

## NOTICE OF SPECIAL MEETING

Pursuant to Section 54956 of the Government Code of the State of California, a Special Meeting of the **Tracy City Council** is hereby called for:

**Date/Time:** **Monday, January 30, 2023, 6:00 p.m.**  
(or as soon thereafter as possible)

**Location:** **Tracy City Hall**  
**333 Civic Center Plaza, Tracy, CA.**

Government Code Section 54954.3 states that every public meeting shall provide an opportunity for the public to address the Tracy City Council on any item, before or during consideration of the item, however no action shall be taken on any item not on the agenda.

***This meeting will be open to the public for in-person and remote participation pursuant to Government Code Section 54953(e)***

***The City of Tracy remains under a local emergency for COVID-19 and is now conducting teleconference meetings pursuant to State Law. Teleconferenced locations may include various locations including Tracy City Hall. In accordance with the California Department of Public Health Guidelines, universal masking is recommended for all persons regardless of vaccination status and social distancing protocols will be in place for Tracy City Hall.***

### **For Remote Public Comment:**

*During the Items from the Audience, public comment will be accepted via the options listed below. If you would like to comment remotely, please follow the protocols below:*

- *Comments via:*
  - **Online by visiting** <https://cityoftracyevents.webex.com> and using the following **Event Number:** 2554 953 3160 and **Event Password:** TracyCC
  - ***If you would like to participate in the public comment anonymously,*** you may submit your comment via phone or in WebEx by typing “Anonymous” when prompted to provide a First and Last Name and inserting [Anonymous@example.com](mailto:Anonymous@example.com) when prompted to provide an email address.
  - **Join by phone by dialing +1-408-418-9388, enter 25549533160#8722922#** Press \*3 to raise the hand icon to speak on an item
  
- *Protocols for commenting via WebEx:*
  - *If you wish to comment under “Items from the Audience/Public Comment” portion of the agenda:*
    - *Listen for the Mayor to open “Items from the Audience/Public Comment”, then raise your hand to speak by clicking on the Hand icon on the Participants panel to the right of your screen.*
    - *If you no longer wish to comment, you may lower your hand by clicking on the Hand icon again.*
  - *Comments for the “Items from the Audience/Public Comment” will be accepted until the public comment period is closed.*

CALL TO ORDER  
ROLL CALL

1. Items from the audience - *In accordance with Council Meeting Protocols and Rules of Procedure*, adopted by Resolution 2019-240, a five-minute maximum time limit per speaker will apply to all individuals speaking during "Items from the Audience/Public Comment". For non-agendized items, Council Members may briefly respond to statements made or questions posed by individuals during public comment; ask questions for clarification; direct the individual to the appropriate staff member; or request that the matter be placed on a future agenda or that staff provide additional information to Council.
2. DISCUSSION ITEMS
  - 2A. Adopt a Resolution Authorizing: 1) The Display of the Pan-African Flag in honor of Black History Month on the City Flagpole Located Outside of City Hall, for the Month of February, Each Year; 2) Use of City Resources to Conduct A One-Time Flag Ceremony on February 1, 2023; and 3) Waiver of the Requirement Set Forth in Section 2.3.1 of the City of Tracy Flag Policy that Requests be Made by May 1<sup>st</sup> of Each Year, as related to the Foregoing Actions
3. COUNCIL ITEMS AND COMMENTS
4. ADJOURNMENT



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Mayor

**Posting Date: January 26, 2023**

The City of Tracy is in compliance with the Americans with Disabilities Act and will make all reasonable accommodations for the disabled to participate in employment, programs and facilities. Persons requiring assistance or auxiliary aids in order to participate, should contact the City Manager's Office at (209) 831-6000 at least 24 hours prior to the meeting.

Agenda Item 2.A

RECOMMENDATION

**Adopt a Resolution Authorizing: 1) The Display of the Pan-African Flag in honor of Black History Month on the City Flagpole Located Outside of City Hall, for the Month of February, Each Year; 2) Use of City Resources to Conduct A One-Time Flag Ceremony on February 1, 2023; and 3) Waiver of the Requirement Set Forth in Section 2.3.1 of the City of Tracy Flag Policy that Requests be Made by May 1<sup>st</sup> of Each Year, as related to the Foregoing Actions**

EXECUTIVE SUMMARY

In June 2019, the City established a Flag Policy, which was last updated by Resolution 2021-052, that outlines the City's practice for display of flags at City facilities. Section 2.3.1 of the Flag Policy requires that a request to display a commemorative flag must be made by a City Council Member by May 1<sup>st</sup> of every year, and that such flag request must be approved by adoption of a resolution with a super majority vote (four-fifth vote). In addition, Section 2.3.5 of the Flag Policy requires that Councilmembers seeking to request a flag ceremony must make the request concurrently with the request to display the commemorative flag.

