

# 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:** **Tuesday, April 2, 2019, 5:30 p.m.**  
(or as soon thereafter as possible)

**Location:** **Council Chambers, City Hall**  
**333 Civic Center Plaza, Tracy**

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.

1. Call to Order
2. Roll Call
3. Items from the Audience - *In accordance with Procedures for Preparation, Posting and Distribution of Agendas and the Conduct of Public Meetings, adopted by Resolution 2015-052 any item not on the agenda brought up by the public at a meeting, shall be automatically referred to staff. If staff is not able to resolve the matter satisfactorily, the member of the public may request a Council Member to sponsor the item for discussion at a future meeting.*
4. REVIEW AND DISCUSS THE PROPOSED CODE OF ETHICS AND CONDUCT AND CHANGES TO THE CURRENT COUNCIL POLICY C-1 AND APPROVE THE ENABLING RESOLUTIONS
5. Adjournment



Mayor

## **Thursday, March 28, 2019**

The City of Tracy complies with the Americans with Disabilities Act and makes all reasonable accommodations for the disabled to participate in public meetings. Persons requiring assistance or auxiliary aids in order to participate should call City Hall (209-831-6105), at least 24 hours prior to the meeting.

Any materials distributed to the majority of the Tracy City Council regarding any item on this agenda will be made available for public inspection in the City Clerk's office located at 333 Civic Center Plaza, Tracy, during normal business hours.

AGENDA ITEM 4

REQUEST

**REVIEW AND DISCUSS THE PROPOSED CODE OF ETHICS AND CONDUCT AND CHANGES TO THE CURRENT COUNCIL POLICY C-1 AND APPROVE THE ENABLING RESOLUTIONS.**

EXECUTIVE SUMMARY

The City Council appointed City Council members Vargas and Young as an ad hoc subcommittee to work with the City Attorney to prepare, for Council's consideration, a comprehensive Code of Ethics and Conduct. On February 5, 2019, the Council discussed the recommended Code and Council Policy. During that discussion, Council continued the item to allow for additional Council and public input. A workshop was set for April 2, 2019 to further discuss and, if agreed upon, to approve the Code.

DISCUSSION

The proposed Code of Ethics and Conduct ("The Code") is intended to provide a "bright line" of conduct that is expressly prohibited, together with sanctions in the event of transgression. The Code is proposed to encompass Council members, Board Commissioners, Elected Officials (Treasurer) and Appointed Employees (City Manager and City Attorney).

The Code has outlined Core Principles for all the above referenced officeholders. Further, it defines roles and responsibilities of the Mayor and City Council members. It proposes to establish a standing Council subcommittee on "Governance" to provide for continual updates to the Code and to review all City Boards and Commissions.

The Code as originally proposed provided changes to the amount of time and position on the agenda for "items from the audience," moving it from the current two periods to one period at the end of the meeting. Council was not in favor of reducing items from the audience from two agenda items to one at the end of the meeting. Council was also concerned that the proposed speaker cards did not allow for anonymous speech and may discourage speakers.

The subcommittee was split on the amount of time to provide to audience members and for any Council member rebuttal. Staff had recommended three (3) minutes for members of the public and two (2) minutes for a "brief rebuttal" by a Council member to respond to all items that were raised during items from the audience. One subcommittee member thought both should be longer. Council should review and provide direction on this item.

Council member Ransom provided suggested changes in writing, which are attached as Attachment B.

It is suggested that the Code eliminate the Council Policy relating to electronic, video or power point from members of the public, because the current policy (as written) which allows power point presentations has confused members of the public into an erroneous belief that any video or electronic submission will be automatically shown during either public testimony or items from the audience. The attached policy C-1 incorporates this change.

The Code reiterates the City Manager form of government. It provides limits on the use of staff to perform investigations and seek advisory opinions from the Fair Political Practices Commission and/or Attorney General.

The Code provides sanctions in the event of an individual violating the Code. City Council members may be sanctioned by the Council, including: reprimand, censure, loss of committee appointments and/or assignments. Board members can be removed from the Board or Commission upon which they sit. Sanctions against Appointed Employees are governed by their respective employment contract. Elected Officials may be sanctioned by reprimand or censure.

#### STRATEGIC PLAN

This agenda item is consistent with the Council approved Governance Strategy in creating and maintaining a highly ethical work environment.

#### FISCAL IMPACT

There is no fiscal impact in enacting the Code of Ethics and Conduct and updated Council Policies and Procedures.

#### RECOMMENDATION

That the City Council discuss, and if they choose, enact the Code of Ethics and Conduct and updated Council Policies and Procedures by Resolution.

Prepared by: Thomas Watson, City Attorney

Approved by: Midori Lichtwardt, Interim City Manager

#### ATTACHMENTS

Attachment A – Proposed Code of Ethics and Conduct with modifications based upon Council Comments

Attachment B - Proposed changes from Council member Ransom

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Attachment C – Proposed Procedures for Preparation, Posting and Distribution of Agenda and the Conduct of Public Meetings (Council Policy C-1)

Attachment D – Resolution adopting Code of Ethics and Conduct

Attachment E – Resolution repealing Resolution 2015-052 and adopting revised Council Policy C-1.

## **CODE OF ETHICS AND CONDUCT CITY OF TRACY**

The City Council of the City of Tracy adopts the following Ethical and Conduct principles, which shall apply to all Council Members, Commissioners, Elected Officials and Appointed Employees:

**DEFINITIONS.** For purposes of this Code of Ethics and Conduct, the following definitions shall apply:

(1) Commissioner. Commissioner means an appointed board or commission member for any board or commission created by the City and specifically includes advisory boards or commissions.

(2) Elected Official means City Treasurer.

(3) Appointed Employees means City Manager and City Attorney.

(4) Office holder means any Mayor, Council Member, Commissioner, Elected Official or Appointed Employee during the term of their office.

### **I. CORE VALUES AND PRINCIPLES.**

The City Council agrees that the following are Core Values and Principles of the City of Tracy:

#### **A. LAW AND ORDER**

1. The office holder shall obey the laws and guidelines set forward by the Fair Political Practices Commission and the City Council Protocols.
2. The office holder should be courteous and respectful to Council Members, staff and members of the public.

