

TRACY CITY COUNCIL - SPECIAL MEETING MINUTES

February 20, 2024, 5:00 p.m.

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

1. Mayor Young called the meeting to order at 5:01 p.m.
2. There were no actions taken pursuant to AB 2449.
3. Roll Call found Council Members Bedolla, Evans, Mayor Pro Tem Davis and Mayor Young present. There was no declaration of conflicts by City Council. Council Member Arriola absent from roll call.
4. Items from the audience – There was no public comment.
5. Request to Conduct Closed Session

5.A. CONFERENCE WITH LEGAL COUNSEL—EXISTING LITIGATION
(Paragraph (1) of subdivision (d) of Section 54956.9)

Patrick Vargas v. City of Tracy, et al.
USDC Case No. 2:22-cv-01454-WBS-KJN

5.B. CONFERENCE WITH LEGAL COUNSEL—EXISTING LITIGATION
(Paragraph (1) of subdivision (d) of Section 54956.9)

Mary Mitracos, v. City of Tracy, and Surland Communities, LLC, San Joaquin County Superior Court Case No. STK-CV-UWM-2018-5531

5.C. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

- i. Significant exposure to litigation pursuant to §54956.9, subd. (d)(2) and (e)(3):
(One case).

Attachment A – Government Claims Act claim made available pursuant to (e)(3)

5.D. CONFERENCE WITH LEGAL COUNSEL – POTENTIAL INITIATION OF LITIGATION

Potential initiation of litigation pursuant to §54956.9, subd. (d)(4): (One case).

Council Member Arriola arrived at 5:05 p.m.

Todd Lieberg spoke about item 5.B stating the City of Tracy entered into an agreement with Surland 10 years ago and Surland has not honored their portion of the agreement. Mr. Lieberg asked Council to treat Surland's Development Agreement like any other Development Agreement or contract the City has. There is no other contract where the other party has not honored their portion of

the agreement and readily admitted they owe \$8 million and 16 acres and are not going to pay as Council does not have three votes. Mr. Lieberg asked Council to sue Surland to enforce an existing contract, should do the right thing. The citizens have footed their portion of the Development Agreement to allow Ellis to build hundreds of homes and asked for a unanimous vote.

Mayor Young reiterated item 5.B is a case between Mary Mitracos versus City of Tracy and Surland.

Bijal Patel, City Attorney requested to hear items 5.B, 5.C and 5.D together as one item.

ACTION: Motion was made by Mayor Pro Tem Davis and seconded by Council Member Arriola to recess to Closed Session. Roll call found all in favor; passed and so ordered. Time: 5:09 p.m.

6. Mayor Young reconvened the meeting to open session at 6:59 p.m.

7. Report of Final Action, if Any – Bijal Patel, City Attorney reported there was no report of action for Item 5.A. For Items 5.B, 5.C and 5.D collectively, City Council has directed and authorized the City Attorney to proceed as follows: 1) Not to pursue an appeal in the lawsuit entitled Mitracos versus City of Tracy and Surland Communities, LLC. specifically with respect to the Courts denial on January 12, 2024 of the City's motion to enforce the judgement and writ by ordering Surland to pay a net total of \$10 million for the funding of the swim center, and 2) File a lawsuit against Surland to recover the net total of \$10 million owed by Surland for funding of the swim center under the 2013 Amended and Restated Development Agreement. The vote was unanimous 4-0. Mayor Pro Tem Davis recused herself and did not participate.

Mayor Pro Tem Davis stated she did not participate in items 5.B, 5.C and 5.D and recused herself due to interest in real property.

8. Council Items and Comments - None

9. Adjournment – Time: 7:01 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 February 16, 2024. The above are action minutes. A recording is available at the office of the City Clerk.

Mayor

ATTEST:

City Clerk