

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: **Tuesday, February 28, 2023, 7:00 p.m.**
(or as soon thereafter as possible)

Location: **City Council Chambers, 333 Civic Center Plaza, Tracy**

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.

Members of the public may participate remotely in the meeting via the following method.

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: 2550 293 2257** and **Event Password: TracyCC**
 - **If you would like to participate in the public comment anonymously**, you may submit your comment in WebEx by typing "Anonymous" when prompted to provide a First and Last Name and inserting Anonymous@example.com when prompted to provide an email address.
 - **Join by phone by dialing +1-408-418-9388, enter 25502932257#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.*
- **The total allotted time for public comment under "Items from the Audience/Public Comment" will be 15 minutes.**

1. CALL TO ORDER
2. ROLL CALL
3. ITEMS FROM THE AUDIENCE
4. DISCUSSION ITEM
 - 4.A. **Conduct a workshop to 1) Discuss Council's A) Code of Conduct and B) Meeting Protocols and Rules of Procedures, and 2) Determine whether either (or both) should be amended at a future Council meeting.**
5. COUNCIL ITEMS AND COMMENTS
6. ADJOURNMENT



Mayor

Posting Date: February 23, 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 4.A

REQUEST

CONDUCT A WORKSHOP TO 1) DISCUSS COUNCIL'S A) CODE OF CONDUCT AND B) MEETING PROTOCOLS AND RULES OF PROCEDURES, AND 2) DETERMINE WHETHER EITHER (OR BOTH) SHOULD BE AMENDED AT A FUTURE COUNCIL MEETING

EXECUTIVE SUMMARY

On October 15, 2019, the City Council adopted a Code of Conduct (Code) that outlines the norms and values to which this legislative body holds itself. The City Council has amended the Code several times since its adoption in 2019, and the current version of the Code is attached to this report as Attachment 1. These amendments addressed singular issues and did not change the remainder of the originally adopted Code. On November 5, 2019, the City Council adopted Meeting Protocols and Rules of Procedure (Protocols). The City Council has also amended the Protocols to address singular issues since their original adoption. The current version of the Protocols is attached to this report as Attachment 2.

This workshop is to enable a robust discussion of both the Code and the Protocols, to determine whether either (or both) should be amended at a future City Council meeting to address various issues of interpretation as well as omission that have been observed by the City Management team, City Attorney and Councilmembers.

DISCUSSION

Pursuant to best practices (and in accordance with authority granted by California Government Code section 36813), legislative bodies often adopt policies governing the roles and responsibilities of such bodies as well as norms and behaviors expected of the members serving on the bodies. These governance policies help to facilitate effective meetings, promote civility, and serve as a framework to guide a healthy working relationship between the legislative members and the staff serving the legislative bodies.

In June 2019, the San Joaquin County Civil Grand Jury issued a report on its investigation of the Tracy City Council and recommended the City Council adopt an ethics policy to guide its conduct. The City Council already had been discussing the need for an ethics policy prior to the release of the Grand Jury report and, on July 16, 2019, Council unanimously agreed to develop and adopt an ethics/code of conduct policy. Subsequently, on October 15, 2019, the City Council adopted the City Council's Code of Conduct. As noted above, the Code has been amended since its original adoption, most recently as 2021.

During Council's development of the Code, the then City Council expressed a desire to update the existing rules and procedures for preparing agendas and conducting meetings. These older rules had been last adopted in April 2015 and were referred to as the "Procedures for Preparation, Posting and Distribution of Agenda and the Conduct of Public Meetings". On November 5, 2019, the City Council replaced those older rules with the new Protocols. The Protocols were last amended in 2021.

This workshop is to enable a robust discussion of both the Code and the Protocols, to determine whether either (or both) should be amended at a future City Council meeting to address various issues of interpretation as well as omission that have been observed by the City Management team, City Attorney and Councilmembers. As these policy documents address a broad range of topic areas, staff is recommending that, in the interest of time, the workshop discussion be limited to a discrete and manageable list of topics. The anticipated list of topics is noted in the PowerPoint presentation listed as Attachment 3 to this staff report. As the presentation reflects, the topics proposed to be discussed generally relate to the definition of a “meeting”, how the agenda for a meeting is set, and the scope of parliamentary and procedural rules that apply during the conduct of a meeting. To guide the discussion, the presentation outlines applicable key statutes/rules set forth in the Brown Act, Rosenberg’s Rules of Order, Code and the Protocols for each identified topic area. Staff anticipates the workshop would conclude with concrete topics and/or amendments to be brought back for future Council consideration and adoption. As a part of this discussion, the City Manager and the City Attorney will provide specific recommendations for the City Council’s consideration.

Importantly, this workshop is a continuation of discussions that commenced at the City Council Annual Retreat that occurred on February 4-5, 2023 (Retreat). Due to time constraints, several of the topics were not discussed. The attached presentation notes which topics were discussed at the Retreat. While all of the topics are listed in the attached presentation, staff recommends the workshop discussion start with the last topic that was not fully discussed (agenda setting/publication) so that all of the topics can be covered within this scheduled workshop. In addition, the topics that are addressed or should be addressed by a separate Council-adopted policy, such as travel and flag flying, are not within the scope of this Council workshop.

STRATEGIC PLAN

This agenda item indirectly supports City Council’s Strategic Priority of Governance that encourages the development of good governance policies.

FISCAL IMPACT

This agenda item will have no fiscal impact on the City as no formal actions are being taken.

RECOMMENDATION

Conduct a workshop to 1) Discuss Council’s A) Code of Conduct and B) Meeting Protocols and Rules of Procedures, and 2) Determine whether either (or both) should be amended at a future council meeting.

Prepared by: Bijal M. Patel, City Attorney
Midori Lichtwardt, Acting City Manager

ATTACHMENTS

Attachment 1 – Code of Conduct
Attachment 2 – Meeting Protocols and Rules of Procedure
Attachment 3 – PowerPoint Presentation for Workshop

RESOLUTION 2021-146

AMENDING THE CITY COUNCIL CODE OF CONDUCT TO ADD LANGUAGE REQUIRING COUNCIL REPRESENTATIVES ON EXTERNAL BOARDS TO RECEIVE POLICY DIRECTION PRIOR TO FISCALLY OBLIGATING THE CITY VIA BOARD ACTION

WHEREAS, It is a best practice for City Councils to develop governance policies around roles and responsibilities, and norms and behaviors to ensure a shared understanding of the City Manager's role and Council's expectations to optimize working relationships, and

WHEREAS, On October 15, 2019, the Tracy City Council adopted a Code of Conduct that outlines the norms and values the City Council holds itself to as City elected officials, and

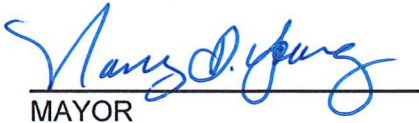
WHEREAS, On July 6, 2021 Council directed staff to amend its Code of Conduct to include the following language pertaining to Council representatives' authority to obligate the City when serving on a board, commission, committee or Joint Powers of Authority as a new section:

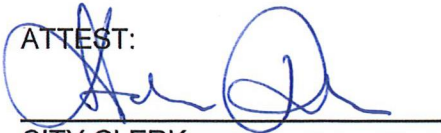
"3.4.9 When serving on external boards, commissions, subcommittees, or Joint Powers of Authorities, City Council representative must first obtain policy direction from Council on any fiscal matter that exceeds previously allocated budget(s), prior to obligating the City via board action."

NOW, THEREFORE, BE IT RESOLVED, That the City Council of the City of Tracy hereby amends the Code of Conduct to require Council Members serving on external boards, commissions, subcommittees, or Joint Powers of Authorities (JPA) to receive policy direction from City Council on fiscal matters in excess of previously allocated budgets, prior to obligating the City via board action.

The foregoing Resolution 2021-146 was passed and adopted by the Tracy City Council on the 19th day of October, 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



CITY COUNCIL CODE OF CONDUCT

Adopted on October 15, 2019 by Resolution No. 2019-203

Amended on July 21, 2020 by Resolution No. 2020-133

Amended on February 16, 2021 by Resolution No. 2021-017

Amended on October 19, 2021 by Resolution No. 2021-146

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- A. Tracy Municipal Code (TMC) 2.08.060
- B. Council Appointed Committees
- C. City Nepotism Policy
- D. City Personnel Rule 9.2 (d)
- E. Resolution No. 2004-152 - Board, Commission, Committee Vacancy, Selection, and Defining Residency Requirements, for Appointee Bodies
- F. Ordinance 1094
- G. Resolution No. 2007-075 – Council Travel Procedures

ATTACHMENT 1 – City Council Code of Conduct Norms and Values Statement

ATTACHMENT 2 – Council Advisory Body Norms and Values Statement

ATTACHMENT 3 - Code of Fair Campaign Practices

CHAPTER 1 FORM OF GOVERNMENT

1.1 Preamble

The legal responsibilities of the Tracy City Council are set forth by applicable state and federal laws. In addition, the City Council has adopted regulations, including this Code of Conduct Policy, that hold Council Members to standards of conduct above and beyond what is required by law. This Policy is written with the assumption that Council Members, through training, are aware of their legal and ethical responsibilities as elected officials.

1.2 Form of Government

The City of Tracy operates under a Council-Manager form of government as prescribed by the Tracy Municipal Code ("TMC"). Accordingly, the Mayor and members of the Council are elected at-large, provide legislative direction, set City policy, and ultimately answer to the public.

1.3 City Manager Appointment, Power and Duties

The City Manager is appointed by a majority vote of the Council and serves as the City's chief administrative officer and is responsible for directing the day-to-day operations of the City and implementing policy direction per Section 2.08.060 of the TMC (attached). Specifically, Section 2.08.070 of the TMC prohibits interference by either the City Council or any of its members with the City Manager's execution of their powers or duties:

- The Council nor a member shall interfere with the appointment by the City Manager of any of the department heads or any person to any office or employment.
- Additionally, the Council nor any of its members shall interfere with the City Manager's power to remove any of those persons.
- Neither the Council nor any of its members shall give orders to any subordinate of the City Manager, either publicly or privately.
- The City Council nor any of its members shall interfere with the administration of the City Attorney or give orders to the subordinates of the City Attorney.
- The City Manager and his/her senior staff shall conduct themselves in accordance with the International City Management Association (ICMA) Code of Ethics.

The Council and its members shall deal only with the City Manager with respect to the administrative services or operational matters of the City.

1.4 City Attorney Appointment and Responsibilities

The City Attorney is appointed by a majority vote of the Council. Per Section 12.08.40, the City Attorney is responsible for approving as to form all subdivision improvement agreements and security, deferred improvement agreements, liability agreements and insurance, and all governing documents for a community apartment project, condominium, stock cooperative, or conversion.