#### **B. PUBLIC TRUST AND CONFIDENCE IN GOVERNMENT**

1. The office holder shall not make false allegations that may promote erosion of confidence.
2. The office holder shall conduct themselves in a courteous and respectful manner at all times during the performance of their official City duties.
3. The office holder should not encourage distrust or discord against the City, City Council or staff.

4. The office holder should refrain from criticizing fellow Council Members from the dais.
5. The office holder should refrain from publically criticizing City administration and staff.

C. INTEGRITY/HONESTY

1. The office holder shall be honest with fellow elected officials, the public and others.
2. The office holder should vote their conscience.
3. The office holder should be willing to credit others' contributions to moving our community's interests forward.
4. The office holder should not knowingly use false or inaccurate information to promote a position.
5. The office holder should safeguard the ability to make independent, objective, fair and impartial judgments by scrupulously avoiding financial and social relationships and transactions that may compromise, or give the appearance of compromising, objectivity, independence, and honesty.

D. RESPONSIBILITY/PROTECTING THE PUBLIC'S INTERESTS

1. The office holder shall not accept gifts, services or other special considerations because of his or her public position.
2. The office holder shall not give special treatment or consideration to any individual or group beyond that available to any other individual.
3. The office holder shall refrain from disclosing confidential information concerning litigation, personnel, property, or other affairs of the City, without proper legal authority, nor use such information to advance his/her financial or other personal interests.

E. FAIRNESS/ACCOUNTABILITY

1. The office holder shall treat all persons, claims and transactions in a fair and equitable manner.
2. If the office holder receives substantive information that is relevant to a matter under consideration from sources outside the public decision-making process, the office holder shall publicly share it with the Council or Commission and staff.
3. The office holder should work to contribute to a strong organization that exemplifies transparency and open communication.
4. The office holder should promote meaningful and constructive public involvement in the agency's decision-making processes.

F. RESPECT FOR FELLOW ELECTED OR APPOINTED OFFICIALS, STAFF, AND THE PUBLIC

1. The office holder shall respect the distinction between the role of office holder and staff.
2. The office holder shall encourage full participation of all persons and groups; the office holder is aware of and observes important celebrations and events which reflect the values of our diverse population.
3. The office holder should treat fellow officials, staff and the public with patience, courtesy and civility, even when there is disagreement on what is best for the community.
4. The office holder should work towards consensus building and gain value from diverse opinions.

G. PROPER AND EFFICIENT USE OF PUBLIC RESOURCES

1. The office holder shall not use public resources, such as agency staff time, equipment, supplies or facilities, for private gain or personal purposes.
2. The office holder shall make decisions after prudent consideration of their financial impact, taking into account the long-term financial needs of the agency, especially its financial stability.
3. The office holder shall demonstrate concern for the proper use of agency assets (such as personnel, time, property, equipment, funds) and follow established procedures.
4. The office holder shall be a prudent steward of public resources and should actively consider the impact of decisions on the financial and social stability of the City and its residents.

II. ROLES AND RESPONSIBILITIES.

The power and duties of the entire City Council include:

1. Holding regular meetings at least twice per month.
2. Being educated and informed regarding City business and upcoming agenda items.
3. Administering oaths and affirmations in any investigation or proceeding, to compel attendance of witnesses, to examine them under oath.
4. Adopting ordinances and resolutions.
5. Deciding appeals from various departments, such as zoning or citations.
6. Approving City contracts or authorizing the City Manager to bind the City.

7. Providing for the sale or exchange of real or personal property not needed in City service by ordinance or resolution.
8. Appointing the City Manager and City Attorney and setting their compensation.
9. Removing the City Manager or City Attorney as set forth in the Tracy Municipal Code and the employment agreement with that individual.
10. Refraining from interference with the administrative service, except for the purpose of inquiry. The City Council must deal with the administration of City services through the City Manager.
11. Providing by ordinance or resolution for the organization, conduct and operation of the various offices and departments of the City.
12. Controlling all legal business of the City.
13. Designating depositories for City funds.
14. Fixing by ordinance or resolution amounts and terms of official bonds of all officials or employees.
15. Refraining from having any conflict of interest in any transaction of the City.
16. Appointing to and creating the various boards and commissions of the City.
17. Establishing by ordinance, resolution or policies a comprehensive personnel system.
18. After public hearings, adopting the annual budget of the City. At subsequent meetings, the City Council may amend or supplement the budget.
19. Establishing the procedure for assessing, levying and collecting taxes upon property within the City.
20. Incurring bonded indebtedness for the City.
21. Providing for an independent audit of the City each fiscal year.
22. By ordinance, regulating the granting of franchises.
23. Annually delegate the investment authority to the City Treasurer.

### **III. ROLE OF THE COUNCIL MEMBER.**

As individuals, Council Members have no administrative authority. They cannot give orders or otherwise supervise City employees. The Council, acting collectively, has complete authority over the City Manager in the City. This authority is generally restricted to establishing policies to be performed by the City Manager.

The major areas of Council authority and responsibility are:

1. Setting and interpreting rules governing its own proceedings.



2. Exercising all the powers of cities that the law does not delegate to others.
3. Legislating for the City.
4. Directing the enforcement of City ordinances.
5. Appointing City Manager and City Attorney.
6. Transacting City business.
7. Managing the City's financial operations.
8. Appointing members of the boards.
9. Conducting the City's intergovernmental affairs.

**IV. ROLE OF THE MAYOR.**

The Mayor is the presiding officer and a regular member of the City Council. The Mayor has all the powers and duties for the office of Council Member in addition to the following:

1. Official head of the City
2. The Mayor serves as the City's representative before the Legislature, federal agencies, and other local governments.
3. Executing official documents.
4. Power to make some appointments.
5. Presiding officer at Council meetings.
6. Declaring local emergencies.
7. Calling Special Meetings.

**V. CONDUCT OF COUNCIL AND PUBLIC DURING PUBLIC MEETINGS.**

The Council and all Commissions hereby adopts Roberts Rules of Order and shall follow them at all meetings. The Council shall limit the time of discussion and debate to five minutes per Council Member. Clarifying questions shall also be limited to five minutes per Council Member, unless the chair allows additional time.

