

SPECIAL MEETING MINUTES OF THE TRACY CITY COUNCIL

May 23, 2023, 6:00 p.m.

Tracy City Hall, 333 Civic Center Plaza, Tracy, CA.

1. Mayor Young called the meeting to order at 6:14 p.m.
2. There was no action required pursuant to AB 2449.
3. Roll call found Council Members Arriola, Bedolla, Evans, Mayor Pro Tem Davis and Mayor Young present.
4. Items from the Audience: Stella Lakey thanked Council Member Evans for the transparency report provided on homelessness and addressed the Council meeting that took place on May 6, 2023 and urged that the Mayor be mindful of who is watching or listening regardless of age, and please lead by example.

Gabriela Rodriguez Machuca requested Council assistance on their business, Johnny's Diner, that is in the Planning Department and the item was going to be heard by the Planning Commission and then pulled off the agenda last minute, expressed frustration regarding the lack of responsiveness.

Rosario Arulappan stated Tracy elected you to lead the City with wisdom, knowledge and vision, it is a gift and it is important to be respectful of others opinions even of you disagree with them, work together to build a strong community that is open to new ideas and perspectives, it is human nature to lash out when feeling threatened and can be hurtful and divisive especially when it comes to race since this is deeply ingrained in our society, urged Council to work together for the betterment of the community.

Juana Dement requested that Council consider a censure of the Mayor as a result of City Council Code of Conduct violations, specifically items 3.1, 3.3.1, 3.3.72, 3.4.6, 3.4.8, 4.4.1, and 4.4.6 and went on to explain to Council to look at their Code of Conduct section on Compliance and Enforcement and that this could be achieved during Council Items and Comments by following this censure rules outlined in item number 3.6 and 1.1. It should be formally addressed at the next agenda regarding the conduct regarding allegations of racism and corruption.

Community Member expressed that they were embarrassed at the conduct displayed by the Mayor's actions, behavior and disregard for the citizens of Tracy and should resign or be recalled by a special election vote, this behavior should not be tolerated.

Heather Smiddy expressed that City Council Meetings have become an embarrassment under the Mayor's leadership, shared that in the past meeting turning a motion that was disagreed upon into a racial issue is giving the City a reputation that it does not deserve, and expressed disappointment in the Mayors' actions and expects more from leadership.

Robert Tanner expressed his frustration over cannabis permits and sewer rate increases.

Terry Donaldson urged Council to disregard egos and remember that they are here for the City and kindness should be dictating how you treat each other and all the people watching.

Rodney Davis stated that in the Rosenberg Rules the Mayor is the Chair of the Council and not the boss, the boss of the City Manager or the City Attorney and that the Chair's word is final on decisions unless overruled by the majority. This is not a racial situation, look at your Council, your City Manager, your City Attorney, and the City we are a Community of many.

Community Member shared that the behavior displayed was not good, as a black woman the display of the stereotypical angry black woman was hard because standards are important and as leaders one should have standards and be good people, Council should work as a team and since you were voted in to bring the City forward, the disrespect displayed to staff and other Council Members is horrible and should not see the light of day again, listen to each other and stop arguing.

James Damasco expressed that the Mayor should not be the face of Tracy especially when using buzz words such as systemic racism and manufactured division, as a former Tracy employee and child of immigrants did not see a single thing resembling the systemic racism that the Mayor speaking on.

Ester shared that Mayor Young did not represent her at the previous week's meeting and did not appreciate the Mayor using race because she did not get her way, did not conduct herself in a respectful manner, this is not a monarchy and as a representative of the people you cannot demand respect while disrespecting. Called for the Mayor to apologize to the City Attorney and for the Mayor to resign.

Alice English shared that the Mayor's antics have nothing to do with race and all about not getting her way. The Mayor does not follow the rules and perpetuates false narratives especially when it comes to cannabis buffer zones.

Casey advocates for a functional and appropriate political process, it seems that it is now common practice in all sectors of government displaying inappropriate behavior, and advocates that this not happen in Tracy. The last City Council meeting shows that this is a path that Tracy is headed in the disrespect displayed among Council and that is a disrespect of the Community.

Mike questioned how is it that you fight racism with racism, racism needs to be erased, we need to be better than that and now our little town is viewed by people from the state and the Country as racists, urged Council to be better.

