

March 21, 2023, 7:00 p.m.

City Hall, 333 Civic Center Plaza, Tracy

Web Site: www.cityoftracy.org

Mayor Young called the meeting to order at 7:22 p.m.

Mayor Young invited the College Bound Tracy Academy Scholars and Teacher to lead the Pledge of Allegiance (Tracy Coria, Elijah Dewett, Athena Watkiss, Titan Gonzalez, Matthew Johnson, Karla Leon, Heaven Policin, Philip Williams and Dianna Griffin (Teacher).

Arthur Cummings, Lay Leader for First United Methodist Church offered the invocation.

Actions, by motion, of City Council pursuant to AB 2449, if any – No action was required.

Roll call found Council Members Arriola, Bedolla, Evans, Mayor Pro Tem Young and Mayor Young present.

Mayor Young presented Certificates of Recognition to D.A.R.E. graduating students.

Mayor Young called for a recess at 7:38 p.m.

Mayor Young reconvened the meeting at 7:48 p.m.

Midori Lichtwardt, Acting City Manager presented the March Employee of the Month Award to Matt Kopinski, Utilities Department.

1. CONSENT CALENDAR – Following the removal of Consent Item 1.G by Dotty Nygard and 1.F by Mayor Young motion was made by Council Member Arriola and seconded by Mayor Pro Tem Davis to adopt the Consent Calendar. Roll call found all in favor; passed and so ordered.
 - 1.A Adoption of the February 28, 2023 Citywide Public Safety and Public Facilities Master Plan Workshop Minutes, and February 28, 2023 Code of Conduct and Meeting Protocols and Rules of Procedure Workshop Minutes, and the March 7, 2023 Regular Meeting Minutes. – **Minutes were adopted.**
 - 1.B Adopt a resolution (1) Approving the annual Military Equipment Report and finding that each type of military equipment identified in the annual report complies with the standards set forth in Government Code section 7071(d); and (2) Renewing, pursuant to Government Code section 7071(e), Ordinance 1327 authorizing the continued use of the military equipment specified in Tracy Police Department Policy 708 – Military Equipment. - **Resolution 2023-051** approved the Military Equipment Report and renewed Ordinance 1327.
 - 1.C Adopt a resolution awarding a construction contract to American Asphalt Repair & Resurfacing Co., Inc. of Hayward, California, for the Slurry Seal Project FY 21/22 – CIP 73184, with a not-to-exceed budget of \$880,812. - Resolution 2023-052 awarded a construction contract to American Asphalt Repair.

- 1.D Adopt a resolution approving the (1) Acceptance of the Rachel Ray Save Them All Grant award of \$20,000 to fund neonatal kitten kits and spaying and neutering of cats in the City of Tracy and (2) Appropriation of the full grant proceeds to the Police Department's (Animal Services) Operational Budget for Fiscal Year 22/23. – **Resolution 2023-053** approved acceptance of the Rachel Ray Save Them All Grant Award and appropriation of the full grant proceeds to the Police Department's Operational Budget.
- 1.E Adopt a resolution amending Resolution 2022-164 delegating authority to the City Manager to execute the application, funding agreement, and related documents for the Department of Water Resources Urban Community Drought Relief Grant Program.– **Resolution 2023-054** amended Resolution 2022-164.
- 1.H Adopt a resolution designating the City Manager as the City's agent for the purposes of obtaining federal, state, and county emergency financial assistance for a period of three (3) years, as required by the California Office of Emergency Services – **Resolution 2023-055** designated the City Manager as the City's agent for obtaining federal, state and county emergency financial assistance for the period of three years.
- 1.F By motion, authorize staff to enter into real property negotiations with the Housing Authority of the County of San Joaquin for City owned surplus property located at 729/741 N. Central Avenue (APN 235-068-06).

Mayor Young pulled the item to provide an update to the public on what is happening with that property.

Vanessa Carrera, Assistant to the City Manager provided the staff report.

There was no public comment.

There were no comments from Council.

ACTION: Motion was made by Council Member Arriola and seconded by Mayor Pro Tem Davis to authorize staff to enter into real property negotiations with the Housing Authority of the County of San Joaquin for City owned surplus property located at 729/741 N. Central Avenue (APN 235-068-06). Roll call found all in favor; passed and so ordered.

- 1.G. Receive the Annual Progress Report for the Tracy General Plan and the Annual Element Progress Report for the Tracy Housing Element for calendar year 2022, as required by Government Code section 65400.

Kimberly Matlock, Associate Planner provided the staff report.

