

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, September 17, 2019, 6:00 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. WORKSHOP TO DISCUSS AND PROVIDE DIRECTION REGARDING PROPOSED CITY OF TRACY CITY COUNCIL CODE OF CONDUCT
5. Adjournment



Mayor

Thursday, September 12, 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

**WORKSHOP TO DISCUSS AND PROVIDE DIRECTION REGARDING PROPOSED
CITY OF TRACY CITY COUNCIL CODE OF CONDUCT**

EXECUTIVE SUMMARY

It is a best practice for City Councils to develop governance policies around roles and responsibilities, and norms and behaviors to ensure a shared understanding of the City Manager's role and the Council's expectations to optimize working relationships. These types of policies help to facilitate effective meetings, provide ground rules for healthy debate, promote civility, and serve as a guide for Council conduct, behavior, and effectiveness.

Over the past year, the Council has had several norms and values discussions with the goal of developing an ethics/conduct policy. In June 2019, the San Joaquin County Civil Grand Jury issued a report on its investigation of the Tracy City Council and recommended the Council adopt an ethics policy to guide its conduct. On July 16, 2019, Council unanimously agreed to develop and adopt an ethics/code of conduct policy within the Grand Jury's suggested timeframe of October 1, 2019.

DISCUSSION

Attached for Council discussion is a draft Code of Conduct Policy. This policy reflects best practices taken from various good governance resources, including but not limited to the League of California Cities, Institute for Local Government, and International City/Council Management Association (ICMA), as well as local agencies throughout California. The document discusses the Council-Manager form of government as prescribed by the Tracy Municipal Code (TMC) and wide variety of governance topics, including:

- Council-Manager Form of Government
- City Manager and Council Powers and Responsibilities
- Legal and Ethics Standards and Conflict of Interest Laws
- Code of Conduct Compliance and Enforcement
- Council Communications
 - Relationship with Staff and Advisory Bodies
 - Representing a City Position
- Council Advisory Bodies
- Council Financial Matters

Consistent with recommendations by the Grand Jury, the draft Code of Conduct also includes a Council Norms and Values Statement (Attachment 1 of the Draft Code of Conduct), which serves as a summary of the City Council Code of Conduct document. If approved, the Mayor and individual Council Members will be required to sign and affirm they have read and understand the Council norms and values statement.

Additionally, the draft Code of Conduct states that the rules and procedures that govern Council apply with equal force to all Council advisory boards and commissions. Therefore, a Council Advisory Body Norms and Values Statement (Attachment 2 of the Draft Code of Conduct) is included in the draft policy document. Like the City Council, the City Council advisory bodies will be required to sign and affirm they have read and understand the Council norms and values statement.

Policy feedback and direction received by the Council will be incorporated into the draft Code of Conduct and scheduled to return to Council for consideration and adoption on October 1, 2019.

STRATEGIC PLAN

This is a routine operational item and is not related to any of the Council Strategic Plans.

FISCAL IMPACT

There is no fiscal impact.

RECOMMENDATION

It is recommended that the Council discuss and provide direction regarding the proposed City of Tracy City Council Code of Conduct. A revised Code of Conduct document will be presented to the Council for consideration and adoption on October 1, 2019.

Prepared, Reviewed, and Approved by: Jenny Haruyama, City Manager

ATTACHMENTS:

Attachment A - Draft Code of Conduct

Council Code of Conduct
CITY OF TRACY



September 17, 2019



Think Inside the Triangle™

DRAFT

TABLE OF CONTENTS

CHAPTER 1 - FORM OF GOVERNMENT

- 1.1 Preamble.....X
- 1.2 Form of GovernmentX
- 1.3. City Manager Appointment, Power and Duties

CHAPTER 2 - COUNCIL POWERS AND RESPONSIBILITIES

- 2.1 City Council Generally X
- 2.2 Mayor and Vice Mayor-Appointment, Power and Duties..... X
- 2.3 Council Actions..... X
- 2.4 Council Member Committees..... X
- 2.5 Establishment and Appointment of Council Advisory Bodies (Boards, Commissions and Committees).....X

CHAPTER 3 - LEGAL AND ETHICAL STANDARDS

- 3.1 Preamble X
- 3.2 Public Interest..... X
- 3.3 Council Conduct..... X
- 3.4 Conflict of Interest.....X
- 3.5 Code of Conduct Compliance and Enforcement X
- 3.6 AB 1234-Required Ethics Training X

CHAPTER 4 - COMMUNICATIONS

- 4.1 Relationship/Communications with StaffX
- 4.2 Council Relationship/Communication with Council Advisory Bodies X
- 4.3 Handling of Litigation and Other Confidential Information X
- 4.4 Representing an Official City Position X
- 4.5 Quasi-Judicial Role/Ex Parte ContactsX
- 4.6 No Attorney-Client RelationshipX

CHAPTER 5 - COUNCIL ADVISORY BODIES

5.1 Boards, Commissions and Committees Generally.....x
5.2 Board, Commission and Committee Organization and Conduct..... x
5.3 Board, Commission and Committee Appointmentsx
5.4 Boards, Commissions and Committees - Vacancy of Office x

CHAPTER 6 - COUNCIL FINANCIAL MATTERS

6.1 Compensation..... XX
6.2 Benefits.....XX
6.3 City Council Budget and Expenses XX

APPENDIX

- Tracy Municipal Code (TMC) 2.08.060
- Council Appointed Committees
- City Nepotism Policy
- City Personnel Rule 9.2 (d)
- Resolution No. 2004-152 - Board, Commission, Committee Vacancy, Selection, and
- Ordinance 1094
- Resolution No. 2007-075 – Council Travel Procedures

CHAPTER 1 FORM OF GOVERNMENT

1.1 Preamble

The legal responsibilities of the Tracy City Council are set forth by applicable state and federal laws. In addition, the City Council has adopted regulations, including this Code of Conduct Policy, that hold Council Members to standards of conduct above and beyond what is required by law. This Policy is written with the assumption that Council Members, through training, are aware of their legal and ethical responsibilities as elected officials.