Community Member hopes that all Council can work together, believe that racism does exist and hopes that the situation can be resolved because it is very hurtful.

Karen Moore shared that she attended the Homeless Committee Meeting and shared her thoughts on the meeting and the issues with the containers.

Community Member shared that she had been heckled by Council Members Bedolla and Evans following a comment that she had made and felt bullied. Expressed that there seems to be more of an interest in own agenda rather than the community.

Roy Hawkins has lived in Tracy for 35 years and find this to be the most disturbing times in Council with the lack of decorum that the community has come to depend on.

Tim Silva expressed his disappointment in the Mayor and her behavior and was disturbed that the City Attorney had to defend herself given her 25 years of legal expertise and shared that this is not the first time that the Mayor has contacted the media and accused someone of racism, last time it was former Mayor Rickman that she accused behind the firing of former Police Chief Larry Esquivel.

Robin Cole was surprised that it took the Mayor so long to lose her cool since from day one she has been pushed by this Council and is sure that the behavior that took place in the prior meeting will not happen again.

5. Discussion Items

5.A INTRODUCE AN ORDINANCE OF THE CITY OF TRACY AMENDING SECTION 2.08.080(B) OF THE TRACY MUNICIPAL CODE, TO REFLECT THAT THE CITY MANAGER MAY BE REMOVED BY A THREE-FIFTHS (SIMPLE MAJORITY) VOTE OF THE CITY COUNCIL INSTEAD OF A FOUR-FIFTHS (SUPER MAJORITY) VOTE.

Council Member Bedolla and Mayor Pro Tem Davis provided the staff report.

Council clarifying questions followed.

Imani Kuumba shared that favoritism has nothing to do with a person's competence in doing their job, the Grand Jury asked for the super majority to be put in place for a reason, this is a dysfunctional family.

Robert Tanner shared that in 2019 the City lost the City Manager and the Police Chief that was fired by the interim City Manager, this needs to stay at the super majority, the antics that the community witnessed at the last meeting shows that this Council is no better than the past Council.

Jenny Wood has questions regarding the 24 accusations and where is the evidence regarding these accusations and asked that there be evidence provided and believes that the Council should abide by the recommendation that was made by the Grand Jury to prevent instability.

Gabriela Rodriguez Machuca shared that this is democracy in action and not about racism and expressed that the community of Tracy appreciates the service that the City Attorney provides.

Gia McElroy asked why the City has hired personnel for the City of Tracy from out of state and why was someone from the state or Central Valley not considered and what was the thought involved in hiring from out of state and maybe evaluate those answers prior to recruiting.

Marsha McCray stated that the agenda is about three Council Members that are signaling their intent on changing the super majority rule to a simple majority looking sole purpose to firing the City Manager and this will apply only to the City Manager not any other position that would require a super majority, this was

originally written to aid in the restoration of trust for the public to Council and this action will once again erode the public trust and this is not a benefit for the City.

Maurice stated that a closed session would have been a more appropriate way to handle this situation and maybe table this item until you can all come back to a closed session rather this rash action does not understand how things escalated from great review to this point.

Kenny Lima advocated for the super majority and shared that the ordinance requested should be for both the City Attorney and City Manager and that this employee performance issue should be handled appropriately and help regain public trust.

Yolanda Knight shared excerpts from the 2019 Grand Jury recommendation and shared that the statement in the ordinance that the City Manager is aggressive and hostile with staff is dangerous, if there is a concern with staff, convince each other, do not change the rules.

Jerry Jetts shared that Council must convince each other that Mr. Rogers needs to be terminated, not circumvent the rules.

D'Adrea Davie Vice President of the NAACP shared that this ordinance is out of order, and this should be exercised in closed session and this conversation should not be taking place so publicly. The NAACP has received numerous complaints from residents of Tracy regarding the City's governance.

Community Member shared that Council was elected to do what is best for the City and the community expectation is that you communicate not only with the community but with each other, changing the vote from a super majority is not acceptable, next election will be determined on your actions and this should have been addressed internally.

Mayor Young addressed Bijal Patel the City Attorney and shared that this seems like an evaluation and asked if the City was in legal territory. Ms. Patel clarified that the item before Council is an Ordinance to change to the municipal code and some of the justifications used were examples and not a performance review and Mayor Young asked is the City is in any legal danger, Ms. Patel, clarified that the City is not in any legal danger and outside counsel was brought in to advise on this item before proceeding.