Dotty Nygard pulled the item and spoke about fulfilling income levels required to meet the need, increasing the number of low-income housing, people that live in Tracy being outpriced, make sure we can house our own

community and are addressing the unhoused and who are meeting poverty level.

Veronica Vargas stated the item requires more attention than one workshop. Diversity in housing is important and has not been addressed. Centric communities, transit-oriented development has not been addressed, and urged Council to have more community input, highlight housing element. If we don't update this developer's rights kick in and they have the right to develop anywhere, any place without having to comply with some rules we have in Tracy.

Council questions and comments followed.

Jaylen French, Development Services Director responded to questions.

ACTION: Motion was made by Council Member Arriola and seconded by Mayor Pro Tem Davis that City Council receive the Annual Progress Report for the Tracy General Plan and the Annual Element Progress Report for the Housing Element. Roll call found all in favor; passed and so ordered.

2. ITEMS FROM THE AUDIENCE – Michelle Trew, Tracy Cannabis Collective asked Council for help with moving the cannabis process forward, waiting on the City to approve the already submitted background checks and community benefit plan. Ms. Trew asked Council to direct staff to put it on the next agenda.

Wes Huffman stated he was excited about what the coming year is going to be like with people that are representing him. Two decades ago, the budget came with a per unit cost for every item per department and was much easier to evaluate. Mr. Huffman shared he completed ethics training and requested Council consider changes in our election rules for public office in the City of Tracy.

Michaela Toscas, Inspire Positive, LLC expressed disappointment that the cannabis item was not on the agenda, spoke about background checks and community benefit requirements in Chapter 6.36 of the TMC. Ms. Toscas stated she submitted a signed copy of a Community Benefit Agreement and asked to waive requirement for employee permits and allow them to open for business.

Kimberly Cargile, Tracy Cannabis Collective stated they have completed the cannabis CUP process, are ready to open, agreed to the Community Benefits Agreement as part of the CUP process and have been waiting for the City to respond for months. Have signed and turned in the Community Benefits Agreement to the City. Shared concerns regarding the cost so far on the process and background check process, and requested Council put this issue on the next meeting agenda.

Robert Tanner stated at the last meeting Council approved the Master Fee Schedule and brought up bingo fee which is \$63 now and \$13 per renewal every six months. The City Attorney said Council has to approve the fee schedule as is and come back at a later date to make modifications. Asked Council to put it on the schedule to review. Mr. Tanner also stated if one does not attend a meeting, they cannot motion to close the meeting and Mayor Pro Tem Davis was sitting in Chambers during the Closed Session and she seconded the motion to adjourn.

Karin Schnaider, Assistant City Manager clarified it was part of the motion to leave the bingo as is and did not allow the increase in the fee.

Mayor Young clarified that Mayor Pro Tem Davis did participate in the meeting but had to recuse herself from one item on the Closed Session agenda.

Jamie Medina spoke about a town hall meeting held downtown on March 19 and provided key takeaways of problems/solutions agreed on – 1) Reckless driving and sideshows and demanded an ordinance be drafted that parallels AB 2000 that addresses sideshows and shared suggested penalties for those engaged or spectating sideshows. 2) Accountability for energy prices and investigating viable options to become energy independent from PG&E and EBCE. 3) Streamline permitting processes. 4) Reallocating resources to get potholes filled beginning tomorrow and expected progress reports on these items.

Alice English stated at the last meeting she found it discouraging Mayor Young and Council Member Arriola were pushing the letter from Surland, hoped the Code of Conduct and Ethics comes back to Council soon to address issues such as violating the Brown Act by stopping meeting to discuss the letter. As far as the DOJ and cannabis, it was always four, it is because they wanted more so it opened flood gates, not putting zoning in a city ordinance so this is the delay and not the City Attorney.

Mayor Young disagreed with the previous speaker's comments.

Karen Moore stated there seems to be a dumping spot for cars on the street from George Kelly School to Redbridge, commended staff on responses to requests she submitted into the system and spoke about a tree on her yard she thought was dying and staff informed her it was struggling with drought, and they were right. Ms. Moore spoke about Measure V and stated we are not using Measure V money when we need it and we have it.

Veronica Vargas stated Item I.G does not have the attachments A, B and C and requested complete agendas. Ms. Vargas urged Council to put in place some civic Code of Conduct about people accusing and naming names that are derogatory and creating their own narrative.