1.2 Form of Government

The City of Tracy operates under a Council-Manager form of government as prescribed by the Tracy Municipal Code ("TMC"). Accordingly, the Mayor and members of the Council are elected at-large, provide legislative direction, set City policy, and ultimately answer to the public.

1.3 City Manager Appointment, Power and Duties

The City Manager serves as the City's chief administrative officer and is responsible for directing the day-to-day operations of the City and implementing policy direction per Section 2.08.060 of the TMC (attached). Specifically, Section 2.08.070 of the TMC prohibits interference by either the City Council or any of its members with the City Manager's execution of their powers or duties:

- The Council nor a member shall interfere with the appointment by the City Manager of any of the department heads or any person to any office or employment.
- Additionally, the Council nor any of its members shall interfere with the City Manager's power to remove any of those persons.
- Neither the Council nor any of its members shall give orders to any subordinate of the City Manager, either publicly or privately.
- The City Council nor any of its members shall interfere with the administration of the City Attorney or give orders to the subordinates of the City Attorney.

The Council and its members shall deal only with the City Manager with respect to the administrative services or operational matters of the City.

CHAPTER 2 COUNCIL POWERS AND RESPONSIBILITIES

2.1 City Council Generally

- 2.1.1 The City Council has the power, in the name of the City, to do and perform all acts and things appropriate to a municipal corporation and the general welfare of its inhabitants, which are not specifically prohibited by the constitution, and/or State or Federal laws.
- 2.1.2 The Council acts as a body. Council policy and directives are established by majority vote, unless otherwise required by state law. A decision of the majority binds the Council to a course of action.
- 2.1.3 No Council Member has extraordinary powers beyond those of other members (except as may otherwise be provided in State law). All members, including the Mayor, have equal powers.
- 2.1.4 No member of the Council is permitted to hold any other City office or City employment.
- 2.1.5 Council Members are appointed by the Council body to serve on various committees, including Council standing and ad hoc committees, and third agency member committees.

2.2 Mayor and Mayor Pro Tem - Appointment, Power, and Duties

- 2.2.1 The Mayor is directly elected by the voters to serve a two-year term. The selection of the Mayor Pro Tem occurs every two years in December after the City receives the certified results from the County Registrar of Voters electing a new Mayor.
- 2.2.2 A Mayor Pro Tem is appointed by the Council and can be replaced at any time by a majority vote of the Council.

- 2.2.3 The Mayor is the presiding officer of the City Council. In the Mayor's absence, the Mayor Pro Tem shall perform the duties of the Mayor.
- 2.2.4 The Mayor is the official head of the City for all ceremonial purposes.
- 2.2.5 Per Government Code, the Mayor with the approval of the City Council, shall execute official documents (Section 40602b) and make appointments to city boards, commissions, and committees (Section 40605).
- 2.2.6 The Mayor is authorized to send letters stating the City's official position to appropriate legislators as long as it is consistent with the Council's Legislative Policy.
- 2.2.7 The Mayor may perform other duties consistent with the mayoral office as prescribed by the Tracy Municipal Code, California Government Code, or as determined by the Council.
- 2.2.8 The Mayor does not possess any power of veto.
- 2.2.9 The Mayor coordinates with the City Manager in the development of agendas for meetings of the City Council. Once the agenda is published, the City Manager may withdraw an item. Additionally, the Mayor may rearrange the order of business on the agenda.

2.3 Council Actions

- 2.3.1 Legislative actions by the City Council can be taken by means of ordinance, resolution, or minute action duly made and passed by the majority (unless otherwise required).
- 2.3.2 Under Council protocols and procedures, an item may be placed on the agenda if requested by two Council Members. The request can be made during open session or outside of a Council meeting.
- 2.3.3 Public actions of the Council are recorded in the minutes of the City Council meeting. The City Clerk is required to make a record only of

business actually passed upon by a vote of the Council and is not required to record any remarks of Council Members, except at the special request of a Council Member and with the consent of the Council.

- 2.3.4 Actions of the Council concerning confidential property, personnel, and/or legal matters of the City are to be reported consistent with State law.

2.4 Council Member Committees

- 2.4.1 The City Council may organize itself into standing and/or special/ ad hoc subcommittees to facilitate Council review of policy matters and action.
- 2.4.2 The Council may create or dissolve standing and/or special/ad hoc sub committees at any time by an affirmative vote of a majority of the Council.
- 2.4.3 The Council appoints and removes members to standing and ad hoc committees.
- 2.4.4 The Council also appoints and removes Council Members to third member agencies.
- 2.4.5 It is a best practice for non-appointed Council Members not to attend Council standing Committees to avoid the appearance of impropriety.

CHAPTER 3

LEGAL AND ETHICAL STANDARDS

3.1 Preamble

The residents and businesses of Tracy are entitled to have fair, ethical, and accountable local government. Such a government requires that public officials:

- Comply with both the letter and the spirit of the laws and policies affecting operations of the government;
- Be independent, impartial, and fair in their judgment and actions;
- Use their public office for the public good, not for personal gain; and
- Conduct public deliberations and processes openly, unless legally confidential, in an atmosphere of respect and civility.

To this end, the Tracy City Council has adopted this Code of Conduct and the Norms and Values Statement (Attachment) to encourage public confidence in the integrity of local government and its fair and effective operation.

3.2 Public Interest

3.2.1 Recognizing that stewardship of the public interest must be their primary concern, Council Members shall work for the common good of the people of Tracy and not for any private or personal interest. Council Members must endeavor to treat all members of the public and issues before them in a fair and equitable manner.

3.2.2 Council Members shall comply with the laws of the nation, the State of California, and the City in the performance of their public duties. These laws include, but are not limited to: the United States and California constitutions; the Tracy Municipal Code; laws pertaining to conflicts of interest, election campaigns, financial disclosures, employer responsibilities, and open processes of government; and City ordinances and policies.