The Council shall have one public comment period, which shall be placed after all business items. Persons are encouraged to use speaker cards. If a person declines to fill out a speaker card, they will still be allowed to speak. Speaker cards are to be given to the City Clerk. Speakers will be called up in the order the speaker cards were received by the City Clerk, then a call for anyone who did not fill out a speaker card. Public comment is limited to three (3) minutes per speaker and forty-five (45) minutes for the total public comment period. At the end of the public comment period, no further speakers will be

recognized. The chair shall have the discretion to extend the speaking period of any individual speaker, which shall also extend the total public comment period by the same amount of time. A Council Member may briefly respond to provide factual corrections to the record. Such a brief response shall not exceed two minutes.

A time for public announcements may be placed on the agenda, if the request for a public announcement is received prior to the posting of the agenda.

**VI. CONFLICT OF INTERESTS.**

Appointed Employees, Commissioners, Elected Officials and Council Members shall comply with all state laws and regulations as promulgated by the Fair Political Practices Commission.

Appointed Employees, Commissioners, Elected Officials and Council Members should refrain from applying for and entering into contracts with the City, except as allowed by the Tracy Municipal Code.

**VII. CITY MANAGER FORM OF GOVERNMENT.**

The Council and its members shall deal with the administrative services of the City only through the City Manager, except for the purpose of inquiry, and neither the Council nor any member thereof shall give orders to any subordinates of the City Manager.

**VIII. GOVERNANCE SUBCOMMITTEE.**

A permanent subcommittee of the Council shall be established, known as the Governance subcommittee. This subcommittee shall consist of two Council Members, selected by the Council, and will be responsible for review of Boards and Commissions, to report back to Council on the continuing viability and necessity of such Boards and Commissions, as well as recommendations to either create or dissolve any City Board or Commission. Additionally, the subcommittee will be responsible for recommending ongoing updates to the Code of Ethics and Conduct and procedures of Council.

**IX. COMPLIANCE AND ENFORCEMENT.**

This Code of Ethics and Conduct outlines standards of ethical conduct expected for members of the City Council, Elected Officials, Appointed Employees, and Commissioners. The chairs of Boards and Commissions and the Mayor and Council have the additional responsibility to intervene when actions of members that appear to be in violation of the Code of Ethics and Conduct are brought to their attention. These

sanctions are alternatives to any other remedy that might otherwise be available to remedy conduct that violates this code or state or federal law.

A. COUNCIL MEMBERS:

Council Members who intentionally and repeatedly fail to follow conduct of this Code may be reprimanded or formally censured by the Council, lose committee assignments (both within the City and with intergovernmental agencies) or other privileges afforded by the Council. Serious infractions of the Code of Ethics and Conduct could lead to other sanctions as deemed appropriate by the Council.

Individual Council Members should privately point out to the offending Council Member perceived infractions of the Code of Ethics and Conduct. If the offenses continue, then the matter should be referred to the Mayor in private. If the Mayor is the individual whose actions are being questioned, then the matter should be referred to the Mayor Pro Tem. It is the responsibility of the Mayor (or Mayor Pro Tem) to initiate action if a Council Member's behavior may warrant sanction. If no action is taken by the Mayor (or Mayor Pro Tem), then the alleged violation(s) can be brought up with the full Council at the request of two (2) Council Members. The Mayor or Council shall request the City Manager or the City Attorney to hire an outside investigator to investigate the allegation and report the findings to the Council.

Only the affected Council Member or Mayor is authorized to request from the City Attorney an opinion from the Fair Political Practices Commission ("FPPC") or Attorney General ("AG"). Council Members shall not request FPPC or AG opinions on other Council Members, Commissioners or Elected Officials through City staff or the City Attorney.

B. COMMISSIONERS AND ELECTED OFFICIALS:

Counseling, verbal reprimands and written warnings may be administered by the Mayor to Commissioners or Elected Officials failing to comply with City policy. These lower levels of sanctions should be kept private to the degree allowed by law. Copies of all written reprimands administered by the Mayor shall be distributed in memo format to the chair of the respective Board or Commission, the City Clerk, the City Attorney, the City Manager, and the City Council.

The City Council may impose sanctions on Commissioners whose conduct does not comply with the City's policies, up to and including removal from office. Any form of discipline imposed by Council shall be determined by a majority vote of the

Council at a noticed public meeting and such action shall be preceded by a memo to Council with supporting documentation.

When deemed warranted, the Mayor or majority of Council may call for an investigation of the Commissioner's or Elected Official's conduct. Also, should the City Manager or City Attorney believe an investigation is warranted, they shall confer with the Mayor or Council. The Mayor or Council shall request the City Manager or the City Attorney to hire an outside investigator to investigate the allegation and report the findings to the Council.

C. APPOINTED EMPLOYEES:

Appointed Employees agree that the following are Core Values and Principles of the City of Tracy specifically applying to their positions:

1. LAW AND ORDER

- a. Appointed Employees shall obey the laws and guidelines set forward by the Fair Political Practices Commission and the City Council.
- b. Appointed Employees should be courteous and respectful to Council Members.

2. PUBLIC TRUST AND CONFIDENCE IN GOVERNMENT

- a. Appointed Employees shall not make false allegations or provide false information that may promote erosion of confidence.
- b. Appointed Employees shall conduct themselves in a courteous and respectful manner at all times during the performance of their official City duties.
- c. Appointed Employees shall not encourage distrust or discord against the City, City Council or staff.
- d. Appointed Employees should refrain from criticizing Council Members from the dais.
- e. Appointed Employees should refrain from publicly criticizing City Council, administration and staff.

3. PROPER AND EFFICIENT USE OF PUBLIC RESOURCES

- a. Appointed Employees shall not use public resources, such as agency staff time, equipment, supplies or facilities, for private gain or personal purposes.

- b. Appointed Employees shall make decisions after prudent consideration of their financial impact, taking into account the long-term financial needs of the agency, especially its financial stability.
- c. Appointed Employees shall demonstrate concern for the proper use of agency assets (such as personnel, time, property, equipment, funds) and follow established procedures.
- d. Appointed Employees shall be prudent stewards of public resources and should actively consider the impact of decisions on the financial and social stability of the City and its residents.