Melissa Barrett has been in contact with the NAACP general counsel and believes that the City Council has been discriminating practices by terminating the last three City Managers that were African American and supported the City Manager.

Pastor Lewis Smith encouraged Council to work together, and it seems that this is personal based on the evaluation in December and the leave taken on for several months, give him another year

Pat Cowell wanted to remind the people of the money spent on the search for City Managers in Tracy, he had to acquaint himself with a move, pandemic, California laws, additional duties to staff. Maybe some of the Council members should be recalled.

Suzie Harrison shared that she heard on the news that there was a recommendation that a super majority must be implemented and was imposed by an impartial body, if the City Manager was really doing such a bad job the change of a super majority would not need to be changed.

Burnell Shull stated that the money wasted, and nothing was accomplished the evaluation was done prematurely and the City Manager is responsible for a lot of the spending and no decisions could not be made. Why have an Assistant City Manager if she cannot make any decisions.

Amir Bushi shared his observations and sees a clear division in the Council and sees deflecting of ideas, accusation and what is most repugnant is using race as a base of an argument. Council should come together and please bring factual information when presenting an argument.

Christina Damasco expressed her disgust with how this situation has been handled, requested that Council take responsibility and monitor employees better.

James Damasco strongly urged that the ordinance be passed since it will potentially lead to the dismissal of the City Manager, shared the issues with the dormitory containers that were purchased and sent to the Temporary Homeless Facility.

Community Member shared her shock that the custom containers were unusable and was disappointed to hear and the Mayor's behavior was intolerable and was an embarrassment to the City of Tracy.

Heather Smiddy asked how the Mayor would say that she was embarrassed to have this meeting, but she contacted the media, shared that in the Public Records Request, still pending her request to be finalized and that some professional boundaries have been crossed, and called for a resolution. Mayor Young requested clarification and Ms. Smiddy provided some clarification.

Stella Lakey asked why \$600,000 was spent on the homeless shelter and if all the information came to light while he was gone on medical leave and what else if anything needs to be discussed.

Christian Chukwuma, Tracy resident and business owner, shared that he has never had a situation where he has had an employee with a stellar evaluation and then a leave and then suddenly termination, if we are not careful, it will be very difficult to get a City Manager here as they will be scared to come to Tracy.

Community Member shared that she was appalled by the Mayor's narrative and throwing a tantrum at the previous meeting in protecting the City Manager, if the City Manager is underperforming there should be accountability, the community deserves transparency, respect and professionalism from the Council.

Shawn Staley addressed that the City Council seems to be non-partisan and that the perception seems to be that the City has a commitment to nonpartisanship to diversity of ideas and this makes the super majority rule in line with the City

values, a shortsighted goal can be turned and used in a different fashion later, shared concerns with the role of the City Attorney in the role of parliamentarian.

Clara Voss believes that these matters should be handled in a closed session, this City Manager and his family were brought here from another state and there have been a number of City Managers that have been terminated just because someone gets upset, the super majority forces the Council to come together and figure it out.

Casey Thomas finds this meeting inappropriate and the information disseminated in such a public forum and it should be applied to both positions, the comments of decorum stand if productive conversations would have taken place, we would not be here now.

Alice English shared that she attended the October 21, 2019 meeting when Mayor Young and former Council Member Vargas wanted to change the vote from a super majority, encouraged Council to go ahead with vote.

Community Member asked for clarification on the current ordinance requiring a super majority to terminate both the City Manager and City Attorney and asked why this proposed ordinance not apply to both and expressed support for the City Manager and the super majority.

Ann Langley thanked Council but shared that she is heartbroken at the bullying that has been demonstrated on the dais but disagrees with the targeting of one of Council's appointed positions and the curious protection of the other.

Michael Bazinet shared that the City is very lucky to have a professional City Manager and he is qualified, the problem with the process today seems that some members of Council are, judge and jury without explanations,

Robin Cole stated that the super majority should be kept, this is shortsighted and narrow minded, this is an employee issue and this should be conducted in a specific manner to protect the City from a lawsuit, urged Council to think about what they are asking.

Karen Moore reiterated that these are accusations without investigations, changing the vote is a trust issue and seems like a power grab, requested it to stay as a super majority.

Community Member asked why anyone would want to be City Manager or City Attorney, expressed her anger at Council and the inability to get along everyone is equal and the Mayor should not be talking over anyone.