3.3 Conduct

- 3.3.1 Council Members shall refrain from abusive conduct, personal charges, or verbal attacks upon the character or motives of other members of the City Council, boards, commissions, committees, staff, or the public.
- 3.3.2 Council Member duties shall be performed in accordance with the processes and rules of order established by the City Council.
- 3.3.3 Council Members shall inform themselves on public issues, listen attentively to public discussions before the body, and focus on the business at hand.
- 3.3.4 Council decisions shall be based upon the merits and substance of the matter at hand.
- 3.3.5 It is the responsibility of Council Members to publicly share substantive information that is relevant to a matter under consideration that they have received from sources outside of the public decision-making process with all other Council Members and the public prior to taking action on the matter.
- 3.3.6 Council Members shall not attend internal staff meetings or meetings between City staff and third parties unless authorized by the City Manager.
- 3.3.7 Policy Role
 - 3.3.7.1 Council Members shall respect and adhere to the Council-Manager structure of the Tracy City government as provided in State law and Tracy Municipal Code.

3.3.7.2 Council Members shall support the maintenance of a positive and constructive environment for residents, businesses, and City employees.

3.3.8 Implementation

3.3.8.1 This Code of Conduct shall be included in the regular orientations for City Council candidates. Current Council Members, including those entering office upon election shall sign a City Council Norms and Values Statement (**Attachment 1**) affirming they have read and understand this Tracy City Council Code of Conduct.

3.4 Conflict of Interest

3.4.1 In order to assure their independence and impartiality on behalf of the public good, Council Members are prohibited from using their official positions to influence government decisions in which they have a financial interest or where they have an organizational responsibility or a personal relationship that would present a conflict of interest under applicable State law.

3.4.2 In accordance with State law, Council Members must file an annual written disclosure (Form 700) of their economic interests.

3.4.3 Council Members shall not take advantage of services or opportunities for personal gain by virtue of their public office that are not available to the public in general.

3.4.4 Council Members shall respect and preserve the confidentiality of information provided to them concerning the confidential matters of the City. They must neither disclose confidential information without proper legal authorization nor use such information to advance the personal, financial, or private interests of themselves or others.

3.4.5 City Council Members should avoid any action that could be construed as, or create the appearance of, using public office for

personal gain, including use of City stationery or other City resources to obtain or promote personal business or political campaigns.

3.4.6 Public resources not available to the general public (e.g., City staff time, equipment, supplies, or facilities) shall not be used by Council Members for private gain and, personal and political purposes.

3.4.7 In keeping with their role as stewards of the public interest, Council Members shall not appear on behalf of the private interests of a third party before the City Council or any board, commission, or committee or proceeding of the City, except as permitted by law.

3.4.8 To the best of their ability, Council Members shall represent the official policies and positions of the City Council. When presenting their personal opinions or positions publicly, members shall explicitly state they do not represent the Council or the City.

3.4.9 Tracy City Municipal Code Provisions

3.4.9.1 Financial Interests in City Contracts Prohibited.

Section 2.04.050 of the Municipal Code prohibits members of the Council, appointed employees, the City Treasurer and members of City boards and commissions during their term of office, to contract or subcontract with the City.

Section 2.04.050 also requires a City Council Member to recuse (as defined by the Fair Political Practices Commission) themselves from any vote regarding any Memorandum of Understanding between the City and any lawfully recognized bargaining unit in which a City Council member has an immediate family member.

3.4.9.2 Nepotism.

The City of Tracy's Nepotism Policy prohibits the initial appointment of an individual who has a martial or familial relationship with any member the City Council, City Manager, or City Attorney.

3.4.9.3 Use of City Property for Private Purposes by City Official/ Employee.

The use for private gain or advantage of City time, facilities, equipment and supplies, prestige, influence, or information obtained through one's City office or employment. No City-owned facilities, equipment or supplies, including autos, trucks, instruments, tools, supplies, machines, badges, identification cards, or other items which are the property of the City shall be used by an employee for personal or non-City business reasons except upon prior written approval of the City Manager. (City Personnel Rule 9.2 (d))

3.4.9.4 Political Activities Prohibited; Discrimination.

For informational purposes, the following provisions apply to City and contract employees and consultants:

1. No employee shall, while in uniform or during the employee's working hours, take an active part in any municipal or other political campaign.
2. No employee shall, while in uniform or during the employee's work hours, seek or accept contributions for or against a candidate or issue.
3. An employee may not seek or accept signatures to any petition for or against any such candidate or issue during their work hours.

4. No person in the classified service shall be employed, promoted, demoted, or discharged or in any way favored or discriminated against because of political opinions or affiliations or because of race or religious belief.

3.4.10 California State Law Regarding Conflicts

While not enforceable by the City, there are four key areas of California State law that regulate the ethics of public officials.

3.4.10.1 Constitutional prohibitions

State law strictly forbids elected and appointed public officials from accepting free or discounted travel from transportation companies. The penalty for a violation includes the forfeiture of office.

3.4.10.2 Contractual conflicts of interest

This prohibition, found in Government Code Section 1090, applies to elected and appointed officials as well as other City staff members. It prohibits the City from entering into a contract if one of its members (i.e., a Council Member) is financially interested in the contract. If the bar (or prohibition) applies, the agency is prohibited from entering into the contract whether or not the official with the conflict participates or not. In some limited circumstances, officials are allowed to disqualify themselves from participation and the agency may enter into the contract.

Financial interest has been defined to include employment, stock/ ownership interests, and certain membership on the board of directors of a for-profit or nonprofit corporation, among others. Violations can be charged as a felony. A person convicted of violating Section 1090 is prohibited from ever holding public office in the State.

3.4.10.3 Political Reform Act - Conflicts of Interest

The Political Reform Act (PRA) was adopted by the voters in 1974 and is the primary expression of the law relative to conflicts of interest (and campaign finance) in California. The Act created the Fair Political Practices Commission (FPPC), a five-member State board which administers the Act.