Any violation of this code by the City Manager or City Attorney (Appointed Employees) shall be resolved as set forth in the individual's employment contract.

Key

Yellow- suggested additional or modified language

Blue- suggested deletions

## CODE OF ETHICS AND CONDUCT CITY OF TRACY

The City Council of the City of Tracy adopts the following Ethical and Conduct principles, which shall apply to all Council Members, Commissioners, Elected Officials and Appointed Employees:

### Purpose

The citizens of Tracy are entitled to a government that is fair, ethical, and accountable. The purpose of this Code of Ethics and Conduct is to assure that all elected and appointed officials conduct themselves in a manner that will instill public confidence and trust in the fair operation and integrity of city government.

The responsibility of ethics includes self-governance, oversight and protection for the agency, and environment that encourages ethical and professional behavior.

DEFINITIONS. For purposes of this Code of Ethics and Conduct, the following definitions shall apply: (1) Commissioner. Commissioner means an appointed board or commission member for any board or commission created by the City and specifically includes advisory boards or commissions. (2) Elected Official means City Treasurer. (3) Appointed Employees means City Manager and City Attorney. (4) Office holder means any Mayor, Council Member, Commissioner, Elected Official or Appointed Employee during the term of their office.

I. CORE VALUES AND PRINCIPLES. The City Council agrees that the following are Core Values and Principles of the City of Tracy:

#### A. LAW AND ORDER

1. The office holder shall obey the laws and guidelines set forward by the Fair Political Practices Commission and City Ordinances.
2. The office holder should be courteous and respectful to Council Members, staff and members of the public.

#### B. PUBLIC TRUST AND CONFIDENCE IN GOVERNMENT

1. The office holder shall not make false allegations that may promote erosion of confidence.
2. The office holder shall conduct themselves in a courteous and respectful manner at all times during the performance of their official City duties.
3. The office holder should not encourage distrust or discord against the City, City Council or staff.

4. The office holder should refrain from criticizing fellow Council Members from the dais.
5. The office holder should refrain from publically criticizing City administration and staff.

#### C. INTEGRITY/ HONESTY

1. The office holder shall be honest with fellow elected officials, the public and others.
2. The office holder should vote their conscience.
3. The office holder should be willing to credit others' contributions to moving our community's interests forward.
4. The office holder should not knowingly use false or inaccurate information to promote a position.
5. The office holder should safeguard the ability to make independent, objective, fair and impartial judgments by scrupulously avoiding financial and social relationships and transactions that may compromise, or give the appearance of compromising, objectivity, independence, and honesty.

#### D. RESPONSIBILITY/PROTECTING THE PUBLIC'S INTERESTS

1. The office holder shall not accept gifts, services or other special considerations because of his or her public position.
2. The office holder shall not give special treatment or consideration to any individual or group beyond that available to any other individual.
3. The office holder shall refrain from disclosing confidential information concerning litigation, personnel, property, or other affairs of the City, without proper legal authority, nor use such information to advance his/her financial or other personal interests.

The officer holder shall not leverage their title or position in opposition against members or organizations in the community.

The office holders shall protect the rights and responsibility of appointed staff to remain politically neutral and should not ask them to engage in activities that are political in nature.

#### E. FAIRNESS/ACCOUNTABILITY

1. The office holder shall treat all persons, claims and transactions in a fair and equitable manner.
2. If the office holder receives substantive information that is relevant to a matter under consideration from sources outside the public decision-making process, the office holder shall publicly share it with the Council or Commission and staff.
3. The office holder should work to contribute to a strong organization that exemplifies transparency and open communication.
4. The office holder should promote meaningful and constructive public involvement in the agency's decision-making processes.



## **F. RESPECT FOR FELLOW ELECTED OR APPOINTED OFFICIALS, STAFF, AND THE PUBLIC**

1. The office holder shall respect the distinction between the role of office holder and staff.
2. The office holder shall encourage full participation of all persons and groups; the office holder is aware of and observes important celebrations and events which reflect the values of our diverse population.
3. The office holder should treat fellow officials, staff and the public with patience, courtesy and civility, even when there is disagreement on what is best for the community.
4. The office holder should work towards consensus building and gain value from diverse opinions.
5. The officer holder shall not object or interfere with fellow electeds ability to work amicably with staff and other community groups on issues relevant to the community well-being
6. Appointed Board, Committee and Commission members do not report to individual Councilmembers, nor should Councilmembers feel they have the power or right to threaten or influence Board, Committee and Commission members if they disagree about an issue.

## **G. PROPER AND EFFICIENT USE OF PUBLIC RESOURCES**

1. The office holder shall not use public resources, such as agency staff time, equipment, supplies or facilities, for private gain or personal purposes.
2. The office holder shall make decisions after prudent consideration of their financial impact, taking into account the long-term financial needs of the agency, especially its financial stability.
3. The office holder shall demonstrate concern for the proper use of agency assets (such as personnel, time, property, equipment, funds) and follow established procedures.
4. The office holder shall be a prudent steward of public resources and should actively consider the impact of decisions on the financial and social stability of the City and its residents.

## **II. ROLES AND RESPONSIBILITIES.**

The power and duties of the entire City Council include:

1. Holding regular meetings at least twice per month.
2. Being educated and informed regarding City business and upcoming agenda items.
3. Administering oaths and affirmations in any investigation or proceeding, to compel attendance of witnesses, to examine them under oath.
4. Adopting ordinances and resolutions.
5. Deciding appeals from various departments, such as zoning or citations.
6. Approving City contracts or authorizing the City Manager to bind the City.
7. Providing for the sale or exchange of real or personal property not needed in City service by ordinance or resolution.
8. Appointing the City Manager and City Attorney and setting their compensation.
9. Removing the City Manager or City Attorney as set forth in the Tracy Municipal Code and the employment agreement with that individual.
10. Refraining from interference with the administrative service, except for the purpose of inquiry. The City Council must deal with the administration of City services through the City Manager.