Dotty Nygard shared that she agrees with many of the prior speakers and keep the super majority this should be a private matter specially since there have been so many accusations and he has not had the opportunity to defend himself.

Tim Silva supported the 3/5th rule and that contract employees are not performing, they should be terminated, they know what their contract is especially if they are or aren't behaving ethically.

Robert Nelson shared that he is confused as to why the rules are being changed, will the rules be changed every time Council wants to do something, the proper

rules need to be followed and since you do not have the votes, get together and discuss, this is not a good look.

Roger Birdsall shared that when it was a 3/5th rule, it came at a great cost to the City of Tracy in the sense of recruitment, consultants, and severance pays. Mr. Birdsall shared that changing the rules is not in the best interest of the citizens of Tracy.

Andy Wood stated his concerns for due process for a City Manager that is doing a difficult job and should not be castigated before a public forum, and would rather have a super majority and consider if this resource is being used appropriately civilly or not.

Maurice Francis spoke regarding civility and that the Council needs to come together and what the public saw in the video will take a while for the community to get over, can the City Manager have an opportunity to defend himself, privately and before Council.

Jass Sangha shared that it is discouraging as to the levels that we have reached but that there is always recourse and that it is disappointing that Council cannot communicate in a respectful manner and urged Council to work together so that businesses want to come to Tracy rather than Lathrop or Manteca

Alex Monceaux firmly believes in the super majority, and this helps not change the political winds at every election, if you are in the right in your belief convince your political opponent rather than change the rules.

Pastor Young expressed his concerns for potential legal action and shared that since media is not involved it's unfortunate that this is what they see and what Council does, shared that it is evil to call a meeting when it is known that some Council Members would be unavailable.

Juana Dement requested that Council focus on the Council item and that it is the duty of the Council to terminate at-will employees if they are not performing. Ms. Dement expressed her opinion that the Grand Jury report has been used to politicize and weaponize other movements and the display of power politics regarding the Mayor's press conference prior to the meeting and requested that Council move forward with the 3/5 vote.

Ester supported the super majority because the only thing that is constant is change, regardless of the City Manager's absence City business must continue and shared that now supports the 3/5 vote.

Community Member shared that this is an embarrassment the constant claims of racism especially when Council is diverse.

Mayor Young called for a break at 9:37 p.m.

Mayor Young reconvened the meeting at 9:52 p.m.

Council comments or questions followed.

ACTION: Motion was made by Council Member Bedolla and seconded by Mayor Pro Tem Davis to introduce an Ordinance of the City of Tracy amending Section 2.08.080(b) of the Tracy Municipal Code, to reflect that the City Manager may be removed by a three-fifths (simple majority) vote of the City Council instead of a four-fifths (super majority) vote. Roll Call found Council Member Bedolla, Council Member Evans and Mayor Pro Tem Davis in favor, Council Member Arriola and Mayor Young opposed. Motion passed.

6. Council Comments or Items - Mayor Pro Tem Davis stated that the racial agenda propaganda is simply false and has been working with Council Member Bedolla on understanding DEI and working on a policy that can be presented to the community and since education was requested from City Manager and never received, that is the reason why she did not approve that agenda item. Absolutely supports Diversity, Equality, and Inclusion but not clear on how that works in a government setting and since that did not happen, has been working on education self, and is currently working on a policy that is not tied to national movements. Hopes that personal attacks stop since that is against the Grand Jury and has been unjustly attacked, just because we disagree it does not mean that there is a racial narrative. Does not have a political affiliation, is not left or right is all about the people and makes decisions based on what makes sense for the community. Requests the false allegations, slander, and narrative to stop going against the Code of Conduct and continue unethical behavior.

Mayor Young requested facts and data to come back with this ordinance for the accusations that are unfounded and unsubstantiated in the ordinance, for each one of the allegations. Requested a closed session meeting to meet with City Manager and discuss issues for employment.

City Attorney, Bijal Patel clarified that since this is a Council sponsored ordinance, staff would not have the additional information that Mayor is requesting and needs to be requested from the Council Members that sponsored the Ordinance.

Mayor Young expressed that documents should be provided.

Mayor Pro Tem Davis shared that she would need to defer to the City Attorney to see what can legally be provided.

Mayor Young stated that since the Ordinance was introduced everything needs to be provided.

