question, that if you replace your pool with something better than what you had before, can you recapture that? Kerr responded that there is a betterment issue, but on the other side we have no choice and tried to go with what we had before but were told that they could not do it. Motion by Torkelson, seconded by Caron to have the Council polled by phone regarding the costs of the Sunset Pearl. All voted in favor of the motion.

Kerr indicated that in the matter of the litigation, he needs authorization for more money. The City is suing Olympic Pools, the contractor and USA, the construction manager. Experts are in line and by November 1, 2004, they have to submit expert disclosures to the court. We have Pashina and Dahms and do not have anybody on board currently for the construction administration standard. We have information from Charles A. Lane of Environmental Inc. and has done a lot of work for Schwans. His fee is \$185/hour and time testifying in trial is \$225/hour, expenses are billed at actual cost and milage is 0.40 cents/mile. We need this report and could take between 10-15 hours of time. Kerr is asking for authorization to hire this expert. Jeffrey Coleman has recommended him and Lane will be looking at our documents such as the contract and still to look at the actual work done. Mayor Ferrazzano asked if there were any questions the Council had regarding this matter and realized it is hard to spend more money, but does not want to go into the litigation and not have all the needed materials. Motion by Stobb, seconded by Byrne to authorize up to \$2500 to have Charles Lane prepare needed reports. All voted in favor of the motion.

Mayor Ferrazzano had received a memo from Chief Hillger regarding the billing from a law firm and had asked Koopman to attach an E-mail received from the League of Minnesota Cities whether or not the Council would be obligated to reimburse Chief Hillger for his legal fees. Mayor Ferrazzano indicated that it is the opinion of the LMC that the city is not obligated to pay for these legal fees and it is up to the City if they pay it or not. Caron commented that it was in relation to his job. Stobb indicated that it was part of the Tholen’s request that their legal fees also be paid and was wondering if this would be a problem as they acquired legal fees due to something that they thought was the city’s responsibility. Nielsen commented that the League says there is no obligation to pay it and assumes it means there is no legal obligation, so if the City does pay the bill, what is the basis for doing it? Mayor Ferrazzano feels that they have the authority to pay any bill as they see fit. Motion by Caron, seconded by Torkelson to pay the legal fees for Chief Hillger. All voted in favor of the

motion.

The Consent Calendar included the Monthly Financial Report, Police Maintenance Log, Economic Development Authority minutes for September 3 and 17, 2004, Municipal Accounts Payable, Cemetery Commission minutes for October 21, 2004, Planning Commission minutes for October 5, 2004 and the Police Activity Report. Motion by Byrne, seconded by Caron to approve the Consent Calendar. All voted in favor of the motion.

Gervais indicated that it was brought up at the last City Council meeting concerning charging the Chamber of Commerce rent. Gervais felt that the City is giving out space to a non-profit organization and feels that the City should receive something for it. He also views it as both the EDA and Chamber working from the same office on attracting people to Tracy. The Chamber has a limited budget, but are looking out for the interest of the City. They have not paid any rent for the past three years. If the City does decide to charge rent, Gervais hopes that the Council will consider the Chamber's limited budget. Gervais feels that the money paid would be more a detriment to the Chamber than a benefit for the City. The Chamber provides their own phone and has an account for copies and mail. They have also paid half the cost of painting, carpeting and any improvements made in the office. Motion by Stobb, seconded by Torkelson to not charge the Chamber rent for the first year and then review it again at that time. All voted in favor of the motion.

Koopman indicated that there are no new issues regarding the 2005 Budget.

Mayor Ferrazzano commented that when he saw the forum with the Council candidates, with the questions being asked, there appeared to be a lot of questions about people not knowing what is going on with the City. He wondered if there would be time set up at each Council meeting to have a couple questions asked by the public. If they do not want to come to the meeting, they could present them in writing ahead of time and the questions could be answered at the end of the meeting. Byrne indicated that there is also the possibility of them getting the agenda on Friday to see what is going to be talked about. Koopman indicates that the agenda is faxed to Charter and PrairieWave so that it can be on TV, so people have a chance to view it. Stobb asked if it could be posted on the website and Koopman indicated that she would check with Dave regarding this. It was the consensus of the Council to try this and see if it works.

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

ATTEST:

City Administrator

Mayor

November 3, 2004

A special meeting of the Tracy City Council was called to order at 5:30 p.m., Wednesday, November 3, 2004 for the purpose of canvassing the election. The following Council members were present: Mayor Ferrazzano, T. Bryne, M. Fraser, J. Otto-Arvizu, G. Torkelson and R. Stobb. R. Caron was absent. Also present: A. Koopman.

Motion by Byrne, second by Fraser, to adopt a resolution certifying that the General Election was in all respects duly and legally conducted on November 25, 2004 and that the following results for City Council were canvassed and officially counted:

| NAME | TOTAL |
|------------------|--------------|
| Bill Chukuske | 491 |
| Sandi Rettmer | 440 |
| Charles Snyder | 391 |
| Anthony Peterson | 377 |
| Greg Torkelson | 309 |
| Robert Caron | 281 |
| Marvin VanAcker | 196 |
| Larry Parker | 133 |

WRITE INS:

| | |
|---------------|---|
| Mike Fraser | 1 |
| Mark Peterson | 1 |
| Tennes Eeg | 1 |
| Russ Stobb | 1 |
| Erin Flann | 1 |

All voted in favor of the motion. (Res. No. 2004-23)

Motion by Byrne, seconded by Torkelson to adjourn. All voted in favor of the motion.

ATTEST:

City Administrator

Mayor

November 8, 2004

The regular meeting of the Tracy City Council was called to order at 6:30 p.m., Monday, November 8, 2004 in the Council Chambers of the Municipal Building. The following Council members were present: S. Ferrazzano, T. Byrne, R. Stobb, G. Torkelson, R. Caron, M. Fraser and J. Otto-Arvizu. Also present were A. Koopman and F. Nielsen.

Mayor Ferrazzano asked for any corrections or additions to the minutes from the October 25, 2004 and November 3, 2004 City Council Meetings. Motion by Fraser, seconded by Stobb to approve said minutes as written. All voted in favor of the motion.

Mayor Ferrazzano asked for any additions or deletions to the agenda. Addition of 8 (e) EDA Minutes from the October 1 and October 15, 200 meetings, 10 (a2) schedule next City Council meeting and 10 (3a) J. Otto-Arvizu had a citizen concern. Motion by Stobb, seconded by Torkelson to approve the agenda as amended. All voted in favor of the motion.

The public hearing was held concerning Ordinance No. 290, AN ORDINANCE AMENDING SECTION 3.10 OF THE ZONING ORDINANCE OF THE TRACY CITY CODE. To clarify the procedure, Nielsen commented that the proposed ordinance does need to go back to the Planning Commission, where the public hearing should be held. Nielsen advised that if there is any comments at this meeting to take those and process those and then the Council should refer the proposed ordinance back to the Planning Commission for their public hearing. Nielsen recommends continuing this public hearing until after the Planning Commission conducts their hearing, as the problem is that in the City's Zoning Ordinance it specifically requires the Planning Commission to hold the public hearing. This is not required by a state statute. Nielsen also recommended the idea of amending that part of the Zoning Ordinance to eliminate the mandatory requirement that there be a public hearing at the Planning Commission level and this may allow a smoother process and guarantee a public hearing at some level when there is a zoning ordinance change. If the Council would like to amend that part of the Zoning Ordinance, this can be referred to the Planning Commission also. Mayor Ferrazzano indicated he felt that the public hearing should be held at the City Council level. Motion by Byrne, seconded by Fraser to do what Nielsen has suggested. All voted in favor of the motion.