11. Providing by ordinance or resolution for the organization, conduct and operation of the various offices and departments of the City.
12. Controlling all legal business of the City.
13. Designating depositories for City funds.
14. Fixing by ordinance or resolution amounts and terms of official bonds of all officials or employees.
15. Refraining from having any conflict of interest in any transaction of the City.
16. Appointing to and creating the various boards and commissions of the City.
17. Establishing by ordinance, resolution or policies a comprehensive personnel system.
18. After public hearings, adopting the annual budget of the City. At subsequent meetings, the City Council may amend or supplement the budget.
19. Establishing the procedure for assessing, levying and collecting taxes upon property within the City.
20. Incurring bonded indebtedness for the City.
21. Providing for an independent audit of the City each fiscal year.
22. By ordinance, regulating the granting of franchises.
23. Annually delegate the investment authority to the City Treasurer.

### **III. ROLE OF THE COUNCIL MEMBER.**

As individuals, Council Members have no administrative authority. They cannot give orders or otherwise supervise City employees. The Council, acting collectively, has complete authority over the City Manager in the City. This authority is generally restricted to establishing policies to be performed by the City Manager.

The major areas of Council authority and responsibility are:

1. Setting and interpreting rules governing its own proceedings.
2. Exercising all the powers of cities that the law does not delegate to others.
3. Legislating for the City.
4. Directing the enforcement of City ordinances.
5. Appointing City Manager and City Attorney.
6. Transacting City business.
7. Managing the City's financial operations.
8. Appointing members of the boards.
9. Conducting the City's intergovernmental affairs.
10. No one member of the Council has agenda setting authority.

#### **IV. ROLE OF THE MAYOR.**

The Mayor is the presiding officer and a regular member of the City Council. The Mayor has all the powers and duties for the office of Council Member in addition to the following:

1. Official head of the City
2. The Mayor serves as the City's representative before the Legislature, federal agencies, and other local governments.
3. Executing official documents.
4. Power to make some appointments.
5. Presiding officer at Council meetings.
6. Declaring local emergencies.
7. Calling Special Meetings.

#### **Role of Commissioners**

The City has several Commissions and citizen appointments as a means of engaging the broader community for input and exploring a diversity of thought on various area of the city purview. The appointed individuals serve as advisors at the will of the city council and make recommendations based upon the specified area of appointment.

#### **V. CONDUCT OF COUNCIL AND PUBLIC DURING PUBLIC MEETINGS.**

The Council and all Commissions shall adopt Roberts Rules of Order and shall follow them at all meetings. The Council shall limit the time of discussion and debate to five minutes per Council Member. Clarifying questions shall also be limited to five minutes per Council Member, unless the chair allows additional time.

The Council shall have only one public comment period, which shall be placed after all business items. No person shall be allowed to speak unless a speaker card is filled out. Speaker cards are to be given to the City Clerk and will be accepted until the Council item immediately prior to the public comment period is opened. Public comment is limited to three (3) minutes per speaker and forty-five (45) minutes for the total public comment period. Speakers will be called up in the order the speaker cards were received by the City Clerk. At the end of the public comment period, no further speakers will be recognized. The chair shall have the discretion to extend the speaking period of any individual speaker, which shall also extend the total public comment period by the same amount of time. A Council Member may briefly respond to provide factual corrections to the record. Such a brief response shall not exceed two minutes. **ADD** (except in the event additional time was given to a public member who made misleading statement that which the member seeks to clarify, at which point the member should be given an additional time equivalent to  $\frac{2}{3}$  of the speakers time)

A time for public announcements may be placed on the agenda, if the request for a public announcement is received prior to the posting of the agenda.

#### **VI. CONFLICT OF INTERESTS.**

Appointed Employees, Commissioners, Elected Officials and Council Members shall comply with all state laws and regulations as promulgated by the Fair Political Practices Commission.

Appointed Employees, Commissioners, Elected Officials and Council Members should refrain from applying for and entering into contracts with the City, except as allowed by the Tracy Municipal Code.

## VII. CITY MANAGER FORM OF GOVERNMENT. (Council-manager)

(start this section with an explanation of the council-manager form of government and provide the government code)

The Council and its members shall deal **handle administrative matters** with the administrative services of the City only through the City Manager, except for the purpose of inquiry, and neither the Council nor any member thereof shall give orders to any subordinates of the City Manager.

## VIII. GOVERNANCE SUBCOMMITTEE.

A permanent subcommittee of the Council shall be established, known as the Governance subcommittee. This subcommittee shall consist of two Council Members, selected by the Council, and will be responsible for review of Boards and Commissions, to report back to Council on the continuing viability and necessity of such Boards and Commissions, as well as recommendations to either create or dissolve any City Board or Commission. Additionally, the subcommittee will be responsible for recommending ongoing updates to the Code of Ethics and Conduct and procedures of Council.

## IX. COMPLIANCE AND ENFORCEMENT.

This Code of Ethics and Conduct outlines standards of ethical conduct expected for members of the City Council, Elected Officials, Appointed Employees, and Commissioners. **The chairs of Boards and Commissions and the Mayor and The Council** have the additional responsibility to intervene when actions of members that appear to be in violation of the Code of Ethics and Conduct are brought to their attention. **These sanctions are alternatives to any other remedy that might otherwise be available to remedy conduct that violates this code or state or federal law.**

### A. COUNCIL MEMBERS:

Council Members who intentionally and repeatedly fail to follow conduct of this Code may be reprimanded or formally censured by the Council, lose committee assignments (both within the City and with intergovernmental agencies) or other privileges afforded by the Council. **Serious infractions of the Code of Ethics and Conduct could lead to other sanctions as deemed appropriate by the Council.**

**Individual Council Members should privately point out to the offending Council Member perceived infractions of the Code of Ethics and Conduct. If the offenses continue, then the matter should be referred to the Mayor in private. If the Mayor is the individual whose actions are being questioned, then the matter should be referred to the Mayor Pro Tem. It is the responsibility of the Mayor (or Mayor Pro Tem) to initiate action if a Council Member's behavior may warrant sanction. If no action is taken by the Mayor (or Mayor Pro Tem), Then the alleged violation(s) can be brought up with the full Council at the request of two (2) Council Members. The Mayor or Council shall request the City Manager or the City Attorney to hire an outside investigator to investigate the allegation and report the findings to the Council.**

Only the affected Council Member or Mayor is authorized to request from the City Attorney an opinion from the Fair Political Practices Commission ("FPPC") or Attorney General ("AG"). Council Members shall not request FPPC or AG opinions on other Council Members, Commissioners or Elected Officials through City staff or the City Attorney.