Dotty Nygard addressed a conversation she had with many of Council regarding warehouse growth, Tracy Alliance is coming back in April, approached two Planning Commissioners who stated they would be interested in a workshop on CEQA and also the Attorney General best practices for warehouse growth and the City Manager also agreed to spearhead it. There is a lot of traffic and infrastructure wear and tear through our city. Need to pay attention to and address health impacts this industry brings.

Christine Aikin stated she was disappointed the City has not done anything on solar energy for the City buildings. Main reason public would get behind solar on City buildings is finances. Four months ago CPUC approved new metering rules which means PGE is no longer paying regular retail rates on energy they produce and urged the City to look into solar and battery storage so we can have clean energy and better finances.

3. REGULAR AGENDA

3.A Receive an informational report regarding the Tracy Arts Commission annual report for calendar year 2022.

William Wilson, Cultural Arts Supervisor provided the staff report and introduced Cynthia Reis, Chair of the Tracy Arts Commission who provided a presentation and answered questions.

Council questions and comments followed.

Myron Evans suggested building a production facility, has connections for producing and outlets where talents can have music taken out to industry.

A resident suggested getting students from high school to consider what is going on and investing in City Government and give a Certificate and positive affirmation. Council's presence at one event means a lot.

ACTION: Motion was made by Council Member Arriola and seconded by Mayor Pro Tem Davis to receive the informational report regarding the Tracy Arts Commission annual report for calendar year 2022. Roll call found all in favor; passed and so ordered.

3.B Receive an informational report regarding the City of Tracy Police Department's Annual Report for Calendar Year 2022.

Sekou Millington, Police Chief provided the staff report and presentation.

Octavio Lopez, Police Captain and Beth Lyons-McCarthy, Police Support Operations Manager responded to questions.

Council comments followed.

Karen Moore asked if there were different rape categories used in the data.

Robert Tanner stated some rapes reported are two years plus old, encouraged people to report when it happens, is glad the Police Department is at full staff, and encouraged Council to make it sooner than later to get a substation in south Tracy.

Alice English stated we need a substation now. Police need to be increase staff. County roads that are in city limits are not being reported on. Shared traffic issues where Police did not respond.

Sandy Taylor stated could have found more value if percentages weighted with population.

City Council comments and questions followed.

ACTION: Motion was made by Mayor Pro Tem Davis and seconded by Council Member Arriola to receive an informational report regarding the City of Tracy Police Department's Annual Report for Calendar Year 2022. Roll call found all in favor; passed and so ordered.

Due to the late hour, Mayor Young asked Council if they would hear the remaining items.

Karin Schnaider, Assistant City Manager confirmed Item 3.C can be moved to the next meeting.

Sara Cowell, Finance Director confirmed 3.C is not time sensitive that it has to be done today but it is important to the development of the budget.

Ms. Schnaider confirmed item 3.E is time sensitive.

ACTION: Motion was made by Mayor Pro Tem Davis and seconded by Council Member Arriola to move Item 3.D to the April 4, 2023, regular Council meeting. Roll call found all in favor; passed and so ordered.

ACTION: Motion was made by Council Member Bedolla and seconded Council Member Evans to continue item 3.C to the next available time. Roll call found Council Members Bedolla, Evans and Mayor Pro Tem Davis in favor; passed and so ordered. Council Member Arriola and Mayor Young opposed.

3.C Receive information and provide feedback regarding 1) the proposed FY 2024 Capital Budget, 2) the proposed five-year FY 2024-2028 Capital Improvement Plan (CIP), and 3) Measure V updates. – **Item moved to the next available time.**

There was no public comment.

3.D Receive information and provide feedback regarding the five-year forecast for the City's General Fund. – **Item moved to April 4, 2023, regular Council meeting.**

There was no public comment.

3.E Discuss and Approve, by motion, out-of-state travel for Mayor to Attend the Annual African American Mayors Association conference in Washington, D.C. from April 18-21, 2023.

Karin Schnaider, Assistant City Manager provided the staff report.

Mayor Young explained her request for travel.

Council questions followed.

Robert Tanner stated the Mayor went to a conference in January and wants to go now and in April, one in June and November and shared his concerns regarding travel costs and suggested staying home, do the job and save City money.

Karen Moore stated SJCOG has Measure K and we all pay into that and asked what we are submitting as our project. Ms. Moore shared concerns about missing Tracy representation on the SJCOG Citizen Advisory Group. Ms. Moore also shared she is a survivor of domestic violence and stated statistics have to be investigated, just because stats have gone up, means you have more calling.

Alice English stated she cannot see this trip being approved. Spending way too much money. Mayor just went in January and another one in June. Shared concerns about no representation on the Advisory Board, Council being over on the travel budget, and Council being elected to be mindful of our money.