Ron Radke presented the liquor store report and asked if the Council had any questions regarding his report. Mayor Ferrazzano asked what was happening with the building next to the Liquor Store. Radke indicated that it would be open for bids in the near future and probably will not be demolished until spring. Robinson indicated that Gary Garrels looked at this and felt that they are two common walls between the east and west building and it would not be a good idea to take them down this winter, as the walls would have no protection and probably need some work immediately after the building comes down. There is also part of a basement to fill. Stobb asked if there are any asbestos issues and Koopman said that before any demolition is done, this will have to be checked out.

Gervais reported that the projects that they have been working on recently include conversations with the Wixon's concerning purchasing land west of town for the development of an industrial site. The Wixon's are going to have that land appraised, in the next 3-4 weeks to give us a price. There are 62 acres southwest of the Wheels Museum that the EDA would be interested in for a proposed industrial site and with Highway 14 exposure, this might be a better site. Lynn Anderson, DM&E was here last week and they discussed where the DM&E is at this point and were very happy with the past year's financial situation. Tracy has been considered as a construction site and it will probably be a year before we see that and probably six months before we hear a definite answer. Anderson was pretty confident that this project will go through. Tracy will continue to be crew switch station. Gervais indicated they asked about some crossing and safety issues and there were no concerns at this time. Otto-Arvizu commented that at one time, we were told that a train would be through town in two minutes. She was wondering if this was still a viable statement and also the trains would be situated so the trains would not be taking up the crossing. Gervais responded that Anderson did not say anything as far as time lines or speeds of trains going through, that with the crew switches, that more than likely they would stop. With the by-passes this will help alleviate a lot of that. Anderson commented that he is pretty confident that the Powder River Basin project will go through which will mean more traffic with an estimate of 5,000 employees between Wyoming and Winona. Housing is on the school board agenda for land by the school. Gervais met with the class from SMSU that were

doing an economic study of Tracy. On December 7th they will be presenting their findings to anyone in Tracy that is interested and this will be at the Med Club at 6:30 p.m. Mayor Ferrazzano asked if Gervais would like to ask them to attend a City Council meeting and give a summary of their finding. There project is to find business, start up or relocation business. They expressed that eight of the nine groups expressed strong contacts with businesses potentially in Tracy. There were two light manufacturing, one hotel industry and one window company. Gervais has sent two of the companies information packets as the window company is very interested. Mayor Ferrazzano asked when Casey's would be breaking ground. Gervais indicated that the paperwork is to be signed January 3, 2005 and plan, weather permitting, to break ground in April.

Police Chief Hillger presented the Tracy Police Department Activity Report. Mayor Ferrazzano asked about activity at the compost site and if the camera is up and running. Chief Hillger says that the situation has gotten better at the site. Robinson indicated that they are waiting for Excel Energy to hook up the power there and then the camera will be in operation. Mayor Ferrazzano asked if there were any problems at the park. Robinson will check tomorrow to make sure that the bathrooms at the park are secure for the winter.

Koopman presented her monthly department report. Koopman indicated that the attendance at the League of Minnesota Cities Conference in Duluth was down this year, but this is the first time that it has been held in October on a Sunday, Monday and Tuesday. It is usually held in June. She reported that there is fear that local government aid is one of the areas that state legislature is going to be looking at and with the speculation of a billion dollars deficit the local government aid will be on chopping block. They are hoping that the state legislature will think twice as we did take substantial cuts last year and there is a reason for local government aid for small communities that do not have a large enough tax base to provide basic services which is the purpose of local government aid. Over 60% of our budgeted revenue is different types of aid.

Robinson presented the Street Department report. They have been busy with winterizing parks, mulching, street sweeping and the elm trees project. They have about one-half of the elm tree project completed. There was a water main break recently and working on the Hollett street project and will report on that at the next meeting. They have also been working with the Storm Water Master Drainage plan. They will get a burn permit and burn the tree pile after there is enough snow. According to the permit, each row of compost needs to be turned over three times. The one water filter is done and working very well. The other water filter will be repaired this winter.

Robinson indicated in his report that the first phase of the Storm Water project is to construct an open ditch through the Central Livestock property to get to Ditch 23. This would be constructed along Front Street and it would require a minimum of 4-5 acres, marooning a section of land east of where the ditch would turn to the north.. EDA is looking for a new residential housing site and Robinson spoke with Mr. Anderson if he would be interested in selling whole Central Livestock property of 30.9 acres. Route 1 the ditch starts near the vet area and along Front Street and go between Main Street and Randall and then turn to the north to Ditch 23. Route 2 leaving from the vet center it would head northeast and follow along Anderson's property to Ditch 23. There would be room for 16-18 residential lots facing Front Street. The lots would measure approximately 100x120 feet and there is still room behind these lots for more houses. Route 3 is the shortest route for that ditch, but does involve crossing another person's property. There is an issue with snow removal out there and this would help that situation. The problem with the snow removal is in the past that the plows push the snow back to the side and since it is a east/west road the snow builds up on the north side of the road and then with the blower, blow it into field. Mr. Anderson would like that practice stopped and Kerr and Nielsen are thinking we cannot blow that snow there and will have to haul it which would double snow hauling. Byrne indicated that at the last EDA meeting it was decided that Route 3 would cost less than Route 1 and make it a pipe instead of an open ditch. Robinson indicated that the pipe is a very expensive way to go. Stobb said that going with Route 2 or 3 the property is not useful to the Anderson's because of the ditch. Robinson indicated that if the City was interested in acquiring this land, he would be interested in staying there a while as he would not be able to get out of the cattle business immediately and would be interested in leasing the building and tillable acres for five years. The infrastructure is there for residential development for the front lots and could offer the lots for lower prices. Stobb noted that the zoning would have to be changed to residential. Robinson

would like direction as far as keeping this moving, as winter is when this should be engineered. Koopman indicated that there was discussion with the County and suggested that they get more involved. She feels that they need to meet again with Anita Benson or Todd Hammer. Nielsen will continue to do research as far as creating a valid petition. Koopman feels that until the livestock building is gone from that property that it is hard for people to feel that this is a residential lot and a five year period is a long time for the city to commit to tie up approximately \$135,000. Robinson commented that demolition on those building would be quite expensive due to the amount of cement. It was decided to present these three options to the County and find out what we need to do to keep this going.

Mayor Ferrazzano presented RESOLUTION NO. 2004, A RESOLUTION ESTABLISHING A CAPITALIZATION POLICY AND CAPITALIZATION THRESHOLD. Motion by Stobb, seconded by Caron to approve this resolution. All voted in favor of the motion. (Res. No. 2004-24)

The Consent Calendar included the Cemetery Commission minutes from October 25, 2004, Monthly Water and Wastewater Report, Senior Center minutes for September 13 and September 15, 2004, Municipal Accounts Payable and EDA minutes for October 1 and October 15, 2004. Motion by Stobb, seconded by Byrne to approve the Consent Calendar. All voted in favor of the motion.