## **B. COMMISSIONERS AND ELECTED OFFICIALS:**

### **Law and Order**

#### **BOARDS AND COMMISSIONS**

Commissioners serve the community, not individual Councilmembers. The City Council appoints individuals to serve on Boards, Committees and Commissions, and it is the responsibility of Boards, Committees and Commissions to follow policy established by the Council.

Commission, Board, or Committee appointments should not be used as a political "reward."

Appointment and re-appointment to a Board, Committee or Commission should be based on such criteria as expertise, ability to work with staff and the public, and commitment to fulfilling official duties.

Commissioners have no authority to ask staff members to work beyond the scope of assignment or the purview related to the commissioner's role. Any request for information beyond the commissioner's assignment must follow the Public Records Act process.

Commissioners may not leverage their titles or position in order to oppose any member of the community.

Counseling, verbal reprimands and written warnings may be administered by the Mayor to Commissioners or Elected Officials failing to comply with City policy. ((These lower levels of sanctions should be kept private to the degree allowed by law.)) Copies of all written reprimands administered by the Mayor shall be distributed in memo format to the chair of the respective Board or Commission, the City Clerk, the City Attorney, the City Manager, and the City Council.

## **CODE OF ETHICS AND CONDUCT**

The City Council may impose sanctions on Commissioners whose conduct does not comply with the City's policies, up to and including removal from office. Any form of discipline imposed by Council shall be determined by a majority vote of the Council at a noticed public meeting and such action shall be preceded by a memo to Council with supporting documentation.

When deemed warranted, the Mayor or the majority of Council may call for an investigation of the Commissioner's or Elected Official's conduct. Also, should the City Manager or City Attorney believe an investigation is warranted, they shall confer with the Mayor or Council. The Mayor or Council shall request the City Manager or the City Attorney to hire an outside investigator to investigate the allegation and report the findings to the Council.

### **C. APPOINTED EMPLOYEES:**

Appointed Employees agree that the following are Core Values and Principles of the City of Tracy specifically applying to their positions:

#### **1. LAW AND ORDER**

a. Appointed Employees shall obey the laws and guidelines set forward by the Fair Political Practices Commission and the City Council.

b. Appointed Employees should be courteous and respectful to Council Members.

#### **2. PUBLIC TRUST AND CONFIDENCE IN GOVERNMENT**

a. Appointed Employees shall not make false allegations or provide false information that may promote erosion of confidence.

b. Appointed Employees shall conduct themselves in a courteous and respectful manner at all times during the performance of their official City duties.

c. Appointed Employees shall not encourage distrust or discord against the City, City Council or staff.

d. Appointed Employees should refrain from criticizing Council Members from the dais. e. Appointed Employees should refrain from publicly criticizing City Council, administration and staff.

Appointed employees should use professionalism and follow the ICMA standards of political neutrality. To that point appointed staff shall

- Not leverage their positions or titles in opposition of a community member or organization.
- Guarantee that all recommendations, including from subordinate staff, are based on professional expertise and in the best interest of the city of and NOT based on any majority or perceived powerful force.
- Demonstrate concern and respect for the concerns of ALL councilmembers, yet take a course of action that is in the best interest of the city.
- Report violations of the council-manager form of government to the City Attorney and entire city council
- Ensure that all councilmembers are given the same information, even in response to inquiry

#### **3. PROPER AND EFFICIENT USE OF PUBLIC RESOURCES**

a. Appointed Employees shall not use public resources, such as agency staff time, equipment, supplies or facilities, for private gain or personal purposes.

b. Appointed Employees shall make decisions after prudent consideration of their financial impact, taking into account the long-term financial needs of the agency, especially its financial stability.

c. Appointed Employees shall demonstrate concern for the proper use of agency assets (such as personnel, time, property, equipment, funds) and follow established procedures.

d. Appointed Employees shall be prudent stewards of public resources and should actively consider the impact of decisions on the financial and social stability of the City and its residents.

Any violation of this code by the City Manager or City Attorney (Appointed Employees) shall be resolved as set forth in the individual's employment contract.

## CODE OF ETHICS AND CONDUCT

### IMPLEMENTATION

The Code of Ethics and Conduct is intended to be self-enforcing and is an expression of the standards of conduct for members expected by the City. This reason, this document shall be included in the regular orientations for candidates for City Council, City Treasurer, City Clerk, applicants to Board and Commissions, and newly elected and appointed officials.

Members entering office shall sign a statement acknowledging they have read and understand the Code of Ethics and Conduct. In addition, the Code of Ethics and Conduct shall be periodically reviewed by the City Council, Boards, Committees and Commissions, and updated it as necessary

Councilmembers who do not sign an acknowledgement that they have read and understand the Code of Ethics and Conduct shall be ineligible for intergovernmental assignments or Council subcommittees. Board, Committee and Commission members who do not sign an acknowledgement that they have read and understand the Code of Ethics and Conduct are not eligible for appointment

**PROCEDURES FOR PREPARATION, POSTING  
AND DISTRIBUTION OF AGENDA  
AND THE CONDUCT OF PUBLIC MEETINGS**

Applicability

The procedures outlined below relating to the preparation, posting and distribution of agendas apply to the City Council, the Successor Agency to the Community Development Agency, ~~the South County Fire Authority~~, the Public Facilities Corporation, the Tracy Operating Partnership Joint Powers Authority, and all City Boards, Commissions, and Committees. The procedures outlined below relating to the conduct of Council meetings apply only to the City Council. All City Council meetings shall be open to the public; however, the City Council may hold closed sessions as authorized by state law.

A. Preparation, Posting and Distribution of Agenda

Purpose of Agenda

The agenda process serves four purposes:

- As a communication mechanism, the agenda informs City staff, City Council, the public and the press.
- As a compliance mechanism, the agenda process ensures compliance with mandated state laws.
- As a decision-making mechanism, the agenda process regularly brings City business to the City Council for consideration and action. Agenda items should contain enough background information so City Council can obtain a full understanding of the issues. The agenda item should conclude with a staff recommendation so City Council has the benefit of staff input prior to making a final decision.
- As a historical reference that can be kept as a record of proceedings and actions as needed for future actions and/or litigation.