On January 19, 2021, the City Council adopted Resolution 2021-008, authorizing the display of the Pan-African Flag on the City flagpole located in front of City Hall from February 1 to March 1, 2021. In May 2021, the City Council authorized several commemorative flags for annual display. The Pan-African Flag was inadvertently omitted from the list. Upon learning of this oversight, Mayor Young made a request for the City Council to authorize the display, for the month of February each year, the Pan African flag. In addition, Mayor Young has requested the City Council to authorize a one-time flag ceremony to occur on February 1, 2023.

BACKGROUND AND LEGISLATIVE HISTORY

On June 18, 2019, the City Council adopted a policy, via Resolution No. 2019-138, on the display of flags at City facilities, including ceremonial or commemorative flags (Flag Policy). On October 20, 2019, Council amended the Flag Policy via Resolution No. 2019-199 and further amended it on May 4, 2021 via Resolution 2021-052.

The Flag Policy outlines the City's practice of displaying flags in accordance with federal and State law (Section 2.1) and allows the display of commemorative flags by City Council request only (Section 2.3). The Policy further declares that the City's flagpoles are not intended to serve as a forum for free expression by the public. As stated in Section 2.1, the City displays flags in front of public buildings in accordance with federal and State law which dictate, among other things, the positioning and placement of the United States, State and City flags; sizes of flags, and how flags should be handled. The Operations and Utilities Department is responsible for displaying flags in front of City buildings and follows the Flag Policy.

On July 7, 2020, the City Council directed staff to amend the Flag Policy to include language that allows City Council Members to annually request the use of City resources for a flag

ceremony to commemorate the raising of a ceremonial flag, if a ceremony was desired.

The current policy states Council must present requests to display a commemorative flag by May 1<sup>st</sup> of each year so that staff can ensure that sufficient funding for flags, staff time and other necessary resources are included in the City budget.

#### Ceremonial Flags Approved for Reoccurring Annual Display

At the July 16, 2019, City Council meeting, Council authorized the annual display of service flags for each branch of the then five (5) branches of US Armed Forces on their respective birthdays (Resolution No.2019-157). Subsequently, at Council's May 4, 2021 meeting, three (3) additional commemorative flags were approved for display for one day or more days<sup>1</sup> annually:

Month of June	LGBT Pride Flag (Reso No. 2021-055)
June 14 <sup>th</sup>	Army
June 19 <sup>th</sup>	Juneteenth (Reso No. 2021-054)
August 4 <sup>th</sup>	Coast Guard
September 18 <sup>th</sup>	Air Force
Last Sunday September	Gold Star Mothers and Family Day (Reso No. 2021-053)
October 13 <sup>th</sup>	Navy
November 10 <sup>th</sup>	Marine Corps

As noted above, in May 2021, the City Council authorized several commemorative flags for annual display, in perpetuity. The Pan-African Flag was inadvertently omitted from this list. Upon learning of this oversight, Mayor Young made a request for the City Council to authorize the display, for the month of February each year.

#### Historical Council Member Ceremonial Flag Requests

*Date/year-specific asks include:*

- June 4, 2019, the City Council authorized the display of the LGBT flag at City Hall on June 28, 2019 to commemorate the Stonewall Riots and LGBT Pride Month (Resolution No. 2019-105)
- May 19, 2020, the City Council authorized the display of the LGBT Pride Flag for the month of June 2020 to recognize LGBT Pride Month and on the day of the Tracy Pride Celebration held in fall 2020 (Resolution No. 2020-080)
- January 19, 2021, the City Council authorized the display of the Pan-African Flag for the month of February 2021 to commemorate Black History Month (no flag ceremony requested) (Resolution No. 2021-008)

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<sup>1</sup> Commemorative or ceremonial flags will be displayed for 24 hours if displayed during the normal City workweek. If the day of commemoration occurs on a weekend or city holiday, the flag will be posted on the last working day prior to the weekend or holiday and removed on the next normal City workday.

### ANALYSIS

In accordance with Section 2.3 of the Flag Policy, City flagpoles are not intended to be a forum for free expression by the public and City Council Members must present requests to display a commemorative flag by May 1<sup>st</sup> of every year. Furthermore, requests to display a commemorative or ceremonial flag must be approved by a supermajority vote (four-fifths) of the City Council.

At the January 19, 2021, City Council meeting, display of the Pan-African flag was discussed (Agenda Item 3.D) and approved for the month of February 2021. During Council discussion of the item, the then City Attorney opined that a request to display this flag would need to come back to Council each year. In May 2021, staff returned to Council with three additional flag requests that were discussed and approved for annual display. The Pan-African flag was not included in those requests. The Pan-African flag is the only flag that the Council has approved for display that has not subsequently been authorized for perpetual, annual display.