- The City Attorney and his/her senior staff shall at all times conduct themselves in accordance with the California Rules of Professional Conduct, established by the California State Bar, and the Ethical Principles for City Attorneys, adopted by the League of California Cities' City Attorneys Department.

CHAPTER 2
COUNCIL POWERS AND RESPONSIBILITIES

2.1 City Council Generally

- 2.1.1 The City Council has the power, in the name of the City, to do and perform all acts and things appropriate to a municipal entity and the general welfare of its inhabitants, which are not specifically prohibited by the constitution, and/or State or Federal laws.
- 2.1.2 The Council acts as a body. Council policy and directives are established by majority vote, unless otherwise required by state law. A decision of the majority binds the Council to a course of action.
- 2.1.3 No Council Member has extraordinary powers beyond those of other members (except as may otherwise be provided in State law). All members, including the Mayor, have equal powers.
- 2.1.4 No member of the Council is permitted to hold any other City office or City employment.
- 2.1.5 Council Members are appointed by the Council body to serve on various committees, including Council standing and ad hoc committees, and third agency member committees.
- 2.1.6 Based on available resources as determined by the City Manager, unless directed by the City Council, the Council as a body may participate in public relations activities regarding issues or topics pertaining to City business or that affect the community at-large. This may include, but is not limited to the dissemination of information via press release, video, social media, and/or other means of communication.

2.2 Mayor and Mayor Pro Tem - Appointment, Power, and Duties

- 2.2.1 The Mayor is directly elected by the voters to serve a two-year term. The selection of the Mayor Pro Tem occurs every two years in December

after the City receives the certified results from the County Registrar of Voters electing a Mayor.

2.2.2 A Mayor Pro Tem is appointed by the Council and can be replaced at any time by a majority vote of the Council.

2.2.3 The Mayor is the presiding officer of the City Council. In the Mayor's absence, the Mayor Pro Tem shall perform the duties of the Mayor.

2.2.4 The Mayor is the official head of the City for all ceremonial purposes.

2.2.5 Per Government Code, the Mayor, with the approval of the City Council, shall (a) execute official documents (Section 40602b) and (b) make appointments to city boards, commissions, and committees unless otherwise specifically provided by statute (Section 40605).

2.2.6 The Mayor is authorized to send letters stating the City's official position to appropriate legislators as long as it is consistent with the Council's Legislative Policy.

2.2.7 The Mayor may perform other duties consistent with the mayoral office as prescribed by the Tracy Municipal Code, California Government Code, or as determined by the Council.

2.2.8 The Mayor does not possess any power of veto.

2.2.9 The Mayor coordinates with the City Manager in the development of agendas for meetings of the City Council. Once the agenda is published, the City Manager may withdraw an item. Additionally, the Mayor may rearrange the order of business on the agenda.

2.3 Council Actions

2.3.1 Legislative actions by the City Council can be taken by means of ordinance, resolution, or minute action (motion) duly made and passed by the majority (unless otherwise required).

2.3.2 Under Council protocols and procedures, an item may be placed on the agenda if requested by two Council Members. The request can be made during open session or outside of a Council meeting.

2.3.3 Public actions of the Council are recorded in the minutes of the City Council meeting. The City Clerk is required to make a record only of business actually passed upon by a vote of the Council and is not required to record any remarks of Council Members, except at the special request of a Council Member and with the consent of the Council.

2.3.4 Actions of the Council concerning confidential property, personnel, and/or legal matters of the City are to be reported consistent with State law.

2.4 Council Member Committees

2.4.1 The City Council may organize itself into standing and/or special/ ad hoc subcommittees to facilitate Council review of policy matters and action.

2.4.2 The Council may create or dissolve standing and/or special/ad hoc sub committees at any time by an affirmative vote of a majority of the Council. The Council will endeavor to rotate appointments to standing and ad hoc standing committees to ensure equitable participation.

2.4.3 The Council appoints and removes members to standing and ad hoc committees.

2.4.4 The Council also appoints and removes Council Members to third member agencies.

2.4.5 It is a best practice for non-appointed Council Members not to attend Council standing Committees to avoid the appearance of impropriety.

CHAPTER 3
LEGAL AND ETHICAL STANDARDS

3.1 Preamble

The residents and businesses of Tracy are entitled to have fair, ethical, and accountable local government. Such a government requires that public officials:

- Comply with both the letter and the spirit of the laws and policies affecting operations of the government;
- Be independent, impartial, and fair in their judgment and actions;
- Use their public office for the public good, not for personal gain; and
- Conduct public deliberations and processes openly, unless legally confidential, in an atmosphere of respect and civility.

To this end, the Tracy City Council has adopted this Code of Conduct and the Norms and Values Statement (Attachment) to encourage public confidence in the integrity of local government and its fair and effective operation.

3.2 Public Interest

3.2.1 Recognizing that stewardship of the public interest must be their primary concern, Council Members shall work for the common good of the people of Tracy and not for any private or personal interest. Council Members must endeavor to treat all members of the public and issues before them in a fair and equitable manner.

3.2.2 Council Members shall comply with the laws of the nation, the State of California, and the City in the performance of their public duties. These laws include, but are not limited to: the United States and California constitutions; the Tracy Municipal Code; laws pertaining to conflicts of interest, election campaigns, financial disclosures, employer responsibilities, and open processes of government; and City ordinances and policies.

3.3 Conduct

- 3.3.1 Council Members shall refrain from abusive conduct, personal charges, or verbal attacks upon the character or motives of other members of the City Council, boards, commissions, committees, staff, or the public.
- 3.3.2 Council Member duties shall be performed in accordance with the processes and rules of order established by the City Council.
- 3.3.3 Council Members shall inform themselves on public issues, listen attentively to public discussions before the body, and focus on the business at hand.
- 3.3.4 Council decisions shall be based upon the merits and substance of the matter at hand.
- 3.3.5 It is the responsibility of Council Members to publicly share substantive information that is relevant to a matter under consideration that they have received from sources outside of the public decision-making process with all other Council Members and the public prior to taking action on the matter.
- 3.3.6 Council Members shall not attend internal staff meetings or meetings between City staff and third parties unless authorized by the City Manager.
- 3.3.7 Policy Role
 - 3.3.7.1 Council Members shall respect and adhere to the Council-Manager structure of the Tracy City government as provided in State law and Tracy Municipal Code.

3.3.7.2 Council Members shall support the maintenance of a positive and constructive environment for residents, businesses, and City employees.

3.3.8 Campaign Activities. The Tracy City Council strongly encourages its members and City Board and Commission members to abide by the highest ethical standards and best practices relating to campaign activities to ensure that City elections promote decency, honesty and fair play. To that end, all candidates seeking elected office within the City of Tracy, including their official campaign representatives, are urged and encouraged to sign and comply with the Code of Fair Campaign Practices. (Attachment 3) A candidate's signed Code of Fair Campaign Practices shall be posted on the City's Elections Document webpage within three (3) business days of execution. (Reso No. 2021-017)

3.3.8.1 City staff shall send a copy of all notices (e.g. emails) sent to candidates relating to non-compliance with the TMC election sign restrictions to the entire City Council and all other candidates. (Reso No. 2021-017)

3.3.9 Implementation

3.3.9.1 This Code of Conduct shall be included in the regular orientations for City Council candidates. Current Council Members, including those entering office upon election shall sign a City Council Norms and Values Statement (**Attachment 1**) affirming they have read and understand this Tracy City Council Code of Conduct.

3.4 Conflict of Interest

3.4.1 In order to assure their independence and impartiality on behalf of the public good, Council Members are prohibited from using their official positions to influence government decisions in which they have a financial interest or where they have an organizational responsibility or a personal relationship that would present a conflict of interest under applicable State law.

3.4.2 In accordance with State law, Council Members must file an annual written disclosure (Form 700) of their economic interests.

- 3.4.3 Council Members shall not take advantage of services or opportunities for personal gain by virtue of their public office that are not available to the public in general.
- 3.4.4 Council Members shall respect and preserve the confidentiality of information provided to them concerning the confidential matters of the City. They must neither disclose confidential information without proper legal authorization nor use such information to advance the personal, financial, or private interests of themselves or others.
- 3.4.5 City Council Members should avoid any action that could be construed as, or create the appearance of, using public office for personal gain, including use of City stationery or other City resources to obtain or promote personal business or political campaigns.
- 3.4.6 Public resources not available to the general public (e.g., City staff time, equipment, supplies, or facilities) shall not be used by Council Members for private gain and, personal and political purposes.
- 3.4.6.1 A mass communication using City resources shall not be sent within the 60 days preceding an election that feature a currently elected or appointed official of the City of Tracy whose name will appear on the ballot at that election. When no currently elected or appointed official is otherwise designated during the 60 days preceding an election, communication of official matters shall be made by the City Manager or designee.
- 3.4.7 In keeping with their role as stewards of the public interest, Council Members shall not appear on behalf of the private interests of a third party before the City Council or any board, commission, or committee or proceeding of the City, except as permitted by law.
- 3.4.8 To the best of their ability, Council Members shall represent the official policies and positions of the City Council. When presenting their personal opinions or positions publicly, members shall explicitly state they do not represent the Council or the City.
- 3.4.9 When serving on external boards, commissions, subcommittees, or Joint Powers of Authorities, City Council representatives must first obtain policy direction from Council on any fiscal matter that exceeds previously allocated budget(s), prior to obligating the City via board action.

3.4.10 Tracy City Municipal Code Provisions

3.4.10.1 Financial Interests in City Contracts Prohibited.

Section 2.04.050 of the Municipal Code prohibits members of the Council, appointed employees, the City Treasurer and members of City boards and commissions during their term of office, to contract or subcontract with the City.

Section 2.04.050 also requires a City Council Member to recuse (as defined by the Fair Political Practices Commission) themselves from any vote regarding any Memorandum of Understanding between the City and any lawfully recognized bargaining unit in which a City Council member has an immediate family member. "Immediate family member" is defined as "any and/or all spouses, partners or adult children, whether they live in a single household or not" under this section of the TMC.

3.4.10.2 Nepotism.

The City of Tracy's Nepotism Policy prohibits the initial appointment of an individual to a position within the City of Tracy who has a marital or familial relationship, as defined in Section 4 of the Policy, with any member the City Council, City Manager, or City Attorney.