Agenda

As set forth above, the purpose of the agenda is to provide a framework within which Council meetings can be conducted and to effectively implement the approved Council programs, goals and budget. Staff shall work within the policies established by Council and not place matters on the agenda that are outside the scope of existing work programs and priorities except as approved by a majority of the Council, or matters necessary to the proper operation and well-being of the City.

The agenda shall contain a brief general description of each item of business to be transacted or discussed at the meeting.



## Procedures for Preparation, Posting and Distribution of Agenda and the Conduct of Public Meetings

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### Distribution of Agenda

At a minimum the posting and distribution of all agendas shall be done in accordance with the Ralph M. Brown Act ("Brown Act") (California Government Code sections 54950 et seq.). Agendas for regular meetings shall be posted 72 hours prior to the meeting; special meeting agendas shall be posted not less than 24 hours prior to the meeting. All agendas shall be posted in the following locations: City Hall, the Tracy library, the City's website, and other locations as may be required by a particular Board or Commission's Bylaws. Posting of agendas at City Hall shall be the official location for purposes of Brown Act compliance.

The agenda packets are provided to City Council Members on the Thursday (or Friday) prior to City Council meeting. Distribution to the staff, public and media shall occur immediately after distribution to the City Council. The City will provide, by mail, a copy of the agenda cover sheet and the specific item relating to any individual and/or company which has an item on any given Council agenda upon written request.

Agenda subscriptions are available from the City Clerk's Office, 333 Civic Center Plaza, Tracy, (Tel: 209/831-6105). Copies of the agenda, and of individual agenda items, are available at costs established in the City's Master Fee Schedule. Copies of the agenda are also available at the Library and the agenda is posted on the City's website [www.ci.tracy.ca.us](http://www.ci.tracy.ca.us).

### Public Access to Written Materials after the Agenda has been Posted or Distributed at Council Meetings

On occasion, Council may receive written materials either after the Agenda has been posted or at a Council meeting. These written materials are typically related to an agendized item or handed out during Items from the Audience. Upon the Council receiving these written materials they become a public record. For materials related to an agendized item, a copy will be kept on file at the City Clerk's Office and will typically be posted on the City's website under "Materials Distributed at Council Meetings" 48 hours after the Council meeting.

## B. Conduct of Council Meetings

### Council Meetings

Council meetings are held on the first and third Tuesdays of the month, unless the meeting date falls on a holiday as defined in California Government Code Section 6700. No meeting shall be held on such a holiday, but a regular meeting shall be held at 7:00 p.m. on the next business day thereafter unless otherwise cancelled or rescheduled, as required by California Government Code Section 54954. Special meetings are scheduled as necessary.

Council meetings are broadcast live on Channel 26. Reruns of the preceding Council meeting are shown every Wednesday at 8:00 p.m. and every Saturday at 9:00 a.m. on Channel 26. Videotapes and DVD recordings of City Council meetings are available at costs established in the City's Master Fee Schedule.

### Order of Business

The suggested order of business of Council meetings shall be as follows. However, the City Manager may make exceptions to the order as needed.

## Procedures for Preparation, Posting and Distribution of Agenda and the Conduct of Public Meetings

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1. Roll Call
2. Pledge of Allegiance
3. Invocation
4. Proclamations and Awards
5. Consent Calendar
- ~~6. Items from the Audience~~
- ~~7.6.~~ Continued Public Hearings
- ~~8.7.~~ New Public Hearings
- ~~9.8.~~ Regular Items including Introduction and Second Readings of Ordinances
- ~~10.9.~~ Items from the Audience
- ~~11.10.~~ Staff Items
- ~~12.11.~~ Council Items
- ~~13.12.~~ Adjournment

The regular order of business may be changed or suspended for any purpose at any particular meeting by the Mayor, with the consent of the Council.

The Council may determine whether it will consider any new items after 11:00 p.m. and shall determine which specific items will be considered. If an item is continued due to the lateness of the hour, the item shall be automatically placed on the agenda for the next regularly scheduled City Council meeting unless otherwise scheduled by motion action of the Council.

### Consent Calendar

All items listed on the Consent Calendar are considered to be routine matters or consistent with previous City Council direction. One motion, a second and a roll call vote may enact the items listed on the Consent Calendar. No separate discussion of Consent Calendar items shall take place unless members of the City Council, City staff or the public request discussion on a specific item at the beginning of the meeting.

### Public Access/Items from the Audience

It is the policy of the City Council that members of the public be allowed to address the Council on any agenda item or other matter within the Council's jurisdiction. Each member of the public will be allowed a maximum of five minutes for public input or testimony on an agenda item. At the Mayor's discretion, additional time for testimony may be granted. The Mayor shall request that individuals addressing the Council state their names and addresses for the record, to ensure accuracy in the minutes and for contact information. An individual's failure to state his or her name or address shall not preclude the individual from addressing the Council.

The public shall be given an opportunity to speak on "Items of Interest to the Public." Agendas for regular meetings will have ~~two one~~ opportunity~~ies~~ for "Items from the Audience." ~~The first opportunity will be limited to a 15-minute maximum period.~~ The ~~second~~ "Items from the Audience" opportunity will ~~not~~ have a maximum forty five (45) minute time limit. Persons are encouraged to use speaker cards. If a person declines to fill out a speaker card, they will still be allowed to speak. Speaker cards are to be given to the City Clerk. Speakers will be called up in the order the speaker cards were received by the City Clerk. ~~The five~~ A three minute maximum time limit per speaker ~~will~~ shall apply to all "Items from the Audience." The City Clerk shall be the timekeeper.

#### Non-Agendized Items (Items from the Audience and Council Items)

No matters, other than those on the posted agenda, shall be acted upon by the Council. However, items may be added to the agenda (such as emergency matters) as permitted in the Brown Act. Brief announcements, brief responses or questions for clarification, may be made to statements or questions raised on items not on the agenda. Brief responses to correct factual inaccuracies by Council Members shall be limited to two (2) minutes.

Action on any item not on the agenda shall be deferred until the item is properly listed on the agenda for a subsequent Council meeting unless added due to an immediate need if permitted under state law.