Robinson indicated that the cost of repairs for the Library roof that he presented at the last City Council meeting was repairs for the upper roof and not the cost for replacement of the lower roof. The lower roof leaks, is not repairable as it needs a whole new membrane. The cost of these repairs would be \$14,596. The high roof had been replaced just before the City purchased that building and only needs repairs. This price includes the cost of the Alternate for insulation. Garrels went up there and looked and between the roof and ceiling there is plenty of insulation and it is not necessary to add the \$5100 alternate. Koopman indicated that this is not budgeted for and the Other Financial Use fund does not have that amount in there. It can be taken from the City Reserve Funds or use the remaining amount budgeted for the acquisition/demolition of dilapidated houses and delay that project until 2005. Motion by Stobb, seconded by Byrne to proceed with a new roof for the library with funding provided from the reserves. All voted in favor of the motion.

Koopman indicated that there is nothing new with the 2005 budget but will continue to put it on the agenda in case anybody has any comments until truth and taxation meeting.

Mayor Ferrazzano has not received any questions from the community at this time. Just to make it clear, if there are questions from the public, to have them at the city office by Friday before the council meeting or they may opt to come in person to ask if they like.

Otto-Arvizu indicated that she had a constituent express concern about parking on the bike trail on Center Street. Because the bike trail is on both sides of the street, there is no parking on that street. She wanted assurance for anyone on that street that if in winter they need to put their car on the street to clean their driveway that there would not be a problem with doing that. Mayor Ferrazzano felt that this was not a problem.

Due to conflicts on November 22, 2004, the next council meeting will be November 29, 2004 at 6:30 p.m. Motion by Byrne, seconded by Torkelson to have the next meeting November 29, 2004. All voted in favor of the motion.

There being no further business, motion by Stobb, seconded by Torkelson to close the meeting to discuss labor negotiations. All voted in favor of the motion.

ATTEST:

City Administrator

Mayor

November 29, 2004

The regular meeting of the Tracy City Council was called to order at 6:30 p.m., Monday, November 29, 2004 in the Council Chambers of the Municipal Building. The following Council members were present: Mayor Pro-Tem R. Stobb, T. Byrne, M. Fraser, R. Caron, J. Otto-Arvizu, G. Torkelson. Absent was Mayor Ferrazzano. Also present was F. Nielsen. Absent was A. Koopman.

Mayor Pro-Tem Stobb asked for any corrections or additions to the minutes from the November 8, 2004 City Council Meetings. Motion by Caron, seconded by Byrne to approve said minutes as written. All voted in favor of the motion.

Mayor Pro-Tem Stobb asked for any additions or deletions to the agenda. Addition of Request from Hospital and Pool Report - repair options. Motion by Caron, seconded by Torkelson to approve the agenda as amended. All voted in favor of the motion.

Rick Nordahl, CEO of Tracy Area Medical Services indicated that the medical center has a serious dilemma regarding the radiology reading and reports. There is no longer a radiologist that comes here and to upgrade the system the medical center would like funding from the Hospital Improvement Fund up to \$180,000 to put in new digital radiology system that takes the cartridge, reads into digital machine and then can be sent over the wire to the radiologist on the other end. Very necessary for the providers at TAMS to do their job. This will allow more patients to stay here and not be shipped out because they cannot read the x-ray on the other end. Nordahl has a proposal for \$156,000 and then there will need to be some remodeling in the facility to facilitate this change and that is what the \$180,000 is for. They do meet the contractual obligation for the city purchasing the item because it is a medical equipment under a contract so do not need to go out for bids. It is a contracted purchase through Sioux Valley.

Dr. Fazel emphasized the importance to understanding this is more of a necessity than remodeling the facility. The providers feel that these are things that we cannot get simple x-rays, CT scans, etc. read so they can be acted on if the case is surgical or medical or otherwise appropriately. This is not technology that is state of the art, this is technology that is being used now. We are using old mechanisms of x-rays being sent out physically to be read and the reports are not as timely. This timeliness allows for much more efficient patient care. This is a basic start for the facility needs and is not a luxury, but necessity. X-rays cannot be read in emergency situations and the need for a more timely reading of x-rays has increased with the recent acquisition of a surgeon for the facility.

Nordahl indicated that this was discussed at the last Hospital Board meeting and they did approve of bringing it to the City Council. Nordahl indicated that this equipment would depreciate in about 5-7 years because technology does depreciate that fast but should be able to get 10-15 years use out of it. Kerr asked why the city is buying this equipment when the lease with Sioux Valley calls for them to buy the equipment. Mayor Pro Tem Stobb indicated that this has been done in the past with equipment that has been built into the facility and becomes part of the building. Nordahl confirmed that this would be part of the technology that operates the radiology room. Nielsen asked when this was brought up at the Hospital Board. Nordahl indicated that it was two weeks ago at the last meeting and Mayor Ferrazzano was present. Otto-Arvizu indicated that she and Koopman had spoken very frequently that they were worried about our technology and believes that this is a very important move. Kerr asked for clarification about not having a need for the bidding process. Nordahl indicated that it is purchase of medical equipment on a purchasing contract. Otto-Arvizu clarified that Sioux Valley is not the vendor, they have the group purchasing power to get a better price. Nordahl indicated that this would be purchased directly through General Electric and General Electric has a contract for radiology equipment through Sioux Valley. Motion by Otto-Arvizu, seconded by Byrne to approve this purchase of the radiology equipment. All voted in favor of the motion.

Mayor Pro-Tem Stobb indicated that a group consisting of Brian Pashina, Rick Robinson, Paul DeSmet Jim Kerr, Shorty Engel and Stobb, met to discuss options for pool repairs. Pashina indicated that looking at the broad picture of this the basic considerations need to be reviewed. These included life expectancy, cost including the costs for construction and future maintenance, completion time, warranty, risks, city's tolerance for risks and aesthetics. The remedial options fall into 3 categories: Repair of existing pools, installing a liner or replacement of the pools. The surface of the existing

pools is rough and uneven and needs to be smoothed out. This can be done by one of three options: form and pour, pneumatic applied such as shotcrete, or trowel applied. These are listed from more preferred to least preferred. Pashina indicated that there were seven remedial options considered and Diamond-Brite is no longer an option. Option 6; remove/replace with Myrtha system or Option 7; remove and replace with concrete shells would require demolition of most or all of the pool. Other options include: #1 Sunstone with Permabond 880; #2 Sunstone with leveling mortar; #3 Sunstone Pearl with leveling mortar; #4 Shotcrete liner and #5 Myrtha Renovation liner. Sunstone/Diamond-Brite looks much like plaster and gives a smooth surface to the pool. These require a uniform thickness to minimize cracking and provide a suitable substrate.

Pashina indicated that the first option that was looked at was the Diamond-Brite and at that time SGM, reviewed existing condition of pool, approved it and felt there was a good surface. This option was abandoned with the manufacturer suddenly reversed their recommendations.