3.4.10.3 Use of City Property for Private Purposes by City Official/ Employee.

The use for private gain or advantage of City time, facilities, equipment and supplies, prestige, influence, or information obtained through one's City office or employment. No City-owned facilities, equipment or supplies, including autos, trucks, instruments, tools, supplies, machines, badges, identification cards, or other items which are the property of the City shall be used by an employee for personal or non-City business reasons except upon prior written approval of the City Manager. (City Personnel Rule 9.2 (d))

3.4.10.4 Political Activities Prohibited; Discrimination.

For informational purposes, the following provisions apply to City and contract employees and consultants:

1. No employee shall, while in uniform or during the employee's working hours, take an active part in any municipal or other political campaign.
2. No employee shall, while in uniform or during the employee's work hours, seek or accept contributions for or against a candidate or issue.
3. An employee may not seek or accept signatures to any petition for or against any such candidate or issue during their work hours.
4. No person in the classified service shall be employed, promoted, demoted, or discharged or in any way favored or discriminated against because of political opinions or affiliations or on any other basis protected by state and/or federal law.

3.4.11 California State Law Regarding Conflicts

While not enforceable by the City, there are four key areas of California State law that regulate the ethics of public officials.

3.4.11.1 Constitutional prohibitions

State law strictly forbids elected and appointed public officials from accepting free or discounted travel from

transportation companies. The penalty for a violation includes the forfeiture of office.

3.4.11.2 Contractual conflicts of interest

This prohibition, found in Government Code Section 1090, applies to elected and appointed officials as well as other City staff members. It prohibits the City from entering into a contract if one of its members (i.e., a Council Member) is financially interested in the contract. If the bar (or prohibition) applies, the agency is prohibited from entering into the contract whether or not the official with the conflict participates or not. In some limited circumstances, officials are allowed to disqualify themselves from participation and the agency may enter into the contract.

Financial interest has been defined to include employment, stock/ ownership interests, and certain membership on the board of directors of a for-profit or nonprofit corporation, among others. Violations can be charged as a felony. A person convicted of violating Section 1090 is prohibited from ever holding public office in the State.

3.4.11.3 Political Reform Act - Conflicts of Interest

The Political Reform Act (PRA) was adopted by the voters in 1974 and is the primary expression of the law relative to conflicts of interest (and campaign finance) in California. The Act created the Fair Political Practices Commission (FPPC), a five-member State board which administers the Act.

The Act and the regulations are complex and are continuously subjected to official interpretation. The following synopsis of key parts of the Act will be helpful in spotting issues; however, the FPPC and/or City Attorney should be consulted for further advice and clarification.

With respect to conflicts of interest, the FPPC has promulgated a regulation which establishes an analysis which assists in determining whether a public official is participating in a government decision in which they have a qualifying financial interest and whether it is reasonably foreseeable that the decision will have a material financial effect on the public official's financial interest, which is distinguishable from the effect the decision will have on the public generally.

3.4.11.3.1 Political Reform Act-Enforcement

The FPPC can assess administrative fines and penalties for violation of the Act. The District Attorney and the State Attorney General may prosecute violators as civil or criminal matters. Violators may also be removed from office pursuant to Government Code Section 3060.

3.4.11.4 Common Law Conflicts of Interest

This is the judicial expression of the public policy against public officials using their official position for private benefit. An elected official bears a fiduciary duty to exercise the powers of office for the benefit of the public and is not permitted to use those powers or their office for the benefit of any private interest. This common law doctrine continues to survive the adoption of various statutory expressions of conflict law.

3.4.11.5 Appearance of Impropriety

When participation in action or decision-making as a public official does not implicate the specific statutory criteria for conflicts of interest; however, participation still does not "look" or "feel" right, that public official has probably encountered the appearance of impropriety.

For the public to have faith and confidence that government authority will be implemented in an even-handed and ethical manner, public officials may need to step aside even though no technical conflict exists. An example is where a long-term nonfinancial affiliation exists between the public official and an applicant or the applicant is related by blood or marriage to the official. For the good of the community, members who encounter the appearance of impropriety should step aside.

3.5 AB 1234-Required Ethics Training

AB 1234 requires elected or appointed officials who are compensated for their service or reimbursed for their expenses to take two hours of training in ethics principles and laws every two years. Those who enter office after January 1, 2006 must receive the training within a year of starting their service. They must then receive the training every two years after that.

The training must cover general ethics principles relating to public service and ethics laws including:

- Laws relating to personal financial gain by public officials (including bribery and conflict of interest laws);
- Laws relating to office-holder perks, including gifts and travel restrictions, personal and political use of public resources, and prohibitions against gifts of public funds;
- Governmental transparency laws, including financial disclosure requirements and open government laws (the Brown Act and Public Records Act); Laws relating to fair processes, including fair contracting requirements, common law bias requirements, and due process

NOTE: State laws governing conflicts of interest are written to ensure that actions are taken in the public interest. These laws are very complex. Council Members should consult with the City Attorney, their own attorney, or the Fair Political Practices Commission for guidance in advance.

3.6 Code of Conduct Compliance and Enforcement

Consistent with this oath is the requirement of this Council policy to comply with the laws as well as report violations of the laws and policy of which they become aware.

- 3.6.1 A request for censure of a member of the Council may be submitted to the City Manager by any member of the Council ("Initiating Member"), with the support of another Council member ("Seconding Member"). Censure is a formal statement or resolution by the Council officially reprimanding a Council Member for conduct that may include sanctions. It is the intent of the Council that a request for censure be used only for significant and/or repeated violations of this Code of Conduct and not a means to address politically or personally motivated disagreements amongst Council.

The request shall contain the specific charges on which the proposed censure is based. The City Manager shall deliver a copy of the request for censure and the charges to each member of the Council at least 72 hours after receipt of the request. The request for censure shall first be considered by a neutral mediator selected by the Presiding Judge of the Superior Court of California of the County of San Joaquin. The neutral mediator shall conduct an investigation and prepare a written analysis of the allegation and their preliminary findings and recommendation. Said investigation shall, at a minimum, include interviews with the Initiating Member and the member who is the subject of the request. The neutral mediator's recommendation shall be to: (a) set the matter for a censure hearing and whether censure is warranted or (b) no further action should be taken with respect to the request. The neutral mediator shall present its recommendation to the Council for its consideration and action within thirty (30) days of completing their investigation.

- 3.6.1.1 The censure request shall be agendized at the next regular Council meeting following receipt of the neutral mediator's written findings and recommendation. Council shall determine whether or not to accept the neutral mediator's recommendation. If the Council decides to set the matter for a censure hearing, it shall schedule it no sooner than two weeks after its determination to hear the matter. It may not schedule the matter during any previously scheduled excused absence of the subject Council Member. Written notice of the hearing shall be delivered in person to the member of the Council subject to the censure hearing at least ten (10) days in advance of the scheduled hearing. If the Council decides that no further action is required, Council may also request the

Initiating Member either reimburse the City the cost of the neutral mediator's services from personal funds (not campaign funds), not to exceed \$2,500, or forgo a month's salary as Council Member. A report regarding the Initiating Member's compliance with that request shall be presented to Council within sixty (60) days of that request.

3.6.1.2 At the censure hearing, the member of the Council who is the subject of the request for censure shall be given the opportunity to make an opening and a closing statement, to call witnesses on their behalf and to question their accusers. The member subject to the charges may be represented by a person or persons of their choice whether or not an attorney at law and may have that representative speak or question witnesses on their behalf. The questioning or cross-questioning of witness may be reasonably limited by the person chairing the hearing.

3.6.1.3 Testimony shall be taken only from witnesses having direct knowledge of facts or circumstances relevant to the specific charges under consideration. However, the rules of evidence and judicial procedure applicable in courts of law shall not be applied to this hearing, and the procedures shall be generally informal.

3.6.2 At the discretion of the Council, sanctions may be imposed as a result of a censure. These sanctions may be applied individually or in combination. They include, but are not limited to:

3.6.2.1 Public Admonishment - —A reproof or verbal warning directed to a Council Member about a particular type of behavior that violates City policy.

3.6.2.2 Revocation of Special Privileges —A revocation of a Council Member's Council Committee assignments, such as standing and ad hoc committees, regional boards and commissions, and other board/committee appointments. Other revocations may include temporary suspension of official travel, conference participation, and ceremonial titles.

3.6.3 Nothing in this Section shall limit Council's ability to informally address conduct considered to be not significant or a minor violation of this Code, which may include informal counseling from one Council member to another, and a Council member to a Council advisory body member.

CHAPTER 4 COMMUNICATIONS

4.1 Relationship/Communications with Staff

Staff serves the City Council as a whole, therefore:

- 4.1.1 A Council Member shall not direct staff in person or in writing to initiate any action, change a course of action, or prepare any report. A Council Member shall not initiate any project or study without the approval of the majority of the Council.
- 4.1.2 Requests for information and corresponding responses made by Council Members will be shared with the full Council.
- 4.1.3 Council Members shall not attempt to pressure or influence discussions, recommendations, workloads, schedules, or department priorities without first consulting with the City Manager and obtaining the approval of a majority of the Council.
- 4.1.4 When preparing for Council meetings, Council Members should direct questions ahead of time to the City Manager so that staff can provide the desired information at the Council meeting.
- 4.1.5 Any concerns by a member of the City Council regarding the behavior or work of a City employee should be directed to the City Manager privately to ensure the concern is resolved. Council Members shall not reprimand employees directly nor should they communicate their concerns to anyone other than the City Manager.
- 4.1.6 Council Members may direct routine inquiries to either the City Manager or appropriate department head.
- 4.1.7 Council Members serving on Council committees or as the City's representative to an outside agency may interact directly with City staff assigned to that effort as the City Manager's designee. The City

staff member so designated and assigned will keep the City Manager appropriately informed.

4.2 Council Relationship/Communication with Council Advisory Bodies

4.2.1 Council Members shall not attempt to pressure or influence board, commission, or committee decisions, recommendations, or priorities absent the approval of the majority of the Council.

4.2.2 It is a best practice that Council Members refrain from attending Board, Commission, and/or Committee meetings to avoid the appearance of impropriety.

4.3 Handling of Litigation and Other Confidential Information

4.3.1 All written materials and verbal information provided to Council Members on matters that are confidential and/or privileged under State law shall be kept in complete confidence to ensure that the City's position is not compromised. No disclosure or mention of any information in these materials may be made to anyone other than Council Members, the City Attorney, or City Manager.

4.3.1.1 Confidential materials provided in preparation for and during Closed Sessions shall not be retained and documents must be returned to staff at the conclusion of the Closed Session.

4.3.1.2 Council Members may not request confidential written information from staff that has not been provided to all Council Members.

4.4 Representing an Official City Position

4.4.1 City Council Members may use their title only when conducting official City business, for information purposes, or as an indication of background and expertise, carefully considering whether they are exceeding or appearing to exceed their authority.