#### Council Member Request for Matters to be ~~Discussed~~discussed by Council

Council Members wishing to have a matter discussed by the City Council may request that it be placed on a future City Council agenda during a Council meeting, under "Council Items," or by contacting the City Manager, or his/her designee, via telephone, email, or in person. Upon the request of a Council Member, the item will be placed on a future City Council agenda as long as one other Council Member concurs with the request. The City Manager will determine when to place the item on a future agenda based on time necessary to complete the research and staff workload considerations and the effect on City Council established priorities.

#### Members of the Public - Request for Agenda Items

When a member of the public raises an item at a Council meeting which requires attention, such items shall be referred to staff for follow-up. If the requesting member of the public is not satisfied with staff's response to his/her question, the member of the public may request a Council Member to sponsor his/her item for discussion at a future Council meeting. In such cases, the sponsoring Council Member shall follow those procedures described under "Council Member Request for Agenda Items." Placing an item from a member of the public on a Council agenda does not imply or guarantee a decision or action different from that taken by staff in the initial follow-up to the question or request.

#### Public Hearings

Public hearings are required for a variety of City Council actions such as most changes to the Tracy Municipal Code, zoning revisions, some annexations, street vacations, weed abatement, liens, fee increases, etc. Whenever the law provides that publication of a notice shall be made, such notice shall be published in a newspaper of general circulation for the period prescribed, the number of times, and in the manner required. Each speaker will be allowed a maximum of five minutes for public input or testimony. At the Mayor's discretion, additional time for testimony may be granted. The City Clerk shall be the timekeeper.

#### Presentations to the Council

Letters and written communications: Speakers are encouraged to submit comments in writing at the earliest possible time to ensure distribution to Council and other interested parties.

Procedures for Preparation, Posting and Distribution of Agenda  
and the Conduct of Public Meetings  
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Letters submitted with a request that they be read into the record will be done so only upon a request of the majority of the Council.

PowerPoint (or similar): ~~No electronic media, videos or power points may be presented by members of the public during public testimony or "items from the audience." Staff and members of the public who wish to make PowerPoint, Video or similar presentations to the Council will utilize the City's audio/visual equipment. Staff and members of the public are required to provide the City Clerk's Office with the DVD/CD/Video (or email copy) of the presentation no later than 24 hours prior to the Council meeting.~~

~~Additionally, eight hard copies of the presentation material shall be provided to the City Clerk's Office for inclusion in the record of the meeting and for distribution to Council, City Attorney and City Manager.~~

### Americans with Disabilities Act

The City of Tracy is in compliance with the Americans with Disabilities Act and will make all reasonable accommodations for the disabled. To allow for such reasonable accommodations, persons requiring assistance or auxiliary aids to participate at a City meeting, should contact the City Manager's Office at (209) 831-6000 at least 24 hours prior to the meeting.

### Workshops

The purpose of a workshop is to inform the policy body on complex issues. Workshops provide an opportunity for the Council to review documents and request additional information. However, no final Council action shall be taken during the workshop on workshop items.

### Procedure for Invocations

Any member of the public who wishes to offer an invocation prior to the opening of a regular City Council meeting shall contact the City Clerk. The City Clerk shall select a mutually agreeable City Council meeting date for the invocation.

### Minutes

The City Clerk's office shall be responsible for the preparation and distribution of the Council minutes. The minutes shall include a public report on any action taken and the vote or abstention on such action of each Council Member present for the action. Unless a reading of the minutes is requested by a Council Member, the minutes may be approved as a Consent Calendar item.

No minutes or written record of closed sessions of the City Council shall be kept, except as required by state law or as directed by the majority vote of the City Council. The Council shall report at a public meeting any action taken in closed session, as required by Government Code Section 54957.1.

The City Clerk shall include a report on posting of the agenda in the minutes.

Rules of Decorum – Enforcement

While the Council is in session, all persons shall preserve the order and decorum of the session. The standards of order and decorum shall be governed by common sense. Any person who disrupts the orderly course of the meeting is guilty of an infraction and may be called out of order by the Mayor and barred from further participation during that session of the Council in accordance with the Brown Act and the California Penal Code.

RESOLUTION 2019-\_\_\_\_\_  
ESTABLISHING CODE OF ETHICS AND CONDUCT

WHEREAS, The 2018 San Joaquin Grand Jury recommended that the City Council adopt a Code of Conduct, and

WHEREAS, The City Council delegated the drafting of this Code of Ethics and Conduct to a special subcommittee, who prepared the Code of Ethics, and

WHEREAS, The City Council has reviewed, discussed and amended the draft Code,

NOW, THEREFORE, BE IT RESOLVED, the City Council hereby adopts the Code of Ethics and Conduct, attached as Exhibit "A."

\* \* \* \* \*

The foregoing Resolution 2019-\_\_\_\_\_, was passed and adopted by the Tracy City Council on the 2nd day of April, 2019, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CITY CLERK

RESOLUTION 2019-\_\_\_\_\_

RESCINDING RESOLUTION 2015-052 AND ESTABLISHING AMENDED COUNCIL PROCEDURE FOR PREPARATION, POSTING AND DISTRIBUTION OF AGENDA AND THE CONDUCT OF PUBLIC MEETINGS.

WHEREAS, On January 20, 2015, the Tracy City Council adopted Resolution 2015-012 which revised the City Council Procedures for Preparation, Posting and Distribution of Agenda and the Conduct of Public Meetings (“City Council Policies and Procedures”), and

WHEREAS, On April 7, 2015, the City Council amended the City Council Policies and Procedures by Resolution 2015-052, and

WHEREAS, The City Council delegated review of the Council procedures, as part of the drafting of this Code of Ethics and Conduct, to a special subcommittee, who prepared amendments to the City Council Policies and Procedures.

NOW, THEREFORE, BE IT RESOLVED, that the City Council rescinds Resolution 2015-52 and adopts the Revised Procedures for Preparation, Posting and Distribution of Agenda and the Conduct of Public Meetings, attached as Exhibit “A.”

\*\*\*\*\*

The foregoing Resolution 2019-\_\_\_\_\_, was passed and adopted by the Tracy City Council on the 2nd day of April, 2019, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CITY CLERK