Council comments continued.

ACTION: Motion was made by Council Member Arriola and seconded by Mayor Young to approve out-of-state travel for Mayor to attend the Annual African American Mayors Association conference in Washington, D.C. from April 18-21, 2023. Roll call found Council Member Arriola and Mayor Young in favor. Council Members Bedolla, Evans and Mayor Pro Tem Davis opposed. Motion failed.

Mayor Young stated staff will need to find out if we can get a refund for the membership since she will not be going. Mayor Young clarified there are two memberships that were purchased – U.S. Mayor’s and African American Mayors and this is the only trip this year.

4. ITEMS FROM THE AUDIENCE – Karen Moore shared her frustration with the previous item discussion regarding the budget and being out of money.

Council Members Bedolla and Evans disagreed with characterization.

Alice English spoke about failure to add buffer zones in a City Ordinance for cannabis stores, previous City Attorney being worn down, same thing they are trying to do to this Attorney, and there is something wrong that we are giving passes to certain development. Ms. English asked when the Topgolf application was submitted to the Planning Department.

Mayor Young objected to Ms. English’s comments.

5. STAFF ITEMS – Midori Lichtwardt, Acting City Manager provided the following updates.
 - A special concurrent Council and Planning Commission meeting will be taking place here tomorrow at 5:00 p.m. prior to the regular 7:00 p.m. Planning Commission meeting.
 - There is an open recruitment for both adult and youth positions on our Youth Advisory Commission, as well as an open position on our Parks and Community Services Commission. For more information and to apply, please visit CityofTracy.org.
 - The opening reception for the new Grand Theatre gallery exhibit “The Grateful Chair” is this Saturday from 12-2:00 p.m., visit AtTheGrand.org for details.
6. COUNCIL ITEMS – Council Member Evans gave a huge vote of support for the City Attorney stating she has a background in legal development which suits her perfectly

because the city, in his opinion, has a horrendous background of making one sided developer agreements. Finally have a City Attorney that will put residents first.

Council Member Evans stated he wanted members of the public to know that this is their house. A member of the public came up here and criticized him, he disagreed with everything she said, however, supported her right to make those comments to this dais and encouraged members of the public to exercise their right to voice their opinion because if they don't folks can come and infringe on that so don't let them do it.

Council Member Arriola reported on the following meetings - City Chamber meeting and the City Schools and their upcoming events. Thanked staff, Tracy Police, Fire and Sheriff's Office for collaborative effort working with the City for safety plans for our schools and for Citywide evacuation plans. Council Member Arriola asked when the following two items will come back: Delayed cannabis concerns brought up at the last meeting and sustainable warehouse policies. Wished everyone a blessed Ramadan.

Midori Lichtwardt, Acting City Manager responded the cannabis item will be coming back to Council on April 18, and will have to get information to Council regarding sustainable warehouses.

Council Member Bedolla asked for support and a motion to amend his prior motion in regard to scheduling of the acceptance of the Irrevocable Offer of Dedication from Surland Communities for 16 acres of land. Prior motion asked for the proposed acceptance be scheduled for April 4, 2023 and requested that the proposed acceptance be moved to a meeting on or before June 20, 2023. Council Member Arriola seconded the request.

Council Member Bedolla stated he has a written report on Council appointed boards, commission, committees, events and updates that were provided to Council, staff and copies at the front for the public. The details include attendance at EBCE, Valley Link, different community events, Tracy Babe Ruth rescheduled opening day ceremony and mentioned for the Council meeting on April 4 he will work with Clerk's office on remote participation.

Mayor Pro Tem Davis thanked Tracy Little League for inviting her to throw the first pitch out ever for Tracy Little League softball. Asked when the environmental sustainability ordinance regarding warehouse expansion is coming back, would like it to come back in 30 to 45 days as we are expanding quickly and would like to have responsible policies in place about how we do that. Mayor Pro Tem Davis asked for support for the consultant who is helping with the Housing Element to present to us and the likelihood of whether we are going to finish the Housing Element by the deadline and what they foresee as hurdles and challenges to getting that done so we are not subject to the builders remedy and what progress has been made since 2022.

Ms. Lichtwardt responded the consultant will be at tomorrow's concurrent meeting and will be presenting on their work so far and will make sure they cover that time stamp.

Mayor Young provided updates on events she has attended and asked at the last Council meeting when a memo or email is coming back regarding the solar update.

Ms. Lichtwardt responded staff did report out that they would not be making the April deadline for that particular version of the 2.0 but continue to pursue an RFP for an overall energy efficiency project to come to the City.