The Act and the regulations are complex and are continuously subjected to official interpretation. The following synopsis of key parts of the Act will be helpful in spotting issues; however, the FPPC and/or City Attorney should be consulted for further advice and clarification.

With respect to conflicts of interest, the FPPC has promulgated a regulation which establishes an analysis which assists in determining whether a public official is participating in a government decision in which they have a qualifying financial interest and whether it is reasonably foreseeable that the decision will have a material financial effect on the public official's financial interest, which is distinguishable from the effect the decision will have on the public generally.

3.4.10.3.1 Political Reform Act-Enforcement

The FPPC can assess administrative fines and penalties for violation of the Act. The District Attorney and the State Attorney General may prosecute violators as civil or criminal matters. Violators may also be removed from office pursuant to Government Code Section 3060.

3.4.10.4 Common Law Conflicts of Interest

This is the judicial expression of the public policy against public officials using their official position for private benefit. An elected official bears a fiduciary duty to exercise the powers of office for the benefit of the public and is not permitted to use those powers or their office for the benefit of any private interest. This common law doctrine continues to survive the adoption of various statutory expressions of conflict law.

3.4.10.5 Appearance of Impropriety

When participation in action or decision-making as a public official does not implicate the specific statutory criteria for conflicts of interest; however, participation still does not “look” or “feel” right, that public official has probably encountered the appearance of impropriety.

For the public to have faith and confidence that government authority will be implemented in an even-handed and ethical manner, public officials may need to step aside even though no technical conflict exists. An example is where a long-term nonfinancial affiliation exists between the public official and an applicant or the applicant is related by blood or marriage to the official. For the good of the community, members who encounter the appearance of impropriety should step aside.

3.5 AB 1234-Required Ethics Training

AB 1234 requires elected or appointed officials who are compensated for their service or reimbursed for their expenses to take two hours of training in ethics principles and laws every two years. Those who enter office after January 1, 2006 must receive the training within a year of starting their service. They must then receive the training every two years after that.

The training must cover general ethics principles relating to public service and ethics laws including:

- Laws relating to personal financial gain by public officials (including bribery and conflict of interest laws);
- Laws relating to office-holder perks, including gifts and travel restrictions, personal and political use of public resources, and prohibitions against gifts of public funds;
- Governmental transparency laws, including financial disclosure requirements and open government laws (the Brown Act and Public Records Act); Laws relating to fair processes, including fair contracting requirements, common law bias requirements, and due process

NOTE: State laws governing conflicts of interest are written to ensure that actions are taken in the public interest. These laws are very complex. Council Members should consult with the City Attorney, their own attorney, or the Fair Political Practices Commission for guidance in advance.

3.6 Code of Conduct Compliance and Enforcement

Consistent with this oath is the requirement of this Council policy to comply with the laws as well as report violations of the laws and policy of which they become aware.

3.6.1 A request for censure of a member of the Council may be submitted to the City Clerk by any member of the Council. Censure is a formal statement or resolution by the Council officially reprimanding a Council Member.

The request shall contain the specific charges on which the proposed censure is based. The request for censure shall be considered by an ad hoc Committee of the Council established by the Mayor which shall consist of the Mayor and another Council Member. A neutral mediator selected by the Presiding Judge of the Superior Court of California of the County of San Joaquin shall advise the ad hoc Committee by preparing a written analysis of the allegation and their preliminary findings. If the Mayor is the subject of the censure, then the Mayor Pro Tempore shall establish the ad hoc Committee and serve on the ad hoc Committee. The ad hoc Committee shall not include the member making the request or the member who is the subject of the request. The City Clerk shall deliver a copy of the request for censure and

the charges to each member of the Council at least 72 hours prior to the first meeting of the ad hoc Committee at which the request will be first considered.

- 3.6.1.1 The Committee shall permit testimony from both the member making the request and the member subject to the request and shall determine whether: (a) further investigation of the charges is required in order to determine if a censure hearing is warranted; or (b) the matter is to be set for censure hearing; or (c) no further action should be taken with respect to the request. The Committee shall present its recommendations to the Council for its consideration and action as provided below.
- 3.6.1.2 If the ad hoc Committee determines no further action should be taken with respect to the request, the Committee shall report that to the Council at its earliest opportunity. If the Committee determines that further investigation is required, the Committee shall conduct an investigation, arrive at its recommendation, and report its conclusions, findings and a summary of its proceedings to the Council at its earliest opportunity. If the ad hoc Committee does not report its recommendations and findings to the Council within 30 days of the formation of the Committee and receipt of the request for censure, the matter shall automatically be sent to the Council for its consideration.
- 3.6.1.3 Upon receipt of the report of the ad hoc Committee, or at the expiration of the time for the ad hoc Committee to report, Council shall place the matter on its agenda to determine whether or not a censure hearing is warranted. If the Council decides to set the matter for a censure hearing, it shall schedule it no sooner than two weeks after its determination to hear the matter. It may not schedule the matter during any previously scheduled excused absence of the subject Council Member. Written notice of the hearing shall be delivered in person to the member of the Council subject to the censure hearing or to the member's City office as least ten (10) days in advance of the scheduled hearing.
- 3.6.1.4 At the censure hearing, the member of the Council who is the subject of the request for censure shall be given the opportunity to make an opening and a closing statement, to call witnesses on their behalf and to question their accusers. The member subject to the charges may be represented by a person or persons of their choice whether or not an attorney at law and may have that representative speak or question witnesses on their behalf. The questioning or cross-questioning of witness may be reasonably limited by the person chairing the hearing.
- 3.6.1.5 Testimony shall be taken only from witnesses having direct knowledge of facts or circumstances relevant to the specific charges under consideration.

However, the rules of evidence and judicial procedure applicable in courts of law shall not be applied to this hearing, and the procedures shall be generally informal.