Pashina explained that Option 1 Sunstone w/Permabond and the permabond is a "non-reemulsifiable vinyl acetate polymer emulsion" which is a chemical to improve bond. One material that you could refer to would be Elmer's Glue is a poly vinyl acetate. This material is very prone to degradation when applied to an alkaline material such as concrete and when they are continuously wet. The chemist in the Northbrook, Illinois office recommended to avoid this material because of degradation. To determine if this material is suitable or not would be to look at similar installations in similar climates and with an age of 10-15 years to see how it has withstood these conditions. Anticipated completion date if this material is used would be July 1, 2005, approximate cost \$560,000 and longevity would be questionable. This would be at risk of delamination at the bond surface between the Permabond and Sunstone and between the Permabond and the shell.

Option 2 of Sunstone (or Diamond-Brite) w/Leveling Mortar which is polymer modified mortar, which is known for good bond, good freeze-thaw resistance that you would like to see in a patching mortar. Pashina explained further that like the Permabond 880, this material would be applied to smooth out the surface of the pool and is trowel applied. The basic problem with trowel applied materials is they have to be stiff enough to stick on the wall, but that stiffness also impedes the ability to bond without voids and other problems at the inner face with the existing surface. This makes them not as good as the pneumatic applied material such as shotcrete. Pashina questions its longevity due to this problem. Anticipated completion date would be July 1, 2005 at a cost of \$580,000. In Pashina's opinion there would be potential for significant delamination over time and this material would perform well for the first several years of its life and then would delaminate at a rate of about 5% per year.

Option 3 of Sunstone Pearl w/Leveling Mortar would be similar to Option 2 but the Sunstone Pearl has a little bit more aggregate so more resistant to the chemicals in the pool water and lasts longer before it has to be maintained. The company life time warranty is equivalent to 20 years. Longevity is questionable due to the leveling mortar that is trowel applied. This cost is a little more at \$630,000 and the risks are the same.

Option 4 is a Shotcrete Liner. The liner would be applied over the existing floor to provide a smooth surface and then a finish is put on this. Pashina indicated that this sounds simple, but poses some special problems. With the two inch shotcrete liner, that makes the pool two inches shallower and becomes 4 inches narrower. This causes problems with the diving hopper because this is right now at about the minimum of state requirements. The other problem is with the gutters of which there is about 500 feet. In order to accommodate a two inch application, the gutters would have to be removed and new ones installed two inches inboard of where they are now. This would include removing and reinstalling all the gutters along with removing and replacing all the pool deck around the perimeters of the pools. Removing and replacing the gutters would cost about \$350 per running foot. Pashina indicated that in their opinion this would exhibit good long term performance but would this would cause conflict with gutters and stairways and this would require relocation of the gutters and removing part of the wall with hydro-demolition which costs approximately \$10-\$15 per square foot due to the specialty of this kind of task. Unknowns that would have to be explored include how the hydro-demolition could be done around the existing gutters as they are set in a patching mortar and not sure how it would react, possible damage to the wall during demolition and controlling the depth and the use of a specialty contractor. The cost of this option would be \$745,000

with an anticipated completion date of July 1, 2005.

Option 5 is relining the pool with the Myrtha Renovation Liner which is the existing pool walls are kept and are covered with a piece of coated stainless steel that is fastened to the wall and then a vinyl liner is installed on the inside of the pool. The existing gutter is removed and a new gutter installed along with the pool deck. Advantages to this system are that it has a good record of 30-40 years of good performance, no chalking or discoloration, stainless steel construction for corrosion resistance. Also roughness of the existing walls are of no concern and there would be less structural repairs that would have to be with this option. Pashina indicated that there is an issue with the Minnesota Department of Health that would have to be reviewed as there is some requirement of precluding the use of vinyl in this type of liner. The anticipated completion date would be July 1, 2005 at a cost of approximately \$700,000 and materials can be shipped 90 days after the shop drawings are approved and 4-6 weeks required for Myrtha to install the materials. Otto-Arvizu asked if they had their installation specialists? Pashina answered that there are two options: 1. The city could purchase the material and then a contractor would install it and; 2. The contractor would purchase and install the materials. Myrtha does not do the installation but they have approved contractors around the country that do that type of work. Shop drawings are their design and that design would have to be reviewed. Pashina indicated that all the approximate costs that he has given include the construction cost as well as his estimate of what the construction administration costs would be, the engineering and inspection that would take place during the constructions. The costs do not include design fees. Byrne asked what those design fees usually are. Pashina indicated that for some of these like the removal and replacement of new concrete shell, Grimmer has submitted a proposal of that for \$75,000. The others would depend such as the shotcrete liner may be more due to the uncertainties that have to be explored. Pashina is not sure as far as the liner, because most of that engineering is done by Myrtha in the form of shop drawings, but there would still be some design for the removal and replacement of the pool deck and would still have the troublesome retaining wall.

Option 6 includes removing and replacing with Myrtha System which would include using some or none of the existing pools. This would require demolition of everything except the floor. At this time, Pashina did not have an approximate completion date or warranty, but the approximate cost is substantial at \$1,100,000

Pashina explained that Option 7 would be to remove and replace the pools that are there and replace them with a new concrete shell. Anticipated completion date with this option would be November 1, 2005 with approximate cost of \$870,000 with a longevity of about 30 years. The main risk is that the expense of maintenance repairs with the re-application of the either the Diamond-Brite or Sunstone. This is material that is eroded by the pool water and would have to be refinished. Otto-Arvizu emphasized that she cannot remember that is was presented to them that the Diamond-Brite would only last 15 years. We thought we were getting a pool for 25-30 years. Pashina indicated that any of the materials such as this or shotcrete would erode over time in normal use of the pool.

According to the summary, Pashina indicated that Options 1,2, and 3 are all some version of applying a leveling mortar to the surface and longevity on these materials is questionable. Option 4 has good longevity but has some very distinct drawbacks and unknowns that need to be carefully explored before it is used. Option 6 totally out of the realm of all the other costs. Pashina feels that the options that are worth considering in order would Option 5, Option 7 and then Option 4. Otto-Arvizu asked Pashina if he could explain what "good" means in terms of longevity in relation to 15 year warranty or 30 year warranty. Pashina indicated it would probably be somewhere between 20-25 year life expectancy. Pashina further explained that he has not seen a renovation pool so has no real knowledge about that. He mentioned that Jody Dahms is familiar with that product and in conversations that he has had with him on this is that the company based in Italy and has traveled to Italy and looked at pools that have been installed there in cold weather climates and some were in 20+ year range. Dahms will be available by cell phone tonight if there are any questions. Otto-Arvizu felt that they were trading warranty with expediency. Pashina emphasized that this is a large expenditure and should make sure that you get what you pay for. Pashina feels that the first hurdle to overcome with the Myrtha Renovation system would be the MN Dept of Health and their issues with the liner. If that is crossed then the next hurdle is to look at longevity. To do this it would be good to look at a couple installations in Iowa and Pashina has no idea of age of these installations. Otto-Arvizu asked with the time lines that they have been given for completion dates, how long do they have to think

about and look at this. Pashina indicated that looking backwards, there is 4-6 weeks to install the renovation system and there will be a about 2 weeks minimum of pool deck replacements. With this he indicated that this should be done soon. He explained the way to start would be to have one of their people come and visit the site and that person can help walk through the process of scheduling. Robinson stated that the staff would like to see what the Department of Health has to say regarding this liner and then have someone from Myrtha come and explain the product. Shorty Engel indicated that they have had a liner in the baby pool for about 2-3 years and went through the process of getting approval through Steve Klemm at the Minnesota Department of Health and that is the same kind of process that would have to be gone through with this project. There was no problems when this liner was installed.