Mayor Young stated it is important to know we are not aiming for that deadline so will miss out on millions of dollars going forward so we are looking at fiscal health of our community.

Bijal Patel, City Attorney stated there is going to be a legal memo later this week from the City Attorney's office to Council with input from the Director of Operations and Utilities as well who is overseeing the procurement process.

Mayor Young requested a breakdown or even in a memo form travel costs estimated per Council Member for the year for out of state travel. Wanted to make sure we are looking at travel in its entirety.

Mayor Young stated the City Attorney start date was April 2022, so it is time for an annual review which is in her contract. This was already discussed with the City Manager before he went on leave to utilize a contract for an entity to help do that and is asking for a follow up. A closed session needs to be scheduled.

Ms. Patel responded the City Attorney works on closed session items and she will look at the contract and has no problem with that, but the City Manager did not consult with her on that issue before he left.

Mayor Young spoke about scheduling presentations from partner organizations, so our Council and the community are all aware of current plans, special programs and opportunities, as although we have representatives on different boards there are aspects that they cannot bring. It is good information for our public to know what is going on with RTD, Caltrans, ACE. Mayor Young stated she has been asked by the Chair of Valley Link to give an update and it would be great to have an update from EBCE to see what benefits have come from that. Our policy clearly says that the City Manager can sponsor that and two Council Members can as well.

Ms. Lichtwardt responded she is looking for a second and some clarity on what you would like to see these agencies bringing forward.

Mayor Young responded they have different presentations and programs. When sitting at a COG or ACE meetings, RTD will give an update.

Mayor Young responded to Ms. Patel that she is asking for a presentation at the very beginning of the Council meeting.

Ms. Patel clarified the presentation section under current Council meeting protocols is intended for ceremonial items and not presentations from third party agencies. Currently under Council rules a Council Member is appointed to these third-party agencies and report back through the Council items section.

Mayor Young responded the policy she sent to Acting City Manager, Midori Lichtwardt talks specifically about third party agencies and can still be sponsored by the City Manager and wants the four boards she sits on to do presentations as she does not

have the bandwidth and their entity is better equipped to do that. Mayor Young clarified she is not asking for a standing item, just informational update.

Ms. Patel stated under the Brown Act informational items go on the regular agenda. The presentation section is for ceremonial items.

Mayor Young stated SJCOG came before Council with a presentation at the beginning of a meeting.

Ms. Patel responded this was before her and the current protocols are specific.

Mayor Young stated we need to reagentize Council Protocols as they are being interpreted differently and subjectively.

Ms. Patel responded based on the specific topics discussed at the Council retreat and workshop, the next step is to bring back a proposed amendment to the Code of Conduct and Meeting Protocols and is targeting April 18, but this is a new topic that was not discussed. If Council wishes an informational item can be brought back to talk about different items, but a second would be needed to bring back an info item because the last direction given was to bring back an action item of the proposed amendment of the Code of Conduct and Meeting Protocols.

Mayor Young referred to Council Meeting Protocols and Rules of Procedures Section 4.3.2 – Other public agencies – This is for the public agencies for presentations and proposals and asked what is the protocol she needs to follow.

Ms. Patel responded the language Mayor Young read is consistent with that which is when the third-party agency contacts the City to say they would like to do a presentation, staff does not actively ask them to come because we already have Council representatives on all of the different boards who report out under Council items.

Mayor Young announced there is a 5:00 p.m. joint workshop tomorrow with the Planning Commission and Council on the Housing Element and Building Remedy.

Council Member Bedolla wanted to add to his Council items report that he was sworn in on EBCE on January 18 and Valley Link in January, the executive staff of those joint power authorities are reaching out to staff to schedule an informational item. Regrettably omitted it on the first part of his Council items report for EBCE, but for Tri-Valley San Joaquin Valley Regional Rail Authority for Valley Link are scheduling an informational item to brief Council and public on Valley Link project phases including timelines and funding. Very much appreciate the call for transparency.

Mayor Young responded they are two that we should have updates and will ask the ones she serves on to contact our staff to be put on the schedule.

7. ADJOURNMENT – Time: 12:27 a.m. Wednesday, March 22, 2023.

ACTION: Motion was made by Council Member Bedolla and seconded by Mayor Pro Tem Davis to adjourn. Roll call found all in favor; passed and so ordered.

The above agenda was posted at the Tracy City Hall on March 16, 2023. The above are action minutes. A recording is available at the office of the City Clerk.

Mayor

ATTEST:

City Clerk