- 3.6.2 These same protocols may be utilized for any suspected violations or alleged violations by a Council advisory body member. In addition to those protocols, the Mayor may also refer the matter to the City Council if further action is needed.
- 3.6.3 At the discretion of the Council, additional sanctions may be imposed for violating the Code of Conduct or engaging in other misconduct. These actions may be applied individually or in combination. They include, but are not limited to:
 - 3.6.3.1 Public Admonishment - —A reproof or verbal warning directed to a Council Member about a particular type of behavior that violates City policy.
 - 3.6.3.2 Revocation of Special Privileges —A revocation of a Council Member's Council Committee assignments, such as standing and ad hoc committees, regional boards and commissions, and other board/committee appointments. Other revocations may include temporary suspension of official travel, conference participation, and ceremonial titles.

CHAPTER 4 COMMUNICATIONS

4.1 Relationship/Communications with Staff

Staff serves the City Council as a whole, therefore:

- 4.1.1 A Council Member shall not direct staff in person or in writing to initiate any action, change a course of action, or prepare any report. A Council Member shall not initiate any project or study without the approval of the majority of the Council.
- 4.1.2 Requests for information and corresponding responses made by Council Members will be shared with the full Council.
- 4.1.3 Council Members shall not attempt to pressure or influence discussions, recommendations, workloads, schedules, or department priorities without first consulting with the City Manager and obtaining the approval of a majority of the Council.
- 4.1.4 When preparing for Council meetings, Council Members should direct questions ahead of time to the City Manager so that staff can provide the desired information at the Council meeting.
- 4.1.5 Any concerns by a member of the City Council regarding the behavior or work of a City employee should be directed to the City Manager privately to ensure the concern is resolved. Council Members shall not reprimand employees directly nor should they communicate their concerns to anyone other than the City Manager.
- 4.1.6 Council Members may direct routine inquiries to either the City Manager or appropriate department head.
- 4.1.7 Council Members serving on Council committees or as the City's representative to an outside agency may interact directly with City staff assigned to that effort as the City Manager's designee. The City

staff member so designated and assigned will keep the City Manager appropriately informed.

4.2 Council Relationship/Communication with Council Advisory Bodies

4.2.1 Council Members shall not attempt to pressure or influence board, commission, or committee decisions, recommendations, or priorities absent the approval of the majority of the Council.

4.2.2 It is a best practice that Council Members refrain from attending Board, Commission, and/or Committee meetings to avoid the appearance of impropriety.

4.3 Handling of Litigation and Other Confidential Information

4.3.1 All written materials and verbal information provided to Council Members on matters that are confidential and/or privileged under State law shall be kept in complete confidence to ensure that the City's position is not compromised. No disclosure or mention of any information in these materials may be made to anyone other than Council Members, the City Attorney, or City Manager.

4.3.1.1 Confidential materials provided in preparation for and during Closed Sessions shall not be retained and documents must be returned to staff at the conclusion of the Closed Session.

4.3.1.2 Council Members may not request confidential written information from staff that has not been provided to all Council Members.

4.4 Representing an Official City Position

4.4.1 City Council Members may use their title only when conducting official City business, for information purposes, or as an indication of background and expertise, carefully considering whether they are exceeding or appearing to exceed their authority.

- 4.4.2 Once the City Council has taken a position on an issue, all official City correspondence regarding that issue will reflect the Council's adopted position.
- 4.4.3 The Mayor is authorized to send letters on City letterhead stating the City's official position to appropriate legislators as long as it is consistent with the Council's Legislative Policy.
- 4.4.4 City letterhead may be used by Council Members only for official City business and/or to represent a policy action taken by the Council body.
- 4.4.5 If a member of the City Council appears before another governmental agency organization to give a statement on an issue affecting the City, the Council Member should indicate the majority position and opinion of the Council.
- 4.4.6 Personal opinions and comments may be expressed only if the Council Member clarifies that these statements do not reflect the official position of the City Council.

4.5 Quasi-Judicial Role/*Ex Parte* Contacts

The City Council has a number of roles. It legislates and makes administrative and executive decisions. The Council also acts in a quasi-judicial capacity or "like a judge" when it rules on various permits, licenses, and land use entitlements.

In this last capacity, quasi-judicial, the Council holds a hearing, takes evidence, determines what the evidence shows, and exercises its discretion in applying the facts to the law shown by the evidence. It is to these proceedings that the rule relative to *ex parte* contacts applies.

- 4.5.1 *Ex Parte* Contacts/Fair Hearings. The Council shall refrain from receiving information and evidence on any quasi-judicial matter while such matter is pending before the City Council or any agency, board, or commission thereof, except at the public hearing.

As an elected official, it is often impossible to avoid such contacts and exposure to information. Therefore, if any member is exposed to information or evidence about a pending matter outside of the public hearing, through contacts by constituents, the applicant or through site visits, the member shall disclose all such information and/or evidence acquired from such contacts, which is not otherwise included in the written or oral staff report, during the public hearing, and before the public comments period is opened.

Matters are "pending" when an application has been filed. Information and evidence gained by members via their attendance at noticed public hearings before subordinate boards and commissions are not subject to this rule.

4.6 No Attorney-Client Relationship

Council Members who consult the City Attorney, their staff, and/or attorney(s) contracted to work on behalf of the City cannot enjoy or establish an attorney-client relationship with said attorney(s) by consulting with or speaking to same. Any attorney-client relationship established belongs to the City, acting through the City Council, and as may be allowed in State law for purposes of defending the City and/or the City Council in the course of litigation and/or administrative procedures, etc.

CHAPTER 5 COUNCIL ADVISORY BODIES

5.1 Boards, Commissions, and Committees Generally

- 5.1.1 The Tracy Municipal Code establishes a Planning Commission to advise the Council on land use matters (Chapter 10.04) and a Parks and Community Services Commission (Chapter 7.16)
- 5.1.2 The rules of procedure and code of conduct that govern the City Council apply with equal force to all Council advisory boards and commissions.
- 5.1.3 The City Council may also establish by ordinance or resolution, boards, commissions, and committees to assist the Council in making its policy decisions. The City Council has the inherent power to create advisory bodies.
- 5.1.4 City boards, commissions, and committees (collectively "Council advisory bodies") provide policy recommendation to Council; they do not set or establish City policy or provide administrative direction to City staff.
- 5.1.5 City boards, commissions, and committees are advisory in nature and therefore do not represent City's official position on city matters.
- 5.1.6 Appointments to boards, commissions, and committees are made by a majority vote of the Council. Appointees to Council advisory bodies serve at the pleasure of the City Council.
- 5.1.7 The terms "board" and "commission" can be used interchangeably. Boards and commissions typically have broader policy and advisory responsibilities than committees which typically have much more focused advisory roles to the Council.

