

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: **Wednesday, May 24, 2023, 5:00 p.m.**
(or as soon thereafter as possible)

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

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

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

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: 2551 901 5962** and **Event Password: TracyCC**
 - ***If you would like to participate in the public comment anonymously***, you may submit your comment via phone or in WebEx by typing “Anonymous” when prompted to provide a First and Last Name and inserting Anonymous@example.com when prompted to provide an email address.
 - **Join by phone by dialing +1-408-418-9388, enter 25519015962#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.*

1. Call to Order
2. Actions, by Motion, of City Council pursuant to AB 2449, if any
3. Roll Call
4. Items from the audience - *In accordance with Council Meeting Protocols and Rules of Procedure, adopted by Resolution No. 2019-240, and last amended by Resolution No. 2021-049, a five-minute maximum time limit per speaker will apply to all individuals speaking during “Items from the Audience/Public Comment”. For non-agendized items, Council Members may briefly respond to statements made or questions posed by individuals during public comment; ask questions for clarification; direct the*

- individual to the appropriate staff member; or request that the matter be placed on a future agenda or that staff provide additional information to Council.
5. Request to Conduct Closed Session
 - 5.A. PUBLIC EMPLOYEE DISCIPLINE/DISMISSAL/RELEASE (GOV. CODE §§ 54957, 54954.5)
 - 5.B. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION SIGNIFICANT EXPOSURE TO LITIGATION PURSUANT TO GOVERNMENT CODE SECTION 54956.9(D)(2) ONE POTENTIAL CASE (COMPLAINT BY EMPLOYEE OF DISCRIMINATION)
 6. Reconvene to Open Session
 7. Report of Final Action, if Any
 8. Council Items and Comments
 9. Adjournment



Mayor

Posting Date: May 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.

Siegel, Yee, Brunner & Mehta

May 23, 2023

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City of Tracy
Mayor Nancy Young
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City Council Members
tracycitycouncil@cityoftracy.org

**Re: City of Tracy race discrimination and retaliation against
City Manager Michael Rogers.**

Dear City of Tracy Mayor and City Council members:

I am the attorney representing City of Tracy City Manager Michael Rogers. I write regarding CM Rogers' compelling claims against the City for race discrimination, retaliation based on his protected actions about equity for underrepresented people, medical leave retaliation, defamation, and Brown Act violations.

Councilmembers Dan Evans, Eleassia Davis, and Matt Bedolla, with their ally City Attorney Bijal Patel, are engaged in a power grab to obstruct racial and social advancement in Tracy and eliminate CM Rogers because he is Black and because he pushed forward that progress.

In December 2021, City of Tracy Mayor Nancy Young, Mayor Pro Tem Davis, Councilmember Dan Arriola, and then-member Veronica Vargas scored a victory for the City by hiring Mr. Rogers as City Manager, an esteemed executive with thirty plus years of exceptional private leadership and public service. Bedolla voted against him.

CM Rogers is greatly skilled and an expert manager. He built multi-million-dollar public transit, road, and water systems in Texas. He served in critical Director positions in major cities and created the first Departments of Transportation in Dallas and Raleigh. He holds a master's degree in civil engineering. He and his family relocated from Texas for the position.

In April 2022, the Council hired Bijal Patel as its new City Attorney.

In November 2022, Dan Evans took Vargas' seat. Evans is a self-proclaimed Trump MAGA supporter and member of the "Take Back America" Patriot Coalition. Evans' beliefs and actions indicate racial prejudice driving this effort to terminate CM Rogers.

Mayor Young, Davis, Bedolla, and Arriola remained on the council. Davis and Bedolla seized the new majority opportunity to ally with Evans and advance

right-wing politics. In 2022, the Democratic Party expelled Bedolla for violating its policies.

Throughout 2022, CM Rogers was an unwavering advocate for the City to engage in Diversity, Equity, and Inclusion (DEI) programs. In particular, CM Rogers supported city contracting and fiscal equity to level the playing field for people of color and women. Indeed, he was revamping procurement rules to increase equal opportunity. The DEI program would also create a Government Accountability Commission to monitor local government.

In December 2022, the Council provided CM Rogers a stellar performance review and a *merit-based* compensation increase.

CM Rogers also moved to advance district-based elections that would increase racial equity in voting for local government officials in Tracy. On January 7, 2023, and via the City Attorney, Councilmembers Evans, Davis, and Bedolla pressured him to remove the districting item from the Council agenda, scheduled to be voted on that day. Patel suddenly claimed there was more legal work to do for the first time in the months of preparation to bring the item to Council vote.

On February 21, 2023, CM Rogers went on a 10-week medical leave due to knee surgery. The day he went out on leave, Councilmembers Evans, Davis, and Bedolla voted against the DEI proposal. Davis' campaign manager spoke against it during public comment, stating the City was doing well as far as DEI, despite community unrest.