Mayor Pro Tem Stobb asked with what there is there now, could we expect the present shell to last 30 years. Brian indicated that in their report, they feel comfortable saying it has a design life of 25 years. Definitely a liner system is more prone to damage due to vandalism and concrete is more resistant to damaged. We will need Gremmer's input on longevity. Otto-Arvizu is wondering if they are looking at what costs are recoverable if they consider that they would be getting an upgrade to our quality and costing more money than what they think they should be paying. Kerr indicated that he feels that they have really explored all options in depth and it seems that the liner is the most reasonable option at this time. Pashina feels that options 1, 2 and 3 would not be a comprehensive repair and would not recommend using those options.

Jody Dahms was contacted and phone conference was conducted. Mayor Pro Tem Stobb asked what the issues were with the MN Dept. of Health. Dahms indicated that the current code says you cannot have a vinyl liner for swimming pools as it concerned them being placed in residential pools, cheaper liners were used and they created unsafe conditions from buckling up. Myrtha is technically a vinyl liner, but there are structural components to it and after speaking with Steve Klemm about it, he would have to see more information on it, but does not feel that it would be a problem to go this route. Kerr asked what Dahms felt regarding longevity of the Myrtha liner. Dahms indicated that last summer he was in Italy and looked at some of their installations there, and they had facilities that were over 30 years old and they looked great. The biggest issue is what UV radiation will do to the vinyl and with all the UV inhibitors they put in the vinyl liners and had observed facilities where the vinyl liner came up out of the water where it was exposed to sunlight at all time, and there was no breakdown due to UV. Dahms did not feel that Minnesota winters would be a problem because where they were in northern Italy, where the climate is very similar to Minnesota and the liner was holding up well. Kerr asked if there is a Myrtha representative in this area as the staff has recommended to the Council is that a representative come up here and take a good look at the pool, before a decision is made. Dahms indicated that the lead gentleman from Myrtha would come without charges to discuss the Myrtha liner and take someone to Iowa as there are a couple pools in Iowa that have used this product and then look at existing pool to determine what problems could be. Dahms indicated that he would call him in the morning and see when he could come. Mayor Pro Tem Stobb referred to a note that structural repairs would be less extensive. Dahms indicated that there would be no worry about leaking, or concern about structural stability. Kerr indicated that they understand that the existing gutter system would have to be removed and new inlet piping installed. Dahms explained that the existing gutter system has a built in return filtered line, the waste water going over the top and clean filtered water coming back through part of that stainless steel system. Myrtha does not have this, they have a stainless steel gutter that goes up and around where the water is taken to a surge tank for filtration. This would be a better circulation system that what is there now. Dahms indicated that annual maintenance in general is pretty simple, which includes vacuuming, water chemistry, winterizing pipes are all sloped to drain and then winter caps put on. There would probably be roughly 30 inlets, to replace with winter caps. Stobb questioned how easy it would be to repair this liner if cut by vandals. Dahms indicated that if the liner is cut, use an apparatus to go down along the wall, and there is a solution that mends the cut. The PVC liner is actually very heavy and has a double layer system on the pool floor and that is the only place it would have to be repaired. The walls are actually adhered to the stainless steel so there is no way that the water can leak out.

Kerr asked Dahms about some of the samples that were received to view, and was questioning what the foam sample was used for. Dahms indicated that the foam product is ½ to 2 inches thick, and is basically safety flooring and then the liner is put over the top. Kerr was wondering if this would be bid in two parts. Dahms indicated there are a couple different option with the Myrtha system. The

first is to have the bidders, bid everything that is needed for the shell and have Myrtha come and do the work and save money on mark up of products. The better way to go would be to include Myrtha into the bid, and they will have to buy the product from Myrtha and then Myrtha would send someone qualified to oversee the installation. Pashina mentioned the sealant between the wall panels. Dahms indicated that the wall panels are bolted together, more PVC is put down that joint, it is heated up to a certain temperature and basically melt it in place to seal that joint completely. There is no regular maintenance with this and if the seams fail, the company will come and fix them, and Myrtha will make sure that it is 100% sealed, and this is part of the warranty. A Myrtha rep that is the closet is from Cedar Rapids, Iowa called Pool Tech. All the bidders on the list, their workers can do all the installation, but Myrtha has a qualified representative that will be there at all times when this work is being done to inspect and make it is done right, as they are putting their neck on the line giving a 15 year warranty on their product. They need to make sure it is done right. Mayor Pro Tem Stobb suggested they have someone from Myrtha come and explain the product and contact the Minnesota Dept. of Health so that they can provide the Dept. of Health with what they need. Motion by Byrne, seconded by Torkelson to pursue this. All voted in favor of the motion.

Kerr was surprised that the issues regarding the Charter TV franchise were included in Council packet. Council has to review the material in the packet and that is the work product after there was a meeting with the Charter representative here and Mr. Voss when back and did this ordinance. Koopman is in contact with them about the legal fees involved and don't believe she has heard back from them. In Audrey's absence this will be tabled to a future meeting.

Nielsen indicated that this issue was brought to the Council earlier. The situation is that G&R has made a request to purchase what they think is some land that is owned by the city near their present warehouse which is located at the corner of 6th and South Street. Koopman and Robinson did some preliminary research and came back to him that they were having trouble finding what they needed to find to show that the city actually owns this property. There is a line that starts at Morgan Street and then runs down with a little jog in it, then over to 6th Street over to the corner of 6th Street and South and then heads back to South Street. Nielsen indicated that this indicates the easterly boundary of some land in this block that the city obtained from the William Mitchell estate back in the 1960's or 1970's. There is a portion of this property deeded to Mr. Lanoue for present warehouse. To the left of this is an area that is what G&R would like to purchase. The City does not have abstract of title for that property. G&R did loan to Nielsen, their abstract and it did indicate to Nielsen that the city did obtain the property through the Mitchell estate and has not conveyed it to anyone else since. Nielsen indicated that from all the evidence that has been obtained now, the city does appear to have ownership of that property. If the Council is of mind to sell the property, the appropriate procedure would be to call for public hearing at which time the Council can decide is no longer needed for public purposes and at that time can decide to some extent, what conditions for sale they would like to impose. Nielsen indicated that some additional information concerning this. This block where Twin Circles is and this property is, was not platted when all the other land around it was. There is no alley platted through this block, but there is a driveway that is used as an alley. Nielsen felt that it would be worthwhile to leave that "alley drive" where it is there. It would have to be a condition to the buyer that there is no abstract and if G&R wanted, they could have this new parcel added to their existing abstract. If someone else would buy it, there would have to be a new abstract purchased and could cost as much as \$400-\$500. City sell as no abstract. Nielsen recommended that if this is sold that it be done by a quit claim deed, since the city does not have clear assurance to the city having title of the property. Maybe some utilities that enter into the this property and they are buying subject to whatever is there. Stobb asked that if the City is interested in selling this property, he would entertain a motion for a public hearing for that sale. The size is approximately 100 feet deep by 80 feet. Nielsen indicated that technically by state law, land sale should be referred to the Planning Commission for consideration also. In this case there is some urgency by the potential buyer to get it as soon as possible. Motion by Byrne, seconded by Torkelson to hold a public hearing December 13, 2004 at 6:40 p.m. All voted in favor of the motion.