5.2 Board, Commission, and Committee Organization and Conduct

- 5.2.1 Annually, each board, commission, and committee elects one of their members to serve as the chair (presiding officer) and vice-chair.
- 5.2.2 Boards, commissions, and committees hold regular and special meetings as required. The conduct of board, commission, and committee meetings are governed by the same rules of policy and procedure as the City Council.
- 5.2.3 Boards, commissions, and committees should comply with all applicable open meeting and conflict-of-interest laws of the State.
- 5.2.4 Upon appointment or reappointment, Council advisory body members shall sign a Council Advisory Body Norms and Values statement (**Attachment 2**) affirming they have read and understand this City of Tracy City Council Code of Conduct.

5.3 Board, Commission, and Committee Appointments

- 5.3.1 Resolution No. 2004-152 establishes the board, commission, and committee appointment/selection process and requirements for residency.
- 5.3.2 The term of office for each board, commission, or committee member is 4 years, with the exception of the Measure V Residents' Oversight Committee which is 3 years.
- 5.3.3 The City Clerk provides application forms, maintains a listing of all applications received, and solicits applications when vacancies occur.

5.4 Boards, Commissions, and Committees- Vacancy and Selection/Appointment Processes

- 5.4.1 Resolution No. 2004-152 outlines procedures for filling a board, commission or committee vacancy and selection and appointment process. The Council appoints all City boards, commissions, and committee members.

5.4.2 Resignations may be submitted at any time to the City Council either directly or through the board, commission, or committee chair. Resignations are effective upon submittal.

5.5 Boards, Commissions, and Committees - Removal

5.5.1 A board member, commissioner, or committee member serves at the pleasure of the Council and may be removed at any time. The removal of a planning commission member must comply with TMC Section in accordance with the applicable procedures.

CHAPTER 6 COUNCIL FINANCIAL MATTERS

6.1 Compensation

6.1.1 Pursuant to Ordinance No. 1094, the Tracy Mayor and City Council receive a monthly salary. The amount is the salary limit established by the State Legislature for members of the City Council of general law cities having a population range within which the City of Tracy falls, as specified in California Government Code Section 36516(a).

6.1.2 The salary of the Mayor and City Council should be reviewed every two years.

6.2 Benefits

6.2.1 The California Government Code provides that Council Members may receive health, retirement, and other benefits. City-funded medical, dental, and life insurance plan benefits are provided.

6.3 City Council Budget and Expenses

6.3.1 City Council Resolution No. 2007-075 provides policy guidance regarding Council expenditures for equipment, supplies and communications; travel; local expenses; and eligible reimbursements.

CITY OF TRACY CITY COUNCIL
NORMS AND VALUES STATEMENT

PREAMBLE

The residents and businesses of Tracy are entitled to have fair, ethical, and accountable local government. Such a government requires that public officials:

- Comply with both the letter and the spirit of the laws and policies affecting operations of the government.
- Be independent, impartial and fair in their judgment and actions.
- Use their public office for the public good, not for personal gain.
- Conduct public deliberations and processes openly, unless legally confidential, in an atmosphere of respect and civility.

To this end, the Tracy City Council has adopted a Code of Conduct to encourage public confidence in the integrity of local government and its fair and effective operation.

City Council Members shall sign this Norms and Values statement upon assuming office and upon reelection to office as a symbol of each Council Member's continuing commitment to abide by the principles of this code.

1. Act in the Public Interest

Recognizing that stewardship of the public interest must be their primary concern, Council Members shall work for the common good of the people of Tracy and not for any private or personal interest, and they will endeavor to treat all persons, claims, and transactions in a fair and equitable manner.

2. Comply with the Law

Council Members shall comply with the laws of the nation, the State of California, and the City in the performance of their public duties. These laws include, but are not limited to: the United States and California constitutions;

the Tracy City Municipal Code; laws pertaining to Council-Manager form of government, conflicts of interest, election campaigns, financial disclosures, employer responsibilities, and open processes of government; and City ordinances and policies.

3. Conduct of Members

Council Members shall refrain from abusive conduct, personal charges, or verbal attacks upon the character or motives of other members of the City Council, boards, commissions, committees, staff, or the public.

4 Respect for Process

Council Member duties shall be performed in accordance with the processes and rules of order established by the City Council.

5. Conduct of Public Meetings

Council Members shall inform themselves of public issues, listen attentively to public discussions before the body, and focus on the business at hand.

6. Decisions Based on Merit

Council decisions shall be based upon the merits and substance of the matter at hand.

7. Communication

It is the responsibility of Council Members to publicly share substantive information that is relevant to a matter under consideration that they have received from sources outside of the public decision-making process with all other Council Members.

8. Coordination with City Staff

Appropriate City staff should be involved when Council Members meet with officials from other agencies and jurisdictions to ensure proper staff support as needed and to keep staff informed.

9. Disclosure of Corruption

All City officials shall take an oath upon assuming office, pledging to uphold the constitution and laws of the City, the State, and the Federal government. As part of this oath, officials commit to disclosing to the appropriate authorities and/or to the City Council any behavior or activity that may qualify as corruption, abuse, fraud, bribery, or other violation of the law.

10. Conflict of Interest

In order to assure their independence and impartiality on behalf of the public good, Council Members shall not use their official positions to influence government decisions in which they have a financial interest or where they have an organizational responsibility or a personal relationship that would present a conflict of interest under applicable State law.