In February, Patel refused to approve raising the Pan-African flag for Black History Month, and the accompanying celebration, while allowing other such requests. During public testimony, Patel turned her back on community leaders and left chambers, causing the head of the region's NAACP to call her out. In March, Davis, Evans, and Bedolla voted against Mayor Young's request to attend the African American Mayors Conference. Patel has questioned CM Rogers' integrity and attempts to take command of his duties.

Now Evans, Davis, Bedolla, and Patel are rushing to return the City to an undemocratic process in order to terminate CM Rogers while denying him his contractually due severance, and to enact other unjust policies.

It is undisputed that the Tracy's City Council has failed to uphold ethical standards in the past. In April 2017, and by a 3-2 majority vote, the Council rejected an anti-nepotism policy. That year, the San Joaquin County Grand Jury reported the City's lack of an ethics policy and the resulting "conflict, mistrust, and allegations of misconduct." It directed the City to adopt an ethics policy, or Code of Conduct, by October 2018.

A year later, and in 2019, the Grand Jury found the Council had lost the public's trust due to unethical behavior, abuse of power, and "open disregard for the City's Council-Manager form of government." It found the Council had failed to create the Code of Conduct, and "a pattern of power politics [had] surfaced in a consistent 3/2 voting bloc that led to the terminations or forced resignations of the City Manager, Assistant City Manager, and the Chief of Police."

The shadowy Council actions cost the City at least \$1 million, a loss in reputation, and decimated productivity from staff forced to work in turmoil. The Grand Jury recommended that by the end of 2019, the City require a supermajority vote to remove the City Manager and City Attorney to "shield[]" them from "power politics and shifting alliances." The City did so in 2019, at Municipal Code 2.08.080(b).

On May 8, 2023, CM Rogers unexpectedly returned from his leave two weeks early. He thus reviewed the items being sent to Council, including Patel's many proposed amendments to the Code of Conduct. Patel proposed that the City Manager be required to "coordinate with" the City Attorney for all matters with legal implications, which are all matters; that she approve all CM staff reports to the City Council; and that the CM be disallowed from consulting outside counsel on any City matter, effectively preventing a City Manager from obtaining an outside opinion. Patel's proposed amendments violated the Code of Conduct's prohibition on interference with the City Manager's execution of duties and infringed on its delegation of administrative authority to the City Manager alone.

On May 15, 2023, CM Rogers briefed the Mayor on the item and stated he needed to pull it because it required additional review.

On May 16, 2023, Evans, Davis, and Bedolla attempted to call the Code of Conduct amendments to vote. CM Rogers pulled the item in order to allow proper review by his office.

At the meeting and following this, Bedolla proposed a special meeting to change the Municipal Code to require only a majority vote to terminate the City Manager, disregarding the Grand Jury report and showing "open disregard for the City's Council-Manager form of government." The proposal was directed only at the CM, excluding the City Attorney.

Evans, Davis, Bedolla, and Patel have also been slandering CM Rogers while he was out on leave from February 21, 2023, to May 8, 2023. This is pretextual as the Council rated him highly in December 2022, the month before his leave. Last night, they went public with their smear campaign in a "Notice of Special Meeting," noticing the vote to remove the CM by a 3/5 rather than supermajority vote. The Notice is full of outright lies which are

easily disprovable. It peddles the despicable racist statement that soft-spoken, consummate professional CM Rogers is “hostile” and “aggressive.”

This Special Meeting also violates the Brown Act. There is no urgency. An urgency ordinance requires a 4/5 vote so this will not pass tonight. It is simply a political stunt to attempt to disgrace a respected and accomplished Black man. The Council did not provide the required notice and choice to CM Rogers for complaints about him to be heard in open session. Thus, any action taken against CM Rogers at this meeting is null and void.

Here, there is substantial evidence of race discrimination. In addition, Evans, Davis, and Bedolla are retaliating against CM Rogers because of his protected activity moving DEI and districting forward. Patel shares their animus and appears to strongly influence these members.

They are attempting to roll back the Code of Conduct and supermajority safeguards in order to terminate CM Rogers because they want to maintain and increase inequity. This would be a disastrous step backwards for Tracy, and for local democracy.

In order to force CM Rogers to lose his contractual nine-month severance, they are pulling at straws to impugn his character to force him to resign, while also fabricating for cause grounds for termination.

Discrimination and retaliation are illegal under the Fair Employment and Housing Act and other laws. While CM Rogers was out on leave, these City Council members and the City Attorney have attempted to reduce his job duties and authority and set the stage for wrongful termination. This is illegal leave interference. They are slandering him and violating the Brown Act.

CM Rogers has strong legal claims. [REDACTED]

[REDACTED]

[REDACTED]

It should be noted that major media outlets and community organizations are closely following these events. [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED] The
County will no doubt launch another Grand Jury investigation.

Thank you for your attention to these matters. [REDACTED]
[REDACTED]

Regards,

/s/ Sonya Z. Mehta, Esq.

Attachment relates to Item 5.B. The attachment reflects a written communication from a potential plaintiff threatening litigation. The written communication has been redacted as to information exempt from public disclosure under the California Public Records Act (Division 10, commencing with Section 7920.000) of Title 1 of the Government Code), specifically under Evidence Code section 1152.