- 4.4.2 Once the City Council has taken a position on an issue, all official City correspondence regarding that issue will reflect the Council's adopted position.
- 4.4.3 The Mayor is authorized to send letters on City letterhead stating the City's official position to appropriate legislators as long as it is consistent with the Council's Legislative Policy.
- 4.4.4 City letterhead may be used by Council Members only for official City business and/or to represent a policy action taken by the Council body.
- 4.4.5 If a member of the City Council appears before another governmental agency organization to give a statement on an issue affecting the City, the Council Member should indicate the majority position and opinion of the Council.
- 4.4.6 Personal opinions and comments may be expressed only if the Council Member clarifies that these statements do not reflect the official position of the City Council.

4.5 Quasi-Judicial Role/*Ex Parte* Contacts

The City Council has a number of roles. It legislates and makes administrative and executive decisions. The Council also acts in a quasi-judicial capacity or "like a judge" when it rules on various permits, licenses, and land use entitlements.

In this last capacity, quasi-judicial, the Council holds a hearing, takes evidence, determines what the evidence shows, and exercises its discretion in applying the facts to the law shown by the evidence. It is to these proceedings that the rule relative to *ex parte* contacts applies.

- 4.5.1 *Ex Parte* Contacts/Fair Hearings. The Council shall refrain from receiving information and evidence on any quasi-judicial matter while such matter is pending before the City Council or any agency, board, or commission thereof, except at the public hearing.

As an elected official, it is often impossible to avoid such contacts and exposure to information. Therefore, if any member is exposed to information or evidence about a pending matter outside of the public hearing, through contacts by constituents, the applicant or through site visits, the member shall disclose all such information and/or evidence acquired from such contacts, which is not otherwise included in the written or oral staff report, during the public hearing, and before the public comments period is opened.

Matters are "pending" when an application has been filed. Information and evidence gained by members via their attendance at noticed public hearings before subordinate boards and commissions are not subject to this rule.

4.6 No Attorney-Client Relationship

Council Members who consult the City Attorney, their staff, and/or attorney(s) contracted to work on behalf of the City cannot enjoy or establish an attorney-client relationship with said attorney(s) by consulting with or speaking to same. Any attorney-client relationship established belongs to the City, acting through the City Council, and as may be allowed in State law for purposes of defending the City and/or the City Council in the course of litigation and/or administrative procedures, etc.

CHAPTER 5 COUNCIL ADVISORY BODIES

5.1 Boards, Commissions, and Committees Generally

- 5.1.1 The Tracy Municipal Code establishes a Planning Commission to advise the Council on land use matters (Chapter 10.04) and a Parks and Community Services Commission (Chapter 7.16)
- 5.1.2 The rules of procedure and code of conduct that govern the City Council apply with equal force to all Council advisory boards and commissions.
- 5.1.3 The City Council may also establish by ordinance or resolution, boards, commissions, and committees to assist the Council in making its policy decisions. The City Council has the inherent power to create advisory bodies.
- 5.1.4 City boards, commissions, and committees (collectively "Council advisory bodies") provide policy recommendation to Council; they do not set or establish City policy or provide administrative direction to City staff.
- 5.1.5 City boards, commissions, and committees are advisory in nature and therefore do not represent City's official position on city matters.
- 5.1.6 Appointments to boards, commissions, and committees are made by a majority vote of the Council. Appointees to Council advisory bodies serve at the pleasure of the City Council.
- 5.1.7 The terms "board" and "commission" can be used interchangeably. Boards and commissions typically have broader policy and advisory responsibilities than committees which typically have much more focused advisory roles to the Council.

5.2 Board, Commission, and Committee Organization and Conduct

- 5.2.1 Annually, each board, commission, and committee elects one of their members to serve as the chair (presiding officer) and vice-chair.
- 5.2.2 Boards, commissions, and committees hold regular and special meetings as required. The conduct of board, commission, and committee meetings are governed by the same rules of policy and procedure as the City Council.
- 5.2.3 Boards, commissions, and committees should comply with all applicable open meeting and conflict-of-interest laws of the State.
- 5.2.4 Upon appointment or reappointment, Council advisory body members shall sign a Council Advisory Body Norms and Values statement (**Attachment 2**) affirming they have read and understand this City of Tracy City Council Code of Conduct.

5.3 Board, Commission, and Committee Appointments

- 5.3.1 Resolution No. 2004-152 establishes the board, commission, and committee appointment/selection process and requirements for residency.
- 5.3.2 The term of office for each board, commission, or committee member is 4 years, with the exception of the Measure V Residents' Oversight Committee which is 3 years.
- 5.3.3 The City Clerk provides application forms, maintains a listing of all applications received, and solicits applications when vacancies occur.

5.4 Boards, Commissions, and Committees- Vacancy and Selection/Appointment Processes

- 5.4.1 Resolution No. 2004-152 outlines procedures for filling a board, commission or committee vacancy and selection and appointment process. The Council appoints all City boards, commissions, and committee members.

5.4.2 Resignations may be submitted at any time to the City Council either directly or through the board, commission, or committee chair. Resignations are effective upon submittal.

5.5 Boards, Commissions, and Committees - Removal

A board member, commissioner, or committee member serves at the pleasure of the Council and may be removed at any time. The removal of a planning commission member must comply with TMC Section in accordance with the applicable procedure.

CHAPTER 6 COUNCIL FINANCIAL MATTERS

6.1 Compensation

6.1.1 Pursuant to Ordinance No. 1094, the Tracy Mayor and City Council receive a monthly salary. The amount is the salary limit established by the State Legislature for members of the City Council of general law cities having a population range within which the City of Tracy falls, as specified in California Government Code Section 36516(a).

6.1.2 The salary of the Mayor and City Council should be reviewed every two years.

6.2 Benefits

6.2.1 The California Government Code provides that Council Members may receive City-funded health, retirement, and other benefits. City-funded medical, dental, and life insurance plan benefits are provided. The Council Policy Providing City Paid Health Insurance for City Treasurer, City Clerk, and City Council, adopted by Resolution No. 2003-391, states that an elected official is not eligible for City-funded health benefits if the official or the official's spouse has employer-paid health insurance.

6.3 City Council Budget and Expenses

6.3.1 City Council Resolution No. 2007-075 provides policy guidance regarding Council expenditures for equipment, supplies and communications; travel; local expenses; and eligible reimbursements.

CITY OF TRACY CITY COUNCIL
NORMS AND VALUES STATEMENT

PREAMBLE

The residents and businesses of Tracy are entitled to have fair, ethical, and accountable local government. Such a government requires that public officials:

- Comply with both the letter and the spirit of the laws and policies affecting operations of the government.
- Be independent, impartial and fair in their judgment and actions.
- Use their public office for the public good, not for personal gain.
- Conduct public deliberations and processes openly, unless legally confidential, in an atmosphere of respect and civility.

To this end, the Tracy City Council has adopted a Code of Conduct to encourage public confidence in the integrity of local government and its fair and effective operation.

City Council Members shall sign this Norms and Values statement upon assuming office and upon reelection to office as a symbol of each Council Member's continuing commitment to abide by the principles of this code.

1. Act in the Public Interest

Recognizing that stewardship of the public interest must be their primary concern, Council Members shall work for the common good of the people of Tracy and not for any private or personal interest, and they will endeavor to treat all persons, claims, and transactions in a fair and equitable manner.

2. Comply with the Law

Council Members shall comply with the laws of the nation, the State of California, and the City in the performance of their public duties. These laws include, but are not limited to: the United States and California constitutions;

the Tracy City Municipal Code; laws pertaining to Council-Manager form of government, conflicts of interest, election campaigns, financial disclosures, employer responsibilities, and open processes of government; and City ordinances and policies.

3. Conduct of Members

Council Members shall refrain from abusive conduct, personal charges, or verbal attacks upon the character or motives of other members of the City Council, boards, commissions, committees, staff, or the public.

4. Respect for Process

Council Member duties shall be performed in accordance with the processes and rules of order established by the City Council.

5. Conduct of Public Meetings

Council Members shall inform themselves of public issues, listen attentively to public discussions before the body, and focus on the business at hand.

6. Decisions Based on Merit

Council decisions shall be based upon the merits and substance of the matter at hand.

7. Communication

It is the responsibility of Council Members to share substantive information that is relevant to a matter under consideration that they have received from sources outside of the public decision-making process with all other Council Members.

8. Coordination with City Staff

Appropriate City staff should be involved when Council Members meet with officials from other agencies and jurisdictions to ensure proper staff support as needed and to keep staff informed.

9. Disclosure of Corruption

All City officials shall take an oath upon assuming office, pledging to uphold the constitution and laws of the City, the State, and the Federal government. As part of this oath, officials commit to disclosing to the appropriate authorities and/or to the City Council any behavior or activity that may qualify as corruption, abuse, fraud, bribery, or other violation of the law.

10. Conflict of Interest

In order to assure their independence and impartiality on behalf of the public good, Council Members shall not use their official positions to influence government decisions in which they have a financial interest or where they have an organizational responsibility or a personal relationship that would present a conflict of interest under applicable State law.

In accordance with the law, members shall file written disclosures of their economic interests and if they have a conflict of interest regarding a particular decision, refrain from participating in that decision unless otherwise permitted by law.

11. Gifts and Favors

Council Members shall not take advantage of services or opportunities for personal gain by virtue of their public office that are not available to the public in general. They shall refrain from accepting gifts, favors, or promises of future benefits that might compromise their independence of judgment or action or give the appearance of being compromised.

12. Confidential Information

Council Members shall respect and preserve the confidentiality of information provided to them concerning the confidential matters of the City. They shall neither disclose confidential information without proper legal authorization nor use such information to advance their personal, financial, or private interests.

13. Use of Public Resources

Public resources not available to the general public (e.g., City staff time, equipment, supplies, or facilities) shall not be used by Council Members for private gain or personal and/or campaign purposes.

14. Representation of Private Interests

In keeping with their role as stewards of the public trust, Council Members shall not appear on behalf of the private interests of a third-party before the City Council or any board, commission, or committee or proceeding of the City.

15. Advocacy

To the best of their ability, Council Members shall represent the official policies and positions of the City Council. When presenting their personal opinions or positions, members shall explicitly state that they do not represent the Council or the City.

16. Improper Influence

Council Members shall refrain from using their position to improperly influence the deliberations or decisions of City staff, boards, commissions, or committees.

17. Policy Role of Members

Council Members shall respect and adhere to the Council-Manager structure of Tracy City government as provided in State law and the City Municipal Code.

18. Positive Work Environment

Council Members shall support the maintenance of a positive and constructive environment for residents, businesses, and City employees.

19. Implementation

Ethics standards shall be included in the regular orientations for City Council candidates. Council Members entering office shall sign a statement affirming they read and understood the City of Tracy's City Council Code of Conduct.

20. Campaign Activities.

Council Members who seek elected office within the City shall endeavor to conduct their campaign activities in a manner that promotes decency, honesty and fair play and in accordance with the Code of Fair Campaign Elections Code (Section 20400 et seq.).