Motion by Caron, seconded by Fraser to approve a resolution approving an increase in pledged securities at Minnwest Bank South. All voted in favor of the motion. (Res. No. 2004-25)

Robinson presented a letter from Mr. Chester Erickson with a concern of devaluation of his property after the Bypass structure is in place. This property was appraised once recently and he is asking that

it again by appraised after the structure is placed. Robinson indicated that when a utility material is put in front of someone's house or yard, there is no compensation for this. Mayor Pro Tem Stobb questioned to go to the appraiser and if this structure is put there, how would that change the appraisal figure. Robinson indicated that there is presently a structure there and it is just being replaced. The cement slab is flush with the ground. The above ground part is a box which is 18 inches tall and 16 inches wide and will be on a 4x4 pole. This box will house the dialer. Inside this structure will be a float and when the water gets so high, the float will trip and that will call the public works person that is on call. That worker will then go down there and manually open this canal gate to allow waster water to be bypassed in the storm water system. Nielsen explained that the way he sees it the city does not have responsibility for this and if this is taken care of in the right way with landscaping, it is not likely there is going to be a block house in front of this residence. The city has not taken anything from him, they are merely substituting one structure for another. Nielsen questioned if there was a financial alternative. Robinson indicated that in Mr. Porter's letter he is referring to the electrical control panel. He is going to check but it may be possible to move that control box to the alley since that is where the power will be coming from for that box. If this is possible, there would be nothing above ground. Robinson stated that they were planning to put two new trees in Mr. Erickson's yard along with some shrubbery around the cement slab. Robinson recommended waiting until the structure has been placed and then have it appraised again. The consensus of the Council was to wait till the project is completed and then review this issue again.

Robinson indicated the next issue concerning the Hollett Street Bypass is that Nielsen has made up a contract between the City and Art Peterson Construction. Typically on a structure like that they pre-cast them and this one the City's engineer indicated that this would not be possible because of the size of pipes entering and leaving this structure. This structure has to be constructed on site. The only local company to do this would be Art Peterson Construction. Motion by Caron, seconded by Byrne to enter into a contract with Art Peterson Construciton. All voted in favor of the motion.

Nielsen voiced the idea by Robinson to sign a permanent easement agreement with Mr. Erickson. This would provide that over Mr. Erickson's easterly fifteen feet of his property, there would be an easement for electrical and phone service if needed to the front where this structure is going to be built. Nielsen has drawn up an agreement and indicates that if the City in laying any of the lines, it disturbs the landscape, City will replace it at their cost and further states that if somewhere in this fifteen feet there will be no cash consideration going from one party to the other as part of the easement process. Motion by Caron, seconded by Torkelson to enter into this easement contract. All voted in favor of the motion

Robinson then explained that Mr. Erickson addressed having a street light directly across from his house, facing into the park. It is dark there and in the winter there are children playing there. It would have to go to the Planning Commission and street lights cost the City about \$15.00 per month. Robinson will put it on the agenda for the Planning Commission. The wires would be run in the same trench as the power and telephone lines.

Robinson presented an update on the Central Livestock property. Robinson has met with David Anderson several times and also with Kendal Cooreman. Cooreman and Robinson met concerning the estimated cost of the demolition of the livestock building. With the use of some formulas provided by the MPCA a rough estimate to remove 2500 yards of concrete and the building, it was estimated at \$112,000. This includes the price of using the City's concrete disposal site and hauling the building materials to the land fill. To have the concrete crushed it would cost approximately \$10.00/yard. Mr. Anderson would move the smaller building to a different location for his own use. He would like to see offers on both the entire property and the five plus acres if the ditch were to run along Front Street. In the appraisal done 1/14/02 the entire property was appraised at \$132,101.00 which is an average of \$4,274/acre for a total 30.1 acres. 5.1 acres of this property along Front Street was valued higher as development land at \$6,534/acre. If the ditch is run along Front Street, the City would need these 5.1 acres.

Gervais indicated that they have been out there looking around as they have been looking for housing property and considers this an easy, low cost fix with the Front Street infrastructure being close by. The dirt work that is taken out of the ditch can be used to fill in low spots. In conversation with the community at the Old Fashioned Christmas the community is in favor of cleaning up the property.

Byrne figured that if they did the total purchase, it would cost about \$8,100 an acre including the bid to remove everything. The Eastview Addition was \$14,550 for those lots. Otto-Arvizu asked how many lots were expected to be made out of this? Gervais indicated that it would depend on how much frontage of the lots. Gervais stated that in today's world, people like larger lots. Most of the building is pole shed and there is a significant amount of cement and there are pits under the building. Gervais reported that there is salvageable lumber there, but how do you safely disassemble it? Stobb asked if there has been consideration of where these funds would come from. Robinson stated that the Utility Fund would be a possibility as a loan. Nielsen indicated that they are trying to explore possibilities and he did talk with the County Attorney about getting a ditch map and list of those on ditch system. He said they need to have the County take a ditch petition and look at it from that standpoint and this would spread the cost to those outside the city limits to see how big of an area there would be and how many other potential contributors there would be to the cost. Robinson indicated that they had a meeting with the county and Anita Benson, Steve Johnson and Todd Hammer and there was no problem with putting the ditch through there but Nielsen indicated that it is not any of their decisions. It is the Ditch Authority that has the last say. Nielsen stated that the ditch laws usually deal with agricultural property. These owners get together and 26% based on the number of owners or the acreage involved, would prepare a petition and submit to the Ditch Authorities and outline what they want to do. This would be presented to the County and the Ditch Authority reviews that. Then they engineer it and supervise the construction and do the project. This is similar but here a lot of residential property is involved. Again 26% of the residential property owners would get together and they would file this petition and go from there. This is a technical process. Nielsen will again contact the County Attorney and get more information. Robinson is hoping to get the ditch project engineered this winter and prepare for bids in the spring.

Mayor Pro Tem Stobb presented the Consent Calendar with the Monthly Financial Report, Municipal Accounts Payable, Cemetery Commission minutes for November 10, 2004 and the Revitalization Committee minutes for October 27 and November 10, 2004. Motion by Fraser, seconded by Caron to approve the Consent Calendar.

There being no further business, Mayor Pro Tem Stobb entertained a motion to adjourn. Motion by Caron, seconded by Torkelson to adjourn. All voted in favor of the motion.

Attest:

City Administrator

Mayor

December 20, 2004

The regular meeting of the Tracy City Council was called to order at 6:30 p.m., Monday, December 20, 2004 in the Council Chambers of the Municipal Building. The following council members were present: Mayor S. Ferrazzano, T. Byrne, M. Fraser, R. Caron, J. Otto-Arvizu, G Torkelson and R. Stobb. Also present was A. Koopman and F Nielsen.

Mayor Ferrazzano presented a Proclamation to Katie Gervais, coach of the TMB Panthers girls volleyball team for winning the state Class A Volleyball Championship and proclaimed December 20th as TMB Girls Volleyball Day.

