

TRACY CITY COUNCIL - SPECIAL MEETING MINUTES

July 9, 2024, 6:00 p.m.

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

1. Mayor Young called the meeting to order at 6:01 p.m.
2. There were no actions taken pursuant to AB 2449.
3. Roll call found Council Members Arriola, Evans, Mayor Pro Tem Davis and Mayor Young present. City Council had no declaration of conflict.

Council Member Bedolla arrived at 6:02 p.m. and had no declaration of conflict.

4. ITEMS FROM THE AUDIENCE – Gabriela Machuca stated over the last two years she has experienced red tape and hurdles regarding relocating her business downtown. People who are attempting to open businesses in Tracy are experiencing red tape and hardship. The culture in Tracy is being unfriendly to businesses and shared an experience of a business attempting to open in Tracy. The Downtown Specific Plan needs to be updated, and shared concerns regarding the CUP process.

Emmanuel Macalino, co-owner for Stars Casino spoke about the improvements and investments on the property and wants to expand gaming tables. Revenue is lower since operating a full restaurant and bar at the new location and requested to be given priority to be on agenda.

Robert Tanner shared concerns regarding the City Attorney's license lapsing, Council not honoring the contract with the City, and kept the City Attorney on and gave her an increase.

Council Member Bedolla stated it was not a suspension per the State Bar of California.

Alice English spoke about the Grand Jury not doing the investigation properly, before all this issue with the City Attorney back in November 2022 the City Manager at that time and Nancy Young were seeking how to fire the City Attorney which the Grand Jury did not reveal. Grand Jury did not reveal how much was paid to the City Manager when he resigned. Ms. English stated that the Mayor knew there was a letter already that Surland was going to sue. Lot of things happened prior to the City Attorney license situation.

Mayor Young and Council Member Arriola objected to Ms. English's characterization.

5. REGULAR AGENDA
 - 5.A. Conduct a Public Hearing, and upon conclusion, adopt an Urgency Ordinance making findings and extending for ten months and fifteen days, pursuant to Government Code 65858, the temporary moratorium on the processing of Business Tax under Chapter 6.04 of the Tracy Municipal Code, to take effect immediately upon adoption.

Mayor Young opened the public hearing.

Arturo Sanchez, Assistant City Manager provided the staff report and responded to questions.

Council comments followed.

Bijal Patel, City Attorney, Midori Lichtwardt, City Manager and Sara Cowell, Finance Director responded to questions.

Emmanuel Macalino stated he serves on the Gaming Policy Advisory Committee and went through the same issues that related to the stakeholders in the gaming industry. They overtaxed the stakeholders and they had to go back and make adjustments. Need to quantify the tax on the businesses versus the benefits to the City. Want to pay fair dues but not at the expense of businesses suffering to the point where they cannot function and agreed with extending the moratorium.

Robert Tanner stated the City needs to extend the moratorium. Some business owners told him they are being taxed three times on their revenue – State, Federal and now business tax. Mr. Tanner shared concerns regarding reduced revenues and businesses leaving. The residents were misled, and calculations were in error. Need to correct this sooner than later.

Alice English stated she spoke to some of the merchants, and they all agree on the moratorium. Hope it does not take that long to do it and suggested a town hall meeting earlier than August 13, told the merchants not to spend the money until it gets resolved and asked if it going to be retroactive.

Maria Ayala, Tracy Chamber of Commerce stated due to an unforeseen circumstance the Chamber had to cancel the July 3 meeting with staff and they are working with staff to reschedule that meeting in order to have a town hall meeting.

Gabriela Machuca stated if Council does not make adjustments businesses will go away. Utility payments for businesses has increased also. Ms. Machuca hoped the City will take that into consideration and suggested staff provide memo updates to Council.

Council comments continued.

Mayor Young closed the public hearing.

Mayor Young announced she would not be available for the September 3, 2024, Council meeting.

Adrienne Richardson, City Clerk read the title of the proposed Urgency Ordinance.