21. Compliance and Enforcement

Council Members themselves have the primary responsibility to assure that ethical standards are understood and met and that the public can continue to have **full** confidence in the integrity of City government.

This City Council Norms and Values statement shall be considered to be a summary of the longer City Council Code of Conduct document. The City Council Code of Conduct document shall be considered to be the definitive document relating to ethical conduct by Tracy City Council Members.

I affirm that I have read and understand the City of Tracy City Council Norms and Values statement.

Signature

Date

CITY OF TRACY
COUNCIL ADVISORY BODY
NORMS AND VALUES STATEMENT

PREAMBLE

The residents and businesses of Tracy are entitled to have fair, ethical, and accountable local government. Such a government requires that public officials, including Council advisory body members:

- Comply with both the letter and the spirit of the laws and policies affecting operations of the government.
- Be independent, impartial, and fair in their judgment and actions.
- Use their public office for the public good, not for personal gain.
- Conduct public deliberations and processes openly, unless legally confidential, in an atmosphere of respect and civility.

To this end, Council advisory body members are expected to adhere to the Code of Conduct adopted by the Tracy City Council to encourage public confidence in the integrity of local government and its fair and effective operation.

Council advisory body members shall sign this Norms and Values statement at the first meeting of the board, commission, or committee upon assuming office and, if applicable, upon reappointment to the board, commission, or committee as a symbol of each Council advisory body member's commitment to abide by the principles of this code during their term.

1. Act in the Public Interest

Recognizing that stewardship of the public interest must be their primary concern, Council advisory body members shall work for the common good of the people of Tracy and not for any private or personal interest, and they will endeavor to treat all persons, claims, and transactions in a fair and equitable manner.

2. Comply with the Law

Council advisory body members shall comply with the laws of the nation, the State of California, and the City in the performance of their public duties. These laws include, but are not limited to: the United States and California Constitutions; the Tracy City Municipal Code; laws pertaining to the Council-

Manager form of government, conflicts of interest, election campaigns, financial disclosures, employer responsibilities, and open processes of government; and City ordinances and policies.

3. Conduct of Council Advisory Body Members

Council advisory body members shall refrain from abusive conduct, personal charges, or verbal attacks upon the character or motives of Council Members; other members of the Council advisory body; other boards, commissions, or committees; staff; or the public.

4. Respect for Process

Council advisory body member duties shall be performed in accordance with the processes and rules of order established by the City Council.

5. Conduct of Public Meetings

Council advisory body members shall inform themselves of public issues, listen attentively to public discussions before the body, and focus on the business at hand.

6. Decisions Based on Merit

Council advisory body members shall base their decisions upon the merits and substance of the matter at hand.

7. Communication

It is the responsibility of Council advisory body members to share substantive information that is relevant to a matter under consideration that they have received from sources outside of the public decision-making process with all other Council advisory body members.

8. Coordination with City Staff

Appropriate City staff should be involved when Council advisory body members meet with officials from other agencies and jurisdictions to ensure proper staff support, as needed, and to keep staff informed.

9. Disclosure of Corruption

All City officials shall take an oath upon assuming office, pledging to uphold the Constitution and laws of the City, the State, and the Federal government. As part of this oath, officials commit to disclosing to the appropriate authorities and/or to the City Council any behavior or activity that may qualify as corruption, abuse, fraud, bribery, or other violation of the law.

10. Conflict of Interest

In order to assure their independence and impartiality on behalf of the public good, Council advisory body members shall not use their official positions to influence government decisions in which they have a financial interest or where they have an organizational responsibility or a personal relationship that would present a conflict of interest under applicable State law.

In accordance with the law, members shall file written disclosures of their economic interests and if they have a conflict of interest regarding a particular decision, refrain from participating in that decision unless otherwise permitted by law.

11. Gifts and Favors

Council advisory body members shall not take advantage of services or opportunities for personal gain by virtue of their public office that are not available to the public in general. They shall refrain from accepting gifts, favors, or promises of future benefits that might compromise their independence of judgment or action or give the appearance of being compromised.

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Council advisory body members shall respect and preserve the confidentiality of information provided to them concerning the confidential matters of the City. They shall neither disclose confidential information without proper legal authorization nor use such information to advance their personal, financial, or private interests.

13. Use of Public Resources

Public resources not available to the general public (e.g., City staff time, equipment, supplies, or facilities) shall not be used by Council advisory body members for private gain or personal and/or campaign purposes.

Attachment 2 to City Council
Code of Conduct

14. Representation of Private Interests

In keeping with their role as stewards of the public trust, Council advisory body members shall not appear on behalf of the private interests of a third party before the City Council or any board, commission, or committee, or proceeding of the City.

15. Advocacy

To the best of their ability, Council advisory body members shall represent the official policies and positions of the City of Tracy. When presenting their personal opinions or positions, members shall explicitly state that they represent neither the Council advisory body nor the City.

16. Improper Influence

Council advisory body members shall refrain from using their position to improperly influence the deliberations or decisions of City staff, boards, commissions, or committees.

17. Policy Role of Members

Council advisory body members shall respect and adhere to the Council-Manager structure of Tracy City government as provided in State law and the City Municipal Code.

18. Positive Work Environment

Council advisory body members shall support the maintenance of a positive and constructive environment for residents, businesses, and City employees.
Attachment 2 to City Council Code of Conduct

19. Implementation

Ethics standards shall be included in the regular orientations for Council advisory body members. Upon entering office and upon reappointment, Council advisory body members shall sign a statement affirming they read and understood the City of Tracy's City Council Code of Conduct.

20. Campaign Activities.

Council advisory body members who seek elected office within the City shall endeavor to conduct their campaign activities in a manner that promotes decency, honesty and fair play and in accordance with the Code of Fair Campaign Elections Code (Section 20400 et seq.).

21. Compliance and Enforcement

Council advisory body members themselves have the responsibility to assure that ethical standards are understood and met, and that the public can continue to have full confidence in the integrity of City government.

The Council Advisory Body Norms and Values statement shall be considered to be a summary of the longer City Council Code of Conduct document. The City Council Code of Conduct document shall be considered to be the definitive document relating to ethical conduct by Tracy City Council advisory body members.

I affirm that I have read and understand the City of Tracy City Council Code of Conduct.

Signature

Date

CODE OF FAIR CAMPAIGN PRACTICES

(Elections Code § 20440)

There are basic principles of decency, honesty, and fair play which every candidate for public office in the State of California has a moral obligation to observe and uphold in order that, after vigorously contested but fairly conducted campaigns, our citizens may exercise their constitutional right to a free and untrammelled choice and the will of the people may be fully and clearly expressed on the issues.

THEREFORE:

- (1) I SHALL CONDUCT my campaign openly and publicly, discussing the issues as I see them, presenting my record and policies with sincerity and frankness, and criticizing without fear or favor the record and policies of my opponents or political parties that merit this criticism.
- (2) I SHALL NOT USE OR PERMIT the use of character defamation, whispering campaigns, libel, slander, or scurrilous attacks on any candidate or his or her personal or family life.
- (3) I SHALL NOT USE OR PERMIT any appeal to negative prejudice based on a candidate's actual or perceived race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, age, sexual orientation, sex, including gender identity, or any other characteristic set forth in Section 12940 of the Government Code, or association with another person who has any of the actual or perceived characteristics set forth in Section 12940 of the Government Code.
- (4) I SHALL NOT USE OR PERMIT any dishonest or unethical practice that tends to corrupt or undermine our American system of free elections, or that hampers or prevents the full and free expression of the will of the voters including acts intended to hinder or prevent any eligible person from registering to vote, enrolling to vote, or voting.
- (5) I SHALL NOT coerce election help or campaign contributions for myself or for any other candidate from my employees.
- (6) I SHALL IMMEDIATELY AND PUBLICLY REPUDIATE support deriving from any individual or group that resorts, on behalf of my candidacy or in opposition to that of my opponent, to the methods and tactics that I condemn. I shall accept responsibility to take firm action against any subordinate who violates any provision of this code or the laws governing elections.
- (7) I SHALL DEFEND AND UPHOLD the right of every qualified American voter to full and equal participation in the electoral process.

I, the undersigned, candidate for election to public office in the State of California or treasurer or chairperson of a

committee making any independent expenditures, hereby voluntarily endorse, subscribe to, and solemnly pledge myself to conduct my campaign in accordance with the above principles and practices.

Print Name: _____ Signature: _____

Date: _____

RESOLUTION 2021-049

AMENDING COUNCIL MEETING PROTOCOLS AND RULES OF PROCEDURE TO ESTABLISH A FIVE MINUTE TIME LIMIT FOR COUNCIL DISCUSSION AND DEBATE, PROVIDE CITY BOARDS AND COMMISSIONS FLEXIBILITY ON THE USE OF PARLIMENTARY PROCEDURES, AND REQUIRE THAT ALL COUNCIL SPECIAL MEETING AGENDAS INCLUDE A "COUNCIL ITEMS AND COMMENTS" SECTION

WHEREAS, Government Code section 36813 authorizes legislative bodies to establish rules for the conduct of their proceedings. These rules must comport with the Ralph M. Brown Act ("Brown Act"; Government Code sections 54950 et seq.) which applies to all meetings of "legislative bodies" within California, including the Tracy City Council and advisory boards and commissions; and

WHEREAS, On November 5, 2019, Council adopted Council Meeting Protocols and Rules of Procedures ("Council Protocols") by Resolution No. 2019-240; and

WHEREAS, On June 16, 2020, City Council amended the Council Protocols via Resolution 2020-112 to require agendas for special meetings to include a "Council Items and Comments" section; and

WHEREAS, On April 6, 2021, Council discussed amending the Council Protocols to establish a five-minute time limit per Council Member during Council discussion and debate, allow City Boards and Commissions to utilize more informal parliamentary procedures, and require that agendas for all Council meetings include a "Council Items and Comments" section,

WHEREAS, Sections 5.15 is amended in its entirety to read as follows:

"Parliamentary Procedures. Council meetings shall be conducted in accordance with the Rosenberg's Rules of Order: Simple Parliamentary Procedures for the 21st Century unless otherwise specified herein. (Appendix A - Rosenberg's Rules of Order, Revised 2011, as may be amended). City Boards and Commissions may use Rosenberg's Rules of Order or any other informal meeting protocols or parliamentary procedures to conduct their meetings.

5.15.1 Time Limit for Council Discussion and Debate. Each Council Member shall have a maximum of five minutes to speak during Council discussion and debate of a motion.