### FISCAL IMPACT

There is no significant fiscal impact related to this item. The administrative costs for the flag display and ceremony will be absorbed in the approved Budget.

### COORDINATION

Staff coordinated with the City Attorney's Office.

### STRATEGIC PLAN

This agenda item is a routine operational item that does not relate to the Council's Strategic Plans.

### ACTION REQUESTED OF THE CITY COUNCIL

That City Council Adopt a Resolution Authorizing:

- 1) The Display of the Pan-African Flag in honor of Black History Month on the City Flagpole Located Outside of City Hall, for the Month of February, Each Year;
- 2) Use of City Resources to Conduct A One-Time Flag Ceremony to Occur on February 1, 2023; and
- 3) Waiver of the Requirement Set Forth in Section 2.3.1 of the City of Tracy Flag Policy that Requests be Made by May 1<sup>st</sup> of Each Year, as related to the Foregoing Actions

Prepared by: Midori Lichtwardt, Assistant City Manager

Approved by: Michael Rogers, City Manager

### ATTACHMENTS

Attachment A - Policy for the Display of Flags at City Facilities, revised May 2021

RESOLUTION 2021-052

AMENDING THE COUNCIL POLICY FOR THE DISPLAY OF FLAGS AT CITY FACILITIES TO INCLUDE PROTOCOLS FOR THE PASSING OF CURRENT OR FORMER CITY COUNCIL MEMBERS

WHEREAS, The City of Tracy displays and handles all flags in accordance with Federal and State Law, and

WHEREAS, On June 18, 2019, the City Council adopted a policy via Resolution No. 2019-138 on the display of flags at City facilities, including ceremonial or commemorative flags (Flag Policy), and

WHEREAS, The Flag Policy was amended via Resolution No. 2019-199 and No. 2020-132 to address implementation issues, and

WHEREAS, On January 19, 2021, the Council directed staff to amend the Flag Policy to include protocols for the passing of current or former City Council Members, and

NOW, THEREFORE BE IT RESOLVED, that the City Council of the City of Tracy hereby amends the Flag Policy as follows:

Section 2.2. is hereby replaced in its entirety by the following language:

2.2 City Manager Authority. The City Manager is authorized to order the City flag be lowered to half-staff as listed below. The flag will be lowered as soon as practicable following notification of death and will remain lowered until interment or up to two weeks, whichever is shortest.

2.2.1 A City employee killed in the line of duty.


2.2.2 Death of a current or former City Council Member.”

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The foregoing Resolution 2021-052 was adopted by the Tracy City Council on the 4th day of May, 2021, by the following vote:

AYES: COUNCIL MEMBERS: ARRIOLA, BEDOLLA, DAVIS, VARGAS YOUNG  
NOES: COUNCIL MEMBERS: NONE  
ABSENT: COUNCIL MEMBERS: NONE  
ABSTAIN: COUNCIL MEMBERS: NONE

  
MAYOR

ATTEST:  
  
CITY CLERK

# POLICY FOR THE DISPLAY OF FLAGS AT CITY FACILITIES

Approved by Reso. No. 2019-199, Amended by Reso. No. 2020-132 and  
Resolution 2021-052

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## SECTION 1:            PURPOSE

The purpose of this policy is to establish clear guidelines regarding the display of the flags at City facilities.

## SECTION 2:            POLICY

2.1     Conformance with Federal and State Flag Regulations. Flags shall be displayed in accordance with federal and state regulations, including Title 4, Chapter 1 of the United States Code, and Sections 430 through 439 of the California Government Code.

2.2     City Manager Authority. The City Manager is authorized to order the City flag be lowered to half-staff as listed below. The flag will be lowered as soon as practicable following notification of death and will remain lowered until interment or up to two weeks, whichever is shortest.

2.2.1 A City employee killed in the line of duty.

2.2.2 Death of a current or former City Council Member.

## 2.3     Ceremonial or Commemorative Flags.

2.3.1 Non-Public Forum. The City's flagpoles are not intended to be a forum for free expression by the public. Ceremonial or commemorative flags shall be displayed as an expression of the City's official sentiments. A request to display a commemorative or ceremonial flag must be supported by two Council members in order to be agendaized for Council consideration. All requests to display commemorative flags must be listed as a "Regular Item" on a Council agenda. Council must present requests to display a commemorative flag by May 1<sup>st</sup> of every year. A Council resolution authorizing the display of a commemorative flag must be approved by a supermajority vote (four-fifths) of the City Council.

2.3.2. Commemorative flags shall only be displayed at City Hall and on the flagpole designated to display the City's flag. Commemorative or ceremonial flags shall be displayed concurrently with the City flag at second position (below the City flag).