Mayor Ferrazzano asked for any corrections or additions to the minutes from the November 29, 2004 City Council Meeting. Motion by Byrne, seconded by Stobb to approve said minutes as written. All voted in favor of the motion.

A public hearing was held concerning the sale of property by the water tower. Nielsen advised that since there is no abstract that they advise the potential buyer that there is no abstract and it be done by a quit claim deed. Motion by Byrne, seconded by Stobb to proceed with sale of this property by sealed bids of no less than \$2500. All voted in favor of the motion.

Kevin McGrath, representative from Myrtha RenovAction pool liners indicated that he has seen photos and also has inspected the present pool. Following the inspection McGrath met with R. Robinson, R. Stobb, S. Engel, J. Kerr, B. Pashina, J. Dahms and A. Koopman to discuss issues of the installation of the Myrtha liner. At this meeting a ten point plan of action was discussed for getting the repairs started. One of the items in the plan was to determine if additional work needs to be done with the gutter system and if the present system can be used. Some sections may need to be removed as they are below the correct water elevation. Because of the floor of the pool being rough and irregular, there would be problems with putting the Myrtha lining over this. A solution to this problem would be to install a foam type liner beneath the PVC liner to accommodate the roughness and irregularity and if this is not possible, the floor may need to be relined with a material such as shotcrete. As the pool has no water in it now and there is a danger of frost heave, Robinson will be filling the deep end to five feet to eliminate this risk. Also additional brochures will be sent to the council members for review. Kerr asked that the council to consider having Myrtha conduct a survey in order for McGrath to see if the PVC liner is a viable solution for the pool. This will cost approximately \$2000.

McGrath indicated that the Myrtha company was been in business for 45 years and has done approximately 15,000 installation in about 70 countries. Their company is able to take the PVC product with an aquatic environment and impregnate it into steel. This material will not rot or break. McGrath assured the Council that fix is something the company can do and they specialize in fabrication type problems.

McGrath indicated that the survey will be done to see what is being dealt with. This will give them an understanding of what needs to be done, what the fix will be, timing and how all this can be implemented. Byrne asked how soon the survey would need to be done. McGrath indicated that this should be done by the first week of January. They need to measure one meter down and this will give them a better understanding of what needs to be done. They will need to act aggressively to assure an reopening of the pool in July 2005. He indicated that the weather does not inhibit installation of the liner.

Jody Dahms stated that the Minnesota State Department of Health issues have been cleared and have approved the use of the liner. Vinyl liners are not allowed for residential pools because of tripping hazard. This is a heavy duty PVC liner with a reinforcing piece that cause very good stability and prevents any bunching up as the cheaper liners do.

Torkelson voiced concern about the voids that were found under the pool with core drilling and what would happen with this. Pashina indicated that there are voids within the shotcrete walls, but other voids were not evident in the findings. Pashina indicated that the liner provides a greater degree of forgiveness than with DiamondBrite coating.

Byrne asked if through the survey, they would be checking for stability of the walls of the pool. Pashina indicated that this would be a dimensional survey and not a strength survey. McGrath relayed that the liner does not need as much maintenance as other materials. He signified that once a year someone from the company would come out and check the condition of the liner and make sure it is lasting and any repairs would be done right there.

Pashina asked the Council if they felt that they needed someone to see a complete Myrtha installation? He told the Council that he saw one last weekend in Ida Grove, Iowa. He will provide Koopman with photos of this pool. There is another installation in the Fort Dodge Country Club and will be driving by that location in January so will inspect that installation. After further discussion regarding the inspection of pools with this liner, Mayor Ferrazzano suggested that Robinson, DeSmith and Engel go to look over these pools. Pashina said that he would also send pictures.

Motion by Byrne, seconded by Fraser to authorize McGrath to do the survey with the cost not to exceed \$2000. All voted in favor of the motion.

Alan Meyer from PeopleService, Inc. was present to ask the Council to cut the general liability insurance coverage from \$10,000,000 to \$5,000,000 due to expensive rates. Mayor Ferrazzano asked if there was any discussion regarding this issue.

Caron asked what would happen if the city did not agree to this cut. Meyer indicated that PeopleService would then be in breach of contract as of January 1, 2005.

Robinson had the city's water system evaluated compared to today's construction costs obtained from engineering firms in the area. At this point, Robinson does not feel that it would be in the best interest of the city to continue the contract with PeopleService with this decrease in liability. The value of the City of Tracy's facilities that PeopleService operates is \$13.5 million. He feels that PeopleService may be under insured now. Robinson reported that his feeling is that the Public Works Dept. is capable of running the facility for a period of time under his direction and license. They would advertise for a qualified Water/Wastewater Operator that would be a city employee. Another option would be to move one of the existing Public Works employees to the water system and have that person become licensed and trained under his license. Robinson felt that having this person a city employee would benefit the snow removal operation. Another advantage would be that the system would be run the way it should be with replacement of meters, meter programs and other upgrades.

Robinson said that the disadvantages of PeopleService has not sufficiently trained their workers to fix water main breaks, operation of the water plant or maintenance of the wastewater lagoons.

Otto Arvizu suggested that they not except PeopleService proposal. She feels that they could then bring things under their control with Robinson's expertise. She questioned if there were any purchases such as vehicles that would be needed.

Meyer said that if they decide to not accept he would not want to be in breach of contract so would like to end the contract with the City of Tracy.

Motion by Otto-Arvizu, seconded by Torkelson to end the contract with PeopleService as of December 31, 2004. All voted in favor of the motion.

Koopman presented the Safety First Proposal. Safety First Compliance Management, Inc. will provide safety training for the employees of the City of Tracy to begin January 2005. Koopman recommends that they accept the proposal, especially for the safety of the Public Works Department.

Robinson told the Council that Safety First does a safety audit of all buildings once a year. Robinson calls them quite regularly and asked for advice and clarification of regulations and it is a good tool to keep the employees safe.

Motion by Fraser, seconded by Stobb to renew the proposal with Safety First Compliance Managements, Inc. All voted in favor of the motion.

Robinson informed the Council that they are still trying to sell the 1974 Jetter Truck. They had advertised it for \$7000 and have had an offer from Walnut Grove of \$4500. Motion by Stobb, seconded by Byrne to accept the offer from Walnut Grove for \$4500. All voted in favor of the motion.

In a memo from the City of Tracy Employees, they informed the Council that the VEBA program has been used and seems to be working well for the employees. As of January 1, 2005 the deductibles are being raised by \$50 each for the individual as well as the family to \$1800 and \$3600 respectively. Because of this, the employees are requesting that the amount that the employees be able to flex be increased from \$2000 to \$3000. This is money that could be used if needed in case of a dire health problems early in the year. The employees cannot guarantee this would be at no additional cost to the City. It would only increase the City of Tracy's liability from \$2000 to \$3000 should the City not be able to collect it from the employee. This is the 4th year of participation in this program and the City has not been assessed any liability from its employees. Motion by Stobb, seconded by Byrne to increase the flex from \$2000 to \$3000. All voted in favor of the motion.

Motion by Caron, seconded by Torkelson to renew cigarette license to the following establishments:

Swen's Fuel, Inc
Tracy Food Pride
Eagles Club
Food N Fuel, Inc
Amoco
Tracy Liquor Store.