5.15.2 Point of Order. Any Council member may ask for a point of order, at which time the Presiding Officer will ask for an explanation. Points of order relate to matters that a Council member considers inappropriate conduct for the meeting, such as the failure to adhere to these Protocols. The Presiding Officer shall rule on matter. Any member can move to appeal the Presiding Officer's ruling, with a second from another Council member. Following debate, the ruling of the Presiding Officer may be reversed by a majority vote."

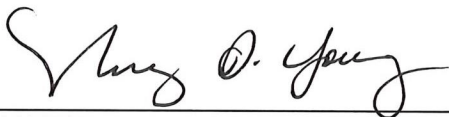
WHEREAS, Section 5.11.1 is amended to read as follows:

"Agendas for regular and special meetings of the Council shall include a 'Council Items and Comments' section."

NOW, THEREFORE, BE IT RESOLVED, That the City Council of the City of Tracy hereby amends the Council Meeting Protocols and Rules of Procedure as described in this Resolution.

The foregoing Resolution 2021-049 was adopted by 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



COUNCIL MEETING PROTOCOLS AND RULES OF PROCEDURE

Adopted by Resolution No. 2019-240
Revised by Resolution Nos. 2020-112 & 2021-049

City of Tracy – Council Meeting Protocols and Rules of Procedures

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City of Tracy – Council Meeting Protocols and Rules of Procedures

Section 1 –Purpose and Applicability

1. Purpose and Applicability

- 1.1. The purpose of these Council Meeting Protocols and Rules of Procedures (“Protocols”) are to provide clear guidelines to assist the City Council, staff and the public to conduct meetings in an efficient and transparent manner and in accordance with the Ralph M. Brown Act (“Brown Act”; Government Code sections 54950-54963) and all applicable laws.¹ These Protocols are adopted pursuant to Section 36813. In the event of a conflict between the Brown Act and these Protocols, the Brown Act shall control.
- 1.2. These Protocols shall apply to the City Council, the Successor Agency to the Community Development Agency, the Tracy Public Facilities Corporation, the Tracy Industrial Development Authority, and all City Boards, Commissions, and Committees.
- 1.3. Suspension of Protocols. Any rule set forth herein may be suspended by a supermajority vote of Council.
- 1.4. Review and Changes to Protocols. These Protocols shall be reviewed by December 31st of every odd numbered year. A majority vote of the Council shall be necessary to amend these Protocols.
- 1.5. A copy of these Protocols shall be available for public review at the City Clerk's Office and City's website (www.cityoftracy.org).

¹ All references to statutes are to the California Government Code unless otherwise specified.

City of Tracy – Council Meeting Protocols and Rules of Procedures

Section 2 –Duties (Roles and Responsibilities)

2. Roles and Responsibilities' at Council Meetings

- 2.1. Mayor. The Mayor is the Presiding Officer of all meetings of the Council. The Presiding Officer is the primary, but not the only, person responsible for ensuring that the Council, staff, and members of the public adhere to these Protocols during Council meetings. (Section 36802). The Chair of a City board or commission shall act as the Presiding Officer.
- 2.2. Mayor Pro Tem. The Mayor Pro Tem shall serve as the Presiding Officer in the absence of the Mayor. Upon arrival of the Mayor, the Mayor Pro Tem shall immediately relinquish the role of Presiding Officer at the conclusion of the business then before Council. (Section 36802) The Vice Chair of a City board or commission shall act as the Presiding Officer in the absence of the Chair.
- 2.3. Council. All members of Council shall comply with the Council Code of Conduct at meetings. Newly elected Council members shall be sworn in and seated at the first regular Council meeting after receipt of the certified election results from the County Registrar of Voters.
- 2.4. Sergeant-at-Arms. The Sergeant-at-arms is the law enforcement official charged with maintaining security during meetings of the Council. The Sergeant-at-arms of the Council shall be a police officer assigned by the Police Chief. There shall be at least one member so assigned and present at each meeting of the Council. The officer shall maintain order and enforce the orders of the Council and Presiding Officer.
- 2.5. City Manager. Pursuant to the Council-Manager form of government established by Chapter 2.08 of the Tracy Municipal Code, the City Manager sets the Council agenda and once published, may withdraw an item(s). The City Manager may consult with the Mayor regarding the development of the agenda.
- 2.6. City Clerk. The City Clerk shall attend all meetings of the Council unless excused. The Deputy City Clerk shall attend Council meetings in the City Clerk's absence. The City Clerk shall record, prepare, and maintain the official records of the Council and perform other duties as directed by the City Manager. (Section 36804)
 - 2.6.1. Minutes. The City Clerk's office shall be responsible for the preparation and distribution of the Council minutes. The minutes shall include a public report on any action taken and the vote or abstention on such action of each Council Member present for the action. Unless a reading of the minutes is requested by a Council Member, the minutes may be approved as a Consent Calendar item.
 - 2.6.1.1. No minutes or written record of closed sessions of the City Council shall be kept, except as required by state law or as directed by the majority vote of the City Council. The Council shall report at a public meeting any action taken in closed session, as required by Section 54957.1.

City of Tracy – Council Meeting Protocols and Rules of Procedures

2.6.1.2. The City Clerk shall include a report on posting of the agenda in the minutes.

2.7. City Staff. City staff shall (a) prepare balanced staff reports and provide accompanying documents on all agenda items in accordance with the agenda preparation schedule; (b) be available for questions from Council in accordance with the Brown Act prior to and during meetings; and (c) respond to questions from the public during meetings only when requested to do so by the Council or the City Manager.

2.8. City Attorney. The City Attorney shall attend all meetings of the Council unless excused. The Assistant City Attorney shall attend Council meetings in the City Attorney's absence. The City Attorney shall give opinions upon request from Council, either in writing or verbally, on questions of law. The City Attorney shall advise the Council at meetings on legal issues, including these Protocols.

City of Tracy – Council Meeting Protocols and Rules of Procedures

Section 3 – Meeting Types

3. Council Meeting Types

- 3.1. Regular Meetings. Regular Council meetings are held on the first and third Tuesdays of the month at 7:00 p.m. at City Hall Council Chambers, 333 Civic Center Plaza, Tracy, California 95376, unless otherwise noticed and as allowed under Section 54954. No meeting shall be held on a holiday as defined by Section 6700. (Section 36805)
- 3.2. Special Meetings. The City Manager, Mayor, or a majority of the members of Council may call a special meeting. (Section 54956). The City Attorney is also authorized to call a special meeting for the sole purpose of convening a closed session in accordance with the Brown Act. (Section 36807)
- 3.3. Workshops. The purpose of a workshop is to inform Council of complex issues and provide an opportunity for the Council to review documents and request additional information. However, no final Council action shall be taken during the workshop on workshop items. Workshops are open to the public and are meetings for the purpose of the Brown Act.
- 3.4. Closed Sessions.
 - 3.4.1. Closed sessions shall be held in accordance with the Brown Act. Non-agendized matters shall not be discussed in closed session. Closed sessions may precede or follow a Council meeting.
 - 3.4.2. All closed session information, verbal or written, is privileged and confidential and shall not be shared with any person not at the closed session. Any member sharing information in violation of this rule may be subject to censure by the Council or other legal remedies as set forth in Section 54963.
 - 3.4.3. The public may speak regarding any closed session item prior to the closed session as required by the Brown Act.
 - 3.4.4. The Presiding Officer shall report out in public session any reportable actions there taken by Council and the vote on such actions in accordance with the Brown Act.
- 3.5. Teleconferenced Meetings. The City Council may hold a meeting by teleconference, meaning a meeting of the Council in which members are in different locations and connected by electronic means, through either audio or video, or both. Any teleconference meeting of the Council must be comply with the requirements under Section 54953, including but not limited to the requirement that all votes taken shall be by roll call.
- 3.6. Emergency Meetings. In the case of an emergency as defined by Section 54956.5, as may be amended from time to time, a majority of Council may call a meeting and dispense

City of Tracy – Council Meeting Protocols and Rules of Procedures

with the special meeting notice and posting requirements under the Brown Act. Any emergency meeting held shall comply with the applicable Brown Act provisions.

- 3.7. The City Clerk shall ensure that the applicable noticing and posting requirements under the Brown Act are followed for all meetings of the Council.

City of Tracy – Council Meeting Protocols and Rules of Procedures

Section 4 – Meeting Agendas

4. Meetings Agendas

- 4.1. Purpose of Agenda. The Council meeting agenda documents serve four purposes:
- To communicate and inform City Council, City staff, the public and the press about City business.
 - To comply with mandated state laws.
 - To facilitate the decision-making process by including sufficient background information so that the City Council can obtain a full understanding of the issues and staff's analysis and recommendation prior to their consideration and action.
 - To serve as a historical reference that can be kept as a record of proceedings and actions as needed for future actions and/or litigation.

As set forth above, the purpose of the agenda is to provide a framework within which Council meetings can be conducted and to effectively implement the approved Council programs, goals and budget. The agenda shall contain a brief general description of each item of business to be transacted or discussed at the meeting.

- 4.2. Posting and Distribution of Agendas. At a minimum the posting and distribution of all agendas shall be done in accordance with the Brown Act. Agendas for regular meetings shall be posted not less than 72 hours prior to the meeting (Section 54954.2(a)(1)); special meeting agendas shall be posted not less than 24 hours prior to the meeting (Section 54956).
- 4.2.1. All agendas shall be posted in the following locations: City Hall, the Tracy Library, the City's website, and other locations as may be required by the bylaws of a particular Board or Commission. Posting of agendas at City Hall shall be the official location for purposes of Brown Act compliance.
- 4.2.2. Agenda packets are provided electronically to City Council Members on the Thursday prior to a City Council meeting unless technical difficulties occur. If technical difficulties occur, the City Clerk will endeavor to provide Council with hard copies of the agenda as soon as reasonably possible. Distribution to the staff, public and media shall occur immediately after distribution to the City Council. Members of the public may sign up to receive notification that a Council meeting agenda has been posted on the City's website (www.cityoftracy.org). The City Clerk will mail copies of the agenda or particular agenda items to any person submitting a request. (Section 54954.1) Said requests will be valid for one year. Copies of the agenda, and of individual agenda items, are available at costs established in the City's Master Fee Schedule. Copies of the agenda are also available for inspection at the Tracy Library and City Clerk's office. Agendas for Council meetings are posted on the City's website (www.cityoftracy.org).

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4.3. Agenda Item Submission

4.3.1. Council Member Request for Agenda Items. Council Members wishing to have a matter discussed by the City Council may request that it be placed on a future City Council agenda during a Council meeting, under "Council Items and Comments." A time sensitive item may be requested by contacting the City Manager, or their designee, via telephone, email or in person. Upon the request of a Council Member, the item will be placed on a future City Council agenda as long as one other Council Member concurs with the request. In the interest of transparency and Brown Act compliance, Council shall limit discussions outside of Council meetings about requests to support agenda items to a maximum of two Council Members.