2.3.3 Commemorative or ceremonial flags will be displayed for 24 hours if displayed during the normal City workweek. If the day of commemoration occurs on a weekend or City holiday, the flag will be posted on the last working day prior to the weekend or holiday and removed on the next normal City work day. The 24-hour period may also be extended up to month (a maximum of 31 days) if specified in the approving Council resolution. Saturdays, Sundays or City holidays shall not count towards the maximum 31-day display period.

2.3.4 The City will not display a commemorative or ceremonial flag based on a request from a third party, nor will the City use its flagpoles to sponsor the expression of a third party.

2.3.5 If Council Members want to also request a flag ceremony, such request must be made when requesting to display a commemorative flag in accordance with Section 2.3.1. Said flag ceremony shall consist of the following: publicity on the City's website and social media accounts, press release, and audio/visual support (podium with speaker and microphone, recording, and/or photography).

2.4 Implementation of Policy. The Public Works Director is responsible for ensuring the proper implementation of this Policy. The Public Works Director is further authorized to develop standard operating procedures consistent with this Policy.



TRACY CITY COUNCIL

RESOLUTION 2023-\_\_\_\_\_

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**AUTHORIZING: 1) THE DISPLAY OF THE PAN-AFRICAN FLAG IN HONOR OF BLACK HISTORY MONTH ON THE CITY FLAGPOLE LOCATED OUTSIDE OF CITY HALL, FOR THE MONTH OF FEBRUARY, EACH YEAR; 2) USE OF CITY RESOURCES TO CONDUCT A ONE-TIME FLAG CEREMONY ON FEBRUARY 1, 2023; AND 3) WAIVER OF THE REQUIREMENT SET FORTH IN SECTION 2.3.1 OF THE CITY OF TRACY FLAG POLICY THAT REQUESTS BE MADE BY MAY 1<sup>ST</sup> OF EACH YEAR, AS RELATED TO THE FOREGOING ACTIONS**

**WHEREAS**, The Tracy City Council has an adopted policy that governs the display of flags at City facilities, which was last amended via Resolution 2021-052 (Flag Policy); and

**WHEREAS**, The Flag Policy states that the City's flagpoles are not intended to be a forum for free expression by the public and display; and

**WHEREAS**, Section 2.3.1 of the Flag Policy requires Councilmembers to make requests for displays of commemorative flags, by May 1<sup>st</sup> of each year, and such requests must be approved by a supermajority vote (four-fifths) of the City Council; and

**WHEREAS**, The City Council of the City of Tracy wishes to commemorate Black History Month in the month of February by displaying the Pan-African Flag for the entire month in accordance with the City's Flag policy; and

**WHEREAS**, The display of the Pan-African Flag serves to express the City's official commemoration of Black History Month which is celebrated annually in February to recognize the contributions and struggles of the African American community in the United States; and

**WHEREAS**, On January 19, 2021, the City Council adopted Resolution 2021-008, authorizing the display of the Pan-African Flag on the City flagpole located in front of City Hall from February 1 to March 1, 2021; and

**WHEREAS**, In May 2021, the City Council authorized several commemorative flags for annual display, and the Pan-African Flag was inadvertently omitted from the list; and

**WHEREAS**, Upon learning of the oversight, Mayor Young made a request for the City Council to authorize the display, of the Pan-African flag each February, for the entire calendar month, in accordance with the City's Flag policy; and

**WHEREAS**, Mayor Young also requested that the City Council authorize the use of City resources to conduct a flag ceremony on February 1, 2023, in accordance with the City's Flag Policy, to celebrate Black History Month; therefore, be it

**RESOLVED:** that the City Council of the City of Tracy hereby waives, due to an inadvertent oversight, the requirement set forth in Section 2.3.1 that the requested flag display and ceremony for the Pan-African Flag have been made by May 1<sup>st</sup> of 2022, and be it further

**RESOLVED:** that the City Council hereby authorizes the display of the Pan-African Flag on the City flagpole located in front of City Hall every February to celebrate Black History Month; and be it further

**RESOLVED:** that the City Council hereby authorizes the use of City resources to conduct a one-time flag ceremony on February 1, 2023, in accordance with the City's Flag Policy, to celebrate Black History Month.

\* \* \* \* \*

The foregoing Resolution 2023-\_\_\_\_\_ was adopted by the Tracy City Council on the 30th day of January 2023, by the following vote:

AYES:	COUNCIL MEMBERS:
NOES:	COUNCIL MEMBERS:
ABSENT:	COUNCIL MEMBERS:
ABSTENTION:	COUNCIL MEMBERS:

\_\_\_\_\_  
NANCY D. YOUNG  
Mayor of the City of Tracy, California

ATTEST: \_\_\_\_\_  
ADRIANNE RICHARDSON  
City Clerk and Clerk of the Council of the  
City of Tracy, California