All voted in favor of the motion.

Motion by Byrne, seconded by Fraser to renew plumber's license for the following businesses:

Christianson Plumbing
GH Plumbing & Heating
Heartland Mechanical
Jenniges Plumbing & Heating
Olson Hardware
Sahlstrom Heating, Cooling and Refrigeration
Sanderson Mechanical
Swish's Plumbing & Heating
Weedman Service
Wood's Plumbing.

All voted in favor of the motion.

Motion by Byrne, seconded by Torkelson to approve a dance license to the Mediterranean Club. All voted in favor of the motion.

Motion by Torkelson, seconded by Stobb to approve a split liquor license to the Mediterranean Club and Mace's. All voted in favor of the motion.

Motion by Stobb, seconded by Fraser to approve a Sunday liquor license to the Mediterranean club and Mace's. All voted in favor of the motion

Koopman presented a resolution approving budgeted transfers. Total of transfers was \$402,357. Motion by Stobb, seconded by Byrne to adopt said resolution. All voted in favor of the motion. (Res. No. 2004-26)

A resolution adopting the final property tax levy for 2004, collectible in 2005 was introduced. A total of \$739,415 be levied upon the taxable property in the City of Tracy in the following manner:

| | |
|-----------------------|------------------|
| Debt Service | \$328,000 |
| Permanent Improvement | \$ 10,000 |
| General Fund | \$401,415 |
| | <u>\$739,415</u> |

Motion by Fraser, seconded by Caron to adopt said resolution. All voted in favor of the motion. (Res. No. 2004-27)

A resolution adopting the 2005 budget for the City of Tracy, Minnesota was presented. This would include that the 2004 budgeted expenditures be as follows:

| | |
|-----------------------------|--------------------|
| GENERAL FUND | \$1,629,895 |
| PUBLIC ENTERPRISE | \$2,999,218 |
| DEBT SERVICE AND BOND FUNDS | \$ 610,109 |
| OTHER | \$ 568,734 |
| TOTAL ALL FUNDS | \$5,807,956 |

Motion by Stobb and seconded by Byrne to adopt the 2005 budget. All voted in favor of the motion. (Res. No. 2005-28)

Consent Calendar consisted of Monthly Water & Wastewater Report, EDA minutes for November 5 and 19, 2004; Fire Relief Ass. Minutes for October 4 and November 1, 2004; Monthly Police Maintenance Log; Monthly Financial Report; Pool Litigation Report; Liquor Store Report; and Municipal Accounts Payable. Motion by Stobb, seconded by Fraser to approve the Consent Calendar. All voted in favor of the motion.

Koopman presented the accepted AFSCME Contract with the following changes:

- Pay out of sick leave will be at a rate of 40% only if an employee retires and meets the Rule of 90. All other circumstances when an employee leaves with a minimum of five consecutive years of service will continue to be paid out at 33-1/3.
- Wage increase of 2% on wages and 1% to the PRHCSP.

Motion by Stobb, seconded by Torkelson to approve the AFSCME Contract. All voted in favor of the motion.

Koopman presented to the Council the Original proposal and the Counter proposal from James E. Kerr & Associates regarding the 2005 City Attorney Contract. Koopman asked if the Council was willing to accept the contract as countered or what changes need to be made.

Kerr indicated that the firm would be willing to accept the \$35,000 annual fee if the firm had the right to bill separately in some specific circumstances such as pool litigation, EDA activities, major city construction contracts and Tracy Hospital activities.

Otto-Arvizu expressed her concern over the city's increasing legal services costs. She feels that they need to get a better perspective on what services are included in the city's regular legal services budget and what services would be billed extra. She feels that legal services should have a fixed amount each month to make it easier to budget each year for legal services, and it should be a fee that is fair to the attorneys and also fair to the taxpayers. Otto-Arvizu indicated that there is no question that the attorneys are doing the work as the itemized bills indicate, but it needs to be kept within a certain dollar amount.

Mayor Ferrazzano agreed that the legal bills have been very high recently, even excluding the pool litigation. He also agrees with the idea that if there was a set fee, it would be easier to budget. He also said that this year there were issues that have never come up before, and that happens, but then there are times that nothing happens. Mayor Ferrazzano noted there is the assumption of risk included.

Otto-Arvizu suggested taking a five year history and indicate how costs have escalated and this would give them some guidance as how to contain those costs.

Koopman said there has been a 28.5% increase in what was paid from 2002 to 2004. She suggested that this be referred back to the committee and better define what is included in the \$35,000.

Chief Hillger indicated that his first choice of vehicle to replace the present Ford Explorer would be Dodge Durango followed by the Chevrolet Impala and then the Ford Crown Victoria. He said that he would like to purchase this as the dealer is local for warranty work, it is 4-wheel drive and resale value will be higher than a car even though it would use more fuel and have possibly higher maintenance costs associated with 4-wheel drive, although this has not been the case with the Explorer.

Stobb said that at one time the ambulance personnel preferred that type of vehicle, so when there was inclement weather, they could help with medical emergencies. He asked how often the ambulance has been benefitted from this.

Chief Hillger answered that the recent winters have been mild and could not say that it has been a benefit for that reason.

Caron asked what the price would be for a life if it is every needed. Also he voiced concern that the police are often the first people to arrive at a medical emergency and emergency medical equipment such as a heart defibrillator is carried in squad cars.

Motion by Caron, seconded by Torkelson to approve the purchase of the 2004 Dodge Durango sport utility "heavy service" package. All voted in favor of the motion.

Koopman indicated that the 1993 Ford, a retired police vehicle, has nearly 170,000 miles and is becoming less reliable for out of town trips by the city staff.

Motion by Stobb, seconded by Torkelson to sell both the Explorer and Crown Victoria by sealed bids and use the funds from that sale to buy a used city vehicle with fewer miles. Also they will have the right to refuse any offers. All voted in favor of the motion.

Koopman received a letter and newspaper article from Dar Ford regarding a volunteer snow shoveler program. Mayor Ferrazzano asked Koopman to contact the City Administrator of Lawrence, Kansas and find out specifics of the program and report back at a future council meeting.

The City Council received a letter from Haleigh Daniels regarding lighting for the bike trail for safety reasons. Mayor Ferrazzano suggested to find out how many lights are needed, the costs and if Excel would contribute to the cost. This could then be considered for the next budget cycle. Robinson indicated that street lights would be more secure and if the lights were lower there is more concern with vandalism. He will check with Excel concerning this issue.

Charlie Snyder suggested a program such as buy a light program.

Mayor Ferrazzano received a letter from student Heidi Bengston requesting a bigger skating rink with better lighting. Robinson indicated that the Public Works will start next week with flooding the park for the ice rink. He said that it will take a couple days of spraying the ice to layer it on. Byrne feels the biggest detriment is the warming house. He feels that the lighting is sufficient and the size of the ice is also adequate. He says that a lot of times older kids are playing hockey and littler kids cannot get on the ice. The warming house is small and someone is needed to make sure it is open and warm. Mayor Ferrazzano questioned if any improvements need to be made to the warming house and the hours should be posted as it is best to keep it locked at times to prevent vandalism. Robinson will take care of getting the preparing the warming house.

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

ATTEST:

City Administrator

Mayor