4.3.1.1. In the event of a time sensitive request, the City Manager shall notify the rest of Council when two Council Members request an item to be placed on the agenda. The City Manager will determine when to place the item on a future agenda based on time necessary to complete the research and staff workload considerations.

4.3.2. Other Public Agencies. Agenda items such as presentations and proposals from other public entities must be sponsored for agenda placement by two Council members or the City Manager.

City of Tracy – Council Meeting Protocols and Rules of Procedures

Section 5 –Conduct of Meetings

5. Conduct of Meetings

- 5.1. Order of Business. The suggested order of business of Council meetings shall be as follows. However, the Mayor may reorder the items unless a majority of Council members object.
1. Call to Order
 2. Roll Call
 3. Pledge of Allegiance
 4. Invocation
 5. Presentations/Proclamations and Awards
 6. Consent Calendar
 7. Items from the Audience/Public Comment
 8. Continued Public Hearings
 9. Public Hearings
 10. Regular Items
 11. Items from the Audience/Public Comment
 12. Staff Items
 13. Council Items and Comments
 14. Adjournment
- 5.2. Call to Order. The Presiding Officer shall take the chair at the hour appointed for the meeting and shall immediately call the meeting to order.
- 5.3. Roll Call. A majority of the members of the Council then in office shall constitute a quorum. (Section 36810)
- 5.4. Invocations. Any member of the public who wishes to offer an invocation prior to the opening of a regular Council meeting shall contact the City Clerk. The City Clerk shall select a mutually agreeable City Council meeting date for the invocation.
- 5.5. Presentations/Proclamations and Awards. This portion of the Agenda is dedicated for presentations, such as proclamations and awards, employee of the month recognitions, board and commission recognitions, and employee swearing-ins, and shall be limited to a 15-minute maximum period.
- 5.6. Consent Calendar. All items listed on the Consent Calendar are considered to be routine matters or consistent with previous City Council direction, such as resolutions confirming action from a previous meeting or the adoption of an ordinance previously introduced by Council. One motion, a second, and a roll call vote may enact the items listed on the Consent Calendar. No separate discussion of Consent Calendar items shall take place unless a member of the City Council, City staff or the public request discussion on a specific item.
- 5.7. Items from the Audience/Public Comment. It is the policy of the City Council that members of the public be allowed to address the Council on any item of interest to the

City of Tracy – Council Meeting Protocols and Rules of Procedures

public, before or during its consideration of that item, that is within the Council's subject matter jurisdiction. (Section 54954.3(a)).

5.7.1. Agendas for regular meetings will have two opportunities for "Items from the Audience/Public Comment." (Section 54954.3(a)). In the interest of allowing Council to have adequate time to address the agenda items of business, the first public comment opportunity will be limited to a 15-minute maximum period. (Section 54954.3(b)). The second opportunity will not have a maximum time limit. A five-minute maximum time limit per speaker will apply to all individuals speaking during the "Items from the Audience/Public Comment" portion of the agenda. The City Clerk shall be the timekeeper. Speakers may not concede any part of their allotted time to another speaker.

5.7.1.1. However, in the event there are 15 or more individuals wishing to speak regarding any agenda item including the "Items from the Audience/Public Comment" portion of the agenda and regular items, the maximum amount of time allowed per speaker will be three minutes

5.7.2. Each speaker shall avoid repetition of the remarks of the prior speakers, and when speaking under a specific agenda item, shall speak only to that agenda item. To promote time efficiency and an orderly meeting, the Presiding Officer may request that a spokesperson be designated to represent similar views. A designated spokesperson shall have 10 minutes to speak.

5.7.3. Speaker Cards. To facilitate the orderly process of public comment and to assist the Council to conduct its business as efficiently as possible, members of the public wishing to address the Council are requested to, but not required to, hand a speaker card, which includes the speaker's name or other identifying designation and address, to the City Clerk prior to the agenda item being called. Generally, once the City Council begins its consideration of an item, no more speaker cards will be accepted. An individual's failure to present a speaker card or state their name shall not preclude the individual from addressing the Council. (Section 54953.3)

5.8. Public Hearings. Public hearings are required for a variety of City Council actions such as changes to the Tracy Municipal Code, zoning revisions, some annexations, street vacations, weed abatement, liens, fee increases, etc. Whenever the law provides that publication of a notice shall be made, such notice shall be published in a newspaper of general circulation for the period prescribed, the number of times, and in the manner required. Each speaker will be allowed a maximum of five minutes for public input or testimony. However, in the event there are 15 or more individuals wishing to speak regarding a public hearing item, the maximum amount of time allowed per speaker will be three minutes. The City Clerk shall be the timekeeper.

5.8.1. Public Hearings for Land Use and Other Matters. The Presiding Officer may designate individuals as the "Proponent/Appellant" or "Opponent" and provide each with additional time for comments and the opportunity to present a rebuttal.

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- 5.9. Regular Items. This portion of the Agenda is for non-public hearing agenda items that require Council action or direction such as status or informational reports from staff and Council requests for agenda items.
- 5.10. Staff Items. This portion of the agenda provides an opportunity for the City Manager, City Attorney, and City staff to provide information of community interest to the City Council.
- 5.11. Council Items and Comments. This portion of the agenda is for each member of the City Council to provide brief reports on any intergovernmental agency meetings, conferences, community meetings, meetings of other legislative bodies, or other events of interest to the community that they attended, as well as meetings attended at the City's expense. This portion of the agenda is also for the City Council to provide guidance and direction to staff concerning items to be included on future agendas and information to be provided in response to questions raised during "Items from the Audience/Public Comment." Under this portion of the agenda, two Council members may request staff to provide information, perform studies, or undertake other action. If the requested action is routine in nature, the City Manager will direct staff to proceed. However, if the request cannot be accomplished within the approved budget or City Council priorities, or if it will involve substantial staff resources, the City Manager will report to the City Council at a subsequent City Council meeting and request further direction. At that time, the consensus of a majority of the City Council will be required to proceed.
- 5.11.1. Agendas for regular and special meetings of the Council shall include a "Council Items and Comments" section. (Resolution No. 2021-049)
- 5.12. Adjournment. If a Council meeting is still in session at 11:00 p.m., the Presiding Officer shall ask the question of whether Council desires to consider any new items after 11:00 p.m. Council shall determine, by motion, which specific items will be considered or continued. City Manager shall inform Council of any time sensitive items. Any item continued due to the lateness of the hour shall automatically be placed on the agenda for the next regularly scheduled City Council meeting unless otherwise scheduled by motion action of the Council.
- 5.13. Non-Agendized Items. The Brown Act prohibits Council from discussing or acting upon any non-agendized matter, unless an exception under Section 54954.2 applies. 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 person; or request that the matter be placed on a future agenda or that staff provide additional information to Council. However, items may be added to the agenda (such as emergency matters) as permitted in the Brown Act. Brief announcements, brief responses, or questions seeking clarifications, may be made to statements or questions raised on items not on the agenda (Section 54954.2(a)(3)). Action on any item not on the agenda shall be deferred until the item is properly listed on the agenda for a subsequent Council meeting unless added due to an immediate need if permitted under state law.

City of Tracy – Council Meeting Protocols and Rules of Procedures

- 5.14. Voting Requirements. All ordinances, resolutions, and orders for payment of money require a majority vote of the total membership of the Council in accordance with Section 36939, unless otherwise required by state law.
- 5.14.1. It is a best practice that all Council members vote on every item of business unless prevented from doing so by virtue of an actual or potential conflict of law or other valid abstention under applicable laws. Council Members are encouraged to disclose the reason for that abstention prior to Council engaging in discussion on that item.
- 5.15. Parliamentary Procedures. Council meetings shall be conducted in accordance with the Rosenberg's Rules of Order: Simple Parliamentary Procedures for the 21st Century unless otherwise specified herein. (Appendix A - Rosenberg's Rules of Order, Revised 2011, as may be amended). City Boards and Commissions may use Rosenberg's Rules of Order or any other informal meeting protocols or parliamentary procedures to conduct their meetings. (Resolution No. 2021-049)
- 5.15.1. Time Limit for Council Discussion and Debate. Each Council Member shall have a maximum of five minutes to speak during Council discussion and debate of a motion. (Resolution No. 2021-049)
- 5.15.2. Point of Order. Any Council member may ask for a point of order, at which time the Presiding Officer will ask for an explanation. Points of order relate to matters that a Council member considers inappropriate conduct for the meeting, such as the failure to adhere to these Protocols. The Presiding Officer shall rule on matter. Any member can move to appeal the Presiding Officer's ruling, with a second from another Council member. Following debate, the ruling of the Presiding Officer may be reversed by a majority vote.
- 5.16. Written Communications from the City and the Public. The City Clerk shall manage communications to members regarding meeting topics to ensure compliance with the Brown Act.
- 5.16.1. Except for records exempt from disclosure under the California Public Records Act and otherwise by law, agendas or any other writings distributed to all or a majority of the members of a legislative body for discussion or consideration at a public meeting are disclosable to the public, and shall be made available upon request without delay.
- 5.16.2. Materials distributed to the members during the meeting shall be available for viewing by the public during the meeting if the materials were prepared by the City or a Council member, or posted on the City's website within 48 hours the conclusion of the meeting if prepared by another person.
- 5.17. Written Materials after the Council Agenda has been Distributed. On occasion, Council may receive written materials either after the Agenda has been posted or at a Council meeting. These written materials are typically related to an agenda item or

City of Tracy – Council Meeting Protocols and Rules of Procedures

handed out during "Items from the Audience/Public Comment." Upon the Council receiving these written materials they become a public record. For materials related to an agenda item, a copy will be kept on file at the City Clerk's Office and will typically be posted on the City's website under "Materials Distributed at Council Meetings" 48 hours after the Council meeting.

5.17.1. Any materials about an agenda item that are received less than 72 hours before a Council meeting that are distributed to a majority of Council will be made available at the Council meeting for the public to review.

5.17.2. Interested parties or their authorized representatives may address the Council by written communications regarding agenda items.

5.17.2.1. Documents (6 copies are recommended) that members of the public submit to the City Council at the meeting shall be given directly to the City Clerk for distribution and shall not be given directly to the Council. The documents will be available to the public on the City's website within 48 hours of the conclusion of the meeting.

5.18. Compliance with the Americans with Disabilities Act (ADA). The City of Tracy is in compliance with the Americans with Disabilities Act and will make all reasonable accommodations for the disabled. To allow for such reasonable accommodations, persons requiring assistance or auxiliary aids to participate at a City meeting, should contact the City Clerk's Office at (209) 831-6105 at least 24 hours prior to the meeting.