ACTION: Motion was made by Council Member Arriola and seconded by Council Member Evans to waive the reading of the full text and adopt **Urgency Ordinance 1346** making findings and extending for ten months and fifteen days, pursuant to Government Code 65858, the temporary moratorium on the processing of business tax under Chapter 6.04 of the Tracy Municipal Code, to take effect immediately upon adoption. Roll call found Council Members Arriola, Evans, Mayor Pro Tem Davis and Mayor Young in favor; passed and so ordered. Council Member Bedolla opposed.

6. COUNCIL ITEMS – Council Member Bedolla asked when a discussion will be coming to Council that includes inclusionary zoning and housing.

Midori Lichtwardt, City Manager responded she did not have a date but would get that information to him in an email.

Council Member Arriola asked when the Stars Casino item would be coming to Council.

Staff confirmed it is currently scheduled on the August 20, 2024, agenda.

Council Member Arriola stated it seemed that Mr. Macalino was not aware of the date so would have staff confirm with him and if otherwise requested a second so the item can proceed. Council Member Bedolla seconded the request. Council Member Arriola wished everyone a happy and safe summer.

Mayor Pro Tem Davis stated there are election rules we have to abide by and she received a call from a polling place and it was full of disinformation negatively skewed towards three Council Members and she asked the person who paid for the survey and that person said they would get back to her with that information. Mayor Pro Tem Davis asked if she finds information related to unfair political practices what is the process for dealing with that appropriately because she sees it as a code of ethics issue and is determined to find out who that information comes from. Mayor Pro Tem Davis asked about the process for investigating at a City level or whatever level she is supposed to as this needs to stop.

Bijal Patel, City Attorney responded the regulatory law for the elections law is the FPPC where a complaint would have to be filed. There is separate regulatory enforcement agencies which is the FBI which has an election law unit also. There are regions in the state for the FBI and a chapter in San Joaquin County. They are monitoring federal election law. State elections laws are regulated by the FPPC, and Federal is FBI. At the City level we do not monitor elections law issues, but Council has adopted a Code of Conduct and that is something to evaluate. Council can consult with her and determine whether or not there is a potential violation under the Code of Conduct. If that is the case it would come back to the Council body to determine if there is a violation of the Code of Conduct.

Mayor Young asked for clarification regarding when asking the City Attorney for an opinion that is being requested, the full body receives the full answer before anything would come as an item as it is important the Council is given the same information.

Ms. Patel responded if there is an interpretation under the Code of Conduct, it is the role of the City Attorney to look at your adopted policies, to the extent there is a question that is

posed and if it is applicable to all Council she would send a confidential communication to all Council saying this is the question posed and this is her interpretation and go from there.

Mayor Young stated there are people running for offices that sit on our commissions and asked if they are on the same Code of Conduct, so is limited to those currently on Council and currently on commissions. Not sure how the FPPC handles those running for office.

Ms. Patel confirmed the Code of Conduct also applies to members who are currently appointed on City boards and commissions or serving on the City Council. The FPPC is monitoring State Election Law and that is a separate issue to analyze, and the City does not have jurisdiction over that.

Mayor Pro Tem Davis asked if a Council Member or Board or Commissioner is acting as a resident versus their official capacity, how do those laws apply.

Ms. Patel responded when individuals are an elected or appointed official it is hard to take that hat off and it is very rare to say they are acting in their personal capacity. That rule is strong for elected officials. Members of Council are representing the Council. There are members of the public that are participating on a commission like Planning Commission or Arts Commission, more boxes can be created around those roles as they can take their hat off because their roles are narrower. The Planning Commission has only a finite box under which they get to review items. They can't get involved on budgetary issues as it is not in their purview. They could comment on budget adoption issues, but they cannot speak on things that would come before their commission such as the Housing Element. That is how to navigate through which hat to wear.

Mayor Young responded whatever the standard for code is still held if someone on a City of Tracy commission is sending out lies about a current Council Member, she wanted to make sure the same rule book is being used when looking at those things.

7. ADJOURNMENT – Time: 7:26 p.m.

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

The above agenda was posted at the Tracy City Hall on July 3, 2024. The above are action minutes. A recording is available at the office of the City Clerk.

ATTEST:

Mayor

City Clerk