Ms. Patel stated that documents would have to be evaluated to see what can legally be released and reminded Mayor Young that there will be a Closed Session Meeting the next day that will have more information regarding the City Manager's evaluation.

Mayor Young asked Deputy City Clerk if the City Attorney's Evaluation would be included in the Closed Session.

Necy Lopez Deputy City Clerk clarified that due to the Mayor's schedule that the specific meeting regarding the City Attorney's evaluation was left out and that for a future meeting and explained that since the request was made requesting as soon as a quorum was available and that since the Mayor requested a Special Meeting, she would need to be present.

Ms. Patel clarified that the motion made for today's meeting was date specific and the Mayor's additional motion was not date specific that was not scheduled and since the motion maker would need to be present.

Mayor Young read a portion of an email that polled Council to clarify her schedule and found it unfair that her request was not included. Ms. Patel clarified that there was no malintent and that a poll would be sent out.

Mayor Young expressed that in her opinion there has been malintent and that the polling should have continued and would like the Special Meeting as soon as possible and that as a Council equity initiative was adopted in 2019 or 2020 and asked for it to be brought back for Council review as soon as it can be fit in the schedule and explained the historical process that takes place after Council Retreats. Mayor Young asked when the Strategic Plans would be coming back to Council. Michael Rogers City Manager shared that he believes that it will be coming back on June 6th meeting.

Mayor Young asked about the Flag Policy and the Code of Conduct and clarified that May of every year the Flag Policy should be coming back every May so that Council can make needed revisions. Deadlines need to be fair and equitable especially since it was an issue that was brought up when it was time to fly the Pan African Flag. Midori Lichtwardt Assistant City Manager clarified that requests were taken from Council in May for budgeting purposes, so that flags can be purchased. Mayor Young shared that since there is a new Council Member this should have been addressed and that offering should have been made.

Council Member Bedolla shared that the public got a small clip of the Mayor attacking City staff, in this case the City Clerk's Office and this behavior needs to stop. Council Member Bedolla clarified the allegations made by Mayor Young regarding the 49er tickets and that it was learned via a conversation with the City Attorney when it was from a Public Record Request, specifically 23-095. Requested support for a motion that City Attorney bring on the June 6th Council Meeting Agenda a resolution of censure by the City Council against certain actions taken by the Mayor for the Council's consideration and approval. Motion was seconded by Mayor Pro Tem Davis.

Mayor Young asked for clarification on the motion to see if it was in the realm of the City Attorney or in the realm of the City Manager currently. Ms. Patel shared that as the Code of Conduct is written on the censure policy, it is inconsistent with constitutional law and that the Supreme Court decision that took place in March of 2022 that censure is a power of all assemblies in the United States of America regardless of what the local policy dictates. Mayor Young reiterated her question if it was up to the City Attorney or City Manager. Ms. Patel clarified that the City Attorney in a General Law City is the sole Attorney that is responsible that all legislation is reviewed if not drafted by the City Attorney's Office and that the findings would come with the motion makers. Mayor Young shared that in her opinion that is a transfer of power and believes that it is inconsistent with Council Rule of Government and finds it all problematic, and that the motions made are a racial attack to try and silence her voice for what is wrong.

Mayor Pro Tem Davis called a point of order, clarified as to why she seconded the motion because the Mayor attacked her on the National news and social media by calling the Mayor Pro Tem and Council Colleagues racists and power grabbing racists and adding to a racial agenda and since the Mayor continues down this path, Mayor Pro Tem Davis supports censure. Mayor Pro Tem Davis expressed that she would never have called Mayor Young out of her name or suggest things about the Mayor's character

especially calling someone a racist no matter the color of the person's skin and would never had done that to the Mayor and requested the Mayor to stop.

Mayor Young stated that she will continue to bring up what needs to be brought up for the community because that is why she was voted in. For there to be an item that has allegations that are unfounded and introduce an ordinance publicly and at the same time no one else can be held accountable to what is wrong and one day the community will have its day to look into the very real allegations of collusion and corruption between the City Attorney and the three Council Members that are here and we will see as we move forward.

7. Adjournment: Time: 10:51 p.m.

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

The above agenda was posted at the Tracy City Hall on May 22, 2023. The above are action minutes. A recording is available at the office of the City Clerk.

ATTEST:

Mayor

City Clerk