In accordance with the law, members shall file written disclosures of their economic interests and if they have a conflict of interest regarding a particular decision, refrain from participating in that decision unless otherwise permitted by law.

11. Gifts and Favors

Council Members shall not take advantage of services or opportunities for personal gain by virtue of their public office that are not available to the public in general. They shall refrain from accepting gifts, favors, or promises of future benefits that might compromise their independence of judgment or action or give the appearance of being compromised.

12. Confidential Information

Council Members shall respect and preserve the confidentiality of information provided to them concerning the confidential matters of the City. They shall neither disclose confidential information without proper legal authorization nor use such information to advance their personal, financial, or private interests.

13. Use of Public Resources

Public resources not available to the general public (e.g., City staff time, equipment, supplies, or facilities) shall not be used by Council Members for private gain or personal purposes.

14. Representation of Private Interests

In keeping with their role as stewards of the public trust, Council Members shall not appear on behalf of the private interests of a third-party before the City Council or any board, commission, or committee or proceeding of the City.

15. Advocacy

To the best of their ability, Council Members shall represent the official policies and positions of the City Council. When presenting their personal opinions or positions, members shall explicitly state that they do not represent the Council or the City.

16. Improper Influence

Council Members shall refrain from using their position to improperly influence the deliberations or decisions of City staff, boards, commissions, or committees.

17. Policy Role of Members

Council Members shall respect and adhere to the Council-Manager structure of Tracy City government as provided in State law and the City Municipal Code.

18. Positive Work Environment

Council Members shall support the maintenance of a positive and constructive environment for residents, businesses, and City employees.

19. Implementation

Ethics standards shall be included in the regular orientations for City Council candidates. Council Members entering office shall sign a statement affirming they read and understood the City of Tracy's City Council Code of Conduct.

20. Compliance and Enforcement

Council Members themselves have the primary responsibility to assure that ethical standards are understood and met and that the public can continue to have **full** confidence in the integrity of City government.

This City Council Norms and Values statement shall be considered to be a summary of the longer City Council Code of Conduct document. The City Council Code of Conduct document shall be considered to be the definitive document relating to ethical conduct by Tracy City Council Members.

I affirm that I have read and understand the City of Tracy City Council Norms and Values statement.

Signature

Date

CITY OF TRACY
COUNCIL ADVISORY BODY
NORMS AND VALUES STATEMENT

PREAMBLE

The residents and businesses of Tracy are entitled to have fair, ethical, and accountable local government. Such a government requires that public officials, including Council advisory body members:

- Comply with both the letter and the spirit of the laws and policies affecting operations of the government.
- Be independent, impartial, and fair in their judgment and actions.
- Use their public office for the public good, not for personal gain.
- Conduct public deliberations and processes openly, unless legally confidential, in an atmosphere of respect and civility.

To this end, Council advisory body members are expected to adhere to the Code of Conduct adopted by the Tracy City Council to encourage public confidence in the integrity of local government and its fair and effective operation.

Council advisory body members shall sign this Norms and Values statement at the first meeting of the board, commission, or committee upon assuming office and, if applicable, upon reappointment to the board, commission, or committee as a symbol of each Council advisory body member's commitment to abide by the principles of this code during their term.

1. Act in the Public Interest

Recognizing that stewardship of the public interest must be their primary concern, Council advisory body members shall work for the common good of the people of Tracy and not for any private or personal interest, and they will endeavor to treat all persons, claims, and transactions in a fair and equitable manner.

2. Comply with the Law

Council advisory body members shall comply with the laws of the nation, the State of California, and the City in the performance of their public duties. These laws include, but are not limited to: the United States and California Constitutions; the Tracy City Municipal Code; laws pertaining to the Council-

Manager form of government, conflicts of interest, election campaigns, financial disclosures, employer responsibilities, and open processes of government; and City ordinances and policies.

3. Conduct of Council Advisory Body Members

Council advisory body members shall refrain from abusive conduct, personal charges, or verbal attacks upon the character or motives of Council Members; other members of the Council advisory body; other boards, commissions, or committees; staff; or the public.

4. Respect for Process

Council advisory body member duties shall be performed in accordance with the processes and rules of order established by the City Council.

5. Conduct of Public Meetings

Council advisory body members shall inform themselves of public issues, listen attentively to public discussions before the body, and focus on the business at hand.

6. Decisions Based on Merit

Council advisory body members shall base their decisions upon the merits and substance of the matter at hand.

7. Communication

It is the responsibility of Council advisory body members to publicly share substantive information that is relevant to a matter under consideration that they have received from sources outside of the public decision-making process with all other Council advisory body members.

8. Coordination with City Staff

Appropriate City staff should be involved when Council advisory body members meet with officials from other agencies and jurisdictions to ensure proper staff support, as needed, and to keep staff informed.

9. Disclosure of Corruption

All City officials shall take an oath upon assuming office, pledging to uphold the Constitution and laws of the City, the State, and the Federal government. As part of this oath, officials commit to disclosing to the appropriate authorities and/or to the City Council any behavior or activity that may qualify as corruption, abuse, fraud, bribery, or other violation of the law.

10. Conflict of Interest

In order to assure their independence and impartiality on behalf of the public good, Council advisory body members shall not use their official positions to influence government decisions in which they have a financial interest or where they have an organizational responsibility or a personal relationship that would present a conflict of interest under applicable State law.

In accordance with the law, members shall file written disclosures of their economic interests and if they have a conflict of interest regarding a particular decision, refrain from participating in that decision unless otherwise permitted by law.

11. Gifts and Favors

Council advisory body members shall not take advantage of services or opportunities for personal gain by virtue of their public office that are not available to the public in general. They shall refrain from accepting gifts, favors, or promises of future benefits that might compromise their independence of judgment or action or give the appearance of being compromised.

12. Confidential Information

Council advisory body members shall respect and preserve the confidentiality of information provided to them concerning the confidential matters of the City. They shall neither disclose confidential information without proper legal authorization nor use such information to advance their personal, financial, or private interests.