City of Tracy – Council Meeting Protocols and Rules of Procedures

Section 6 – Conduct of the Public

6. Conduct of the Public

- 6.1. Purpose of Public Comment. The City, in accordance with the Brown Act, provides the public the opportunity to address the Council body as a whole and express their opinions regarding agenda items and non-agenda matters within the subject matter jurisdiction of the City Council. (Section 54954.3) Items are generally considered to be within the Council's subject matter jurisdiction if they are within the City Council's scope of influence.
- 6.1.1. Nothing in these Protocols shall be construed as prohibiting public criticism of the City's policies, procedures, programs or services, or the acts or omissions of the Council. However, these Protocols are not intended to confer any privilege or protection for expression beyond that otherwise provided by law. (Section 54954.3(c)).
- 6.1.2. Public comments should not be addressed to individual Council members nor City staff, but rather to the Council as a whole.
- 6.1.3. While members of the public may speak their opinions on City business, personal attacks on members and City officials, use of swear words, and verbal or non-verbal signs or displays of disrespect for individuals are discouraged as they impede good communication with the Council.
- 6.1.4. Consistent with the Brown Act, the Council is limited in its ability to respond to public comments regarding non-agenda matters. The limited circumstances under which members may respond to public comments are set out in Rule 5.13.
- 6.2. In the interest of conducting an efficient meeting, the Presiding Officer may stop a member of the public whose comments are not confined to the agenda item being heard. In addition, during the "Items from the Audience/Public Comment" portion of the agenda, the Presiding Officer may stop a member of the public whose comments are not within the subject matter jurisdiction of the City.
- 6.3. Rules of Decorum. While the Council is in session, no person in the audience at a Council meeting shall engage in conduct that disrupts the orderly conduct of a Council meeting, including, but not limited to, the utterance of loud, threatening or abusive language, refusing to abide speaker time limits and leave the podium when directed; whistling, clapping, stamping of feet, yelling or shouting or interrupting a speaker who is addressing the Council; repeated waving of arms; or other disruptive acts.
- 6.4. Any person who disrupts the orderly course of the meeting may be issued a criminal citation pursuant to Penal Code section 403 and/or called out of order by the Presiding Officer and barred from further participation during that session of the Council in accordance with the Brown Act.

City of Tracy – Council Meeting Protocols and Rules of Procedures

- 6.4.1. All persons attending a Council meeting shall obey any lawful order or direction of the Presiding Officer or Sergeant-at-Arms.
 - 6.4.2. The Sergeant-at-arms shall assist the Presiding Officer in enforcing these rules of decorum at Council meetings, including but not limited, removing disruptive audience members. Additionally, any Council member may at any time call for a point of order, to request the timely enforcement of these rules of decorum.
- 6.5. Location of Speaker. Members of the public wishing to address the Council must approach the podium when recognized by the Presiding Officer and shall speak only from the podium.

City of Tracy – Council Meeting Protocols and Rules of Procedures

Section 7 – Miscellaneous

7. Miscellaneous

- 7.1. Conflicts of Interests. It is the responsibility of every Council member to disclose conflicts of interest in accordance with state and local conflict of interest laws.
- 7.2. Proclamations. The Mayor issues proclamations to provide special recognition by the City to an individual, event, issue etc. Proclamations are not statements of policy and do not require the official approval or action of Council.
- 7.3. Broadcasting of Council Meetings. Generally Council meetings are broadcast live on Channel 26 and the City's website (www.cityoftracy.org), unless technical difficulties make that infeasible. Reruns of the preceding Council meeting are shown every Wednesday at 8:00 p.m., every Thursday at 10:00 a.m., and every Saturday at 9:00 a.m. on Channel 26.
 - 7.3.1. Recordings of Council meetings shall be accessible on the City's website (www.cityoftracy.org) by the end of the following business day. DVD recordings of Council meetings are available at costs established in the City's Master Fee Schedule.

City of Tracy – Council Meeting Protocols and Rules of Procedures

Appendices

- A. Rosenberg's Rules of Order, revised 2011, Simple Rules of Parliamentary Procedure for the 21st Century. Judge Dave Rosenberg



Council Workshop

Brown Act, Rosenberg's Rules,

Council Rules of Conduct,

Meeting Protocols and Rules of Procedure

February 28, 2023

Agenda

- **Order of Priorities - *Discussed at Council Retreat***
- **Definition of “Legislative Bodies”/Roles - *Discussed at Council Retreat***
- **Committee Appointments - *Discussed at Council Retreat***
- **Definition of “Meetings” - *Discussed at Council Retreat***
- **Agenda Setting/Publication - *Partially Discussed at Council Retreat***
- **Parliamentary Procedures**
- **“Disruptions” at Meetings**
- **Recommendations/Next Steps**



ORDER OF PRIORITIES

- **US Constitution/Federal Statutes with Preemptive Powers**
- **State Constitution/State Statutes applicable to General Law Cities (e.g. Brown Act)**
- **Tracy Municipal Code**
- **Rosenberg's Rules of Parliamentary Procedures**
- **Code of Conduct and Meeting Protocols and Procedures**



Brown Act

Rosenberg's Rules

Code of Conduct

Meeting Protocols

1. Definition of "Legislative Bodies"/Roles

- GC 54952 and AG Opinion
 - Commission, committee, board, or other body of local agency, whether permanent or temporary, decision-making or advisory
 - Exception: Advisory committees composed solely of members of legislative body (Ad Hoc)
 - Standing Committee: has continued subject matter jurisdiction, or fixed meeting time

N/A

- Section 5.1
 - The Council has the inherent power to create advisory bodies
 - Council advisory bodies provide policy recos to Council (do not set policy or give direction to staff)
 - No additional powers or authorities for Council standing committees
 - Code and Protocols apply to advisory bodies

- Section 2
 - Mayor is Presiding Officer at all Council meetings and is the "primary, but not the only, person responsible for ensuring Council, staff members of the public adhere to Protocols"
 - City Attorney shall advise "the Council at meetings on legal issues, including these Protocols"
 - Clerk is expressly timekeeper only for public speaker time limits

Brown Act	Rosenberg's Rules	Code of Conduct	Meeting Protocols
<h2>2. Committee Appointments</h2>			
N/A	N/A	<ul style="list-style-type: none"> • Section 5.1/Reso's <ul style="list-style-type: none"> • Appointments to advisory bodies are made by majority vote of Council • Appointee can be removed at any time by Council vote, except for Planning Commissioners • Section 2.2.5 and 2.4 <ul style="list-style-type: none"> • Council may create/dissolve Council committees by majority vote • Council “appoints and removes Council Members to third member agencies” • Mayor appoints with approval of the City Council 	N/A

Brown Act	Rosenberg's Rules	Code of Conduct	Meeting Protocols
3. Definition of "Meeting"			
<ul style="list-style-type: none"> • GC 54952.2 <ul style="list-style-type: none"> • Any congregation of a majority of members to hear, discuss, deliberate or take action on SMJ • Cannot use a series of communication, directly or through intermediary • Exception: staff can meet to answer questions or provide answers if person does not communicate the comments or position of other members • Cannot "discuss among themselves" communications made, posted or shared on social media 	N/A	N/A	<ul style="list-style-type: none"> • Section 3 <ul style="list-style-type: none"> • Identifies types of meetings • City Manager, Mayor or majority of Council is authorized to call a special meeting • City Attorney is authorized to call a closed session

4. Agenda Setting/Publication

- GC 54954(a), 54956(a)
- 72 Hour publication requirement for regular meetings
- 24 Hour publication requirement for special meetings

N/A

- Section 2.2.9
 - Mayor coordinates with the City Manager in the development of the agendas for meetings of the City Council.
 - Once the agenda is published, the City Manager may withdraw an item.
 - Additionally, the Mayor may rearrange the other of business on the agenda.

- Section 5.1
 - Specifies order of the Agenda, with 14 categories
 - Mayor may reorder the items, unless a majority of the Council objects

4. Agenda Setting/Publication

- | | | | |
|---|---|---|---|
| <ul style="list-style-type: none"> • GCXXX <ul style="list-style-type: none"> • 72 Hour publication requirement for regular meetings • 24 Hour publication requirement for special meetings | <ul style="list-style-type: none"> • N/A | <ul style="list-style-type: none"> • Section 2.3.2 <ul style="list-style-type: none"> • Under Council protocols and procedures, an item may be placed on the agenda if requested by two Council members. • The request can be made during open session or outside of a Council meeting. | <ul style="list-style-type: none"> • Section 4.3 <ul style="list-style-type: none"> • Councilmembers request item be placed on future agenda under “Council Items and Comments” • “Time sensitive request” can be made directly to City Manager by two Councilmembers • In that case, City Manager determines to place on agenda based on workload • Section 5.11 <ul style="list-style-type: none"> • Councilmembers may “provide guidance and direction to staff” re items for future agendas |
|---|---|---|---|

Brown Act	Rosenberg's Rules	Code of Conduct	Meeting Protocols
5. Parliamentary Procedures			
Based on local rules	<ul style="list-style-type: none"> • Point of Order – can interrupt a speaker but not during a roll call vote on a motion • Point of Information is to request information • Motion to limit debate (chair can treat as a request and inquire of other members if they want to discuss) - 2/3 vote • Motion to close nominations – 2/3 vote • Motion to adjourn or table an item to next meeting – majority vote 	N/A	<ul style="list-style-type: none"> • Section 5.7, 5.15 <ul style="list-style-type: none"> • Requires Rosenberg's Rules to be used for Council meetings as parliamentary procedure • Other City Committees may use any parliamentary procedure (inconsistent with Code Section 5.1) • Speakers have 1-minutes in aggregate in first slot and 5 minutes in second slot • Councilmembers have 5-minute max to speak and debate clarifying questions?) • "Point of Order" may be called

Brown Act

**Rosenberg's
Rules**

**Code of
Conduct**

Meeting Protocols

6. "Disruptions" at Meetings

- GC 54957.9 and .95, SB1100
 - If meeting is "willfully" interrupted to make orderly conduct of meeting unfeasible and order cannot be restored by removing individuals, body can order entire room to be cleared and continue in session
 - Chair of meeting can cause removal of individual after warning
 - "Disrupting" means engaging in behavior that "actually disrupts, disturbs, impedes, or renders infeasible the orderly conduct of meeting"

N/A

N/A

- Section 6.3
 - No person shall engage in conduct that "disrupts the orderly conduct of a Council meeting", including, but not limited to, the utterance of loud, threatening or abusive language, refusing to leave podium, whistling, clapping, stamping of feet, yelling or shouting or interrupting speaker who is addressing Council, repeated waving of arms

Recommendations/Next Steps

- **Council Recommendations**
- **City Manager/City Attorney Recommendations**
- **Next Steps**