13. Use of Public Resources

Public resources not available to the general public (e.g., City staff time, equipment, supplies, or facilities) shall not be used by Council advisory body members for private gain or personal purposes.

14. Representation of Private Interests

In keeping with their role as stewards of the public trust, Council advisory body members shall not appear on behalf of the private interests of a third party before the City Council or any board, commission, or committee, or proceeding of the City.

15. Advocacy

To the best of their ability, Council advisory body members shall represent the official policies and positions of the City of Tracy. When presenting their personal opinions or positions, members shall explicitly state that they represent neither the Council advisory body nor the City.

16. Improper Influence

Council advisory body members shall refrain from using their position to improperly influence the deliberations or decisions of City staff, boards, commissions, or committees.

17. Policy Role of Members

Council advisory body members shall respect and adhere to the Council-Manager structure of Tracy City government as provided in State law and the City Municipal Code.

18. Positive Work Environment

Council advisory body members shall support the maintenance of a positive and constructive environment for residents, businesses, and City employees.
Attachment 2 to City Council Code of Conduct

19. Implementation

Ethics standards shall be included in the regular orientations for Council advisory body members. Upon entering office and upon reappointment, Council advisory body members shall sign a statement affirming they read and understood the City of Tracy's City Council Code of Conduct.

20. Compliance and Enforcement

Council advisory body members themselves have the responsibility to assure that ethical standards are understood and met, and that the public can continue to have full confidence in the integrity of City government.

Attachment 2 to City Council
Code of Conduct

The Council Advisory Body Norms and Values statement shall be considered to be a summary of the longer City Council Code of Conduct document. The City Council Code of Conduct document shall be considered to be the definitive document relating to ethical conduct by Tracy City Council advisory body members.

I affirm that I have read and understand the City of Tracy City Council Code of Conduct.

Signature

Date

APPENDIX

2.08.060 - Duties and powers.

The City Manager shall be the administrative head of the government of the City under the direction and control of the Council except as otherwise provided in this chapter. He or she shall be responsible for the efficient administration of all the affairs of the City which are under his or her control. In addition to his or her general powers as administrative head, and not as a limitation thereon, it shall be his or her duty and he or she shall have the powers set forth in the following subsections:

- (a) It shall be the duty of the City Manager and he or she shall have the power to see that all laws and ordinances of the City are duly enforced and that all franchises, permits, and privileges granted by the City are faithfully observed.
- (b) It shall be the duty of the City Manager and he or she shall have the power to control, order, and give directions to all heads of departments and to subordinate officers and employees of the City through their department heads, to transfer employees from one department to another, and to consolidate or combine offices, positions, departments, or units under his or her direction.
- (c) It shall be the duty of the City Manager and he or she shall have the power to appoint, remove and demote any and all officers and employees of the City, except the City Attorney and the City Treasurer.
- (d) It shall be the duty of the City Manager and he or she shall have the power to exercise control over all departments of government of the City and over all appointive officers and employees thereof.
- (e) It shall be the duty of the City Manager and he or she shall have the power to attend all the meetings of the Council unless excused therefrom by said Council.
- (f) It shall be the duty of the City Manager and he or she shall have the power to recommend to the Council for adoption such measures and ordinances as he or she deems necessary or expedient.
- (g) It shall be the duty of the City Manager and he or she shall have the power to keep the Council at all times fully advised as to the financial conditions and needs of the City.
- (h) It shall be the duty of the City Manager and he or she shall have the power to prepare and submit the proposed annual budget and the proposed annual salary plan to the Council for its approval.
- (i) It shall be the duty of the City Manager and he or she shall have the power to purchase all supplies for all of the departments or divisions of said City. No expenditure shall be submitted or recommended to the Council except on report or approval of the City Manager.
- (j) It shall be the duty of the City Manager and he or she shall have the power to make investigations into the affairs of the City and any department or division thereof, and any contract or the proper performance of any obligations running to the City.
- (k) It shall be the duty of the City Manager and he or she shall have the power to investigate all complaints in relation to matters concerning the administration of the City Government and in regard to the service maintained by public utilities in said City, and to see that all franchises, permits and privileges granted by the City are faithfully performed and observed.
- (l) It shall be the duty of the City Manager and he or she shall have the power to exercise general supervision over all public buildings, public parks, and all other public property which are under the control and jurisdiction of the Council.
- (m) It shall be the duty of the City Manager to devote full time to the duties of his or her office in the interests of the City.

- (n) It shall be the duty of the City Manager and he or she shall have the power to perform such other duties and exercise such other powers as may be delegated to him or her from time to time, by ordinance or resolution or other action of the Council.
- (o) The City Manager may attend any and all meetings of any other commissions or boards created by the Council, upon his or her own volition or upon direction of the Council. At any such meetings at which the City Manager attends, he or she shall be heard by such commissions and boards as to all matters upon which he or she wishes to address them.
- (p) The City Manager shall at all times conduct himself or herself in accordance with the International City Management Association ("ICMA") Code of Ethics.

(Ord. 1114 § 1 (part), 2008: prior code § 2-2.106)

(Ord. No. 1175, § 1, 10-16-2012)

2019 - COUNCIL COMMITTEES/COMMISSIONS

Committee/Commission	Meetings Held	Council Members
City/Chamber Liaison	Quarterly	Council Member Arriola Council Member Ransom (Alternate)
City/Schools Liaison	Every other month	Mayor Rickman Council Member Arriola
Investment Review Committee	Quarterly	Council Member Vargas Council Member Ransom
South San Joaquin County Fire Authority	Monthly	Mayor Rickman Council Member Ransom Council Member Vargas (Alternate)
*Tracy Area Public Facilities Financing Agency	As needed, with an annual meeting in May	Council Member Vargas Mayor Pro Tem Young
**City Selection Committee	Annually, additional meetings as needed	Mayor Rickman
**Community Development Block Grant Policy Advisory Committee	As needed, in conjunction with the distribution of the CDBG grants.	Council Member Vargas
**Council of Governments	Monthly, in Stockton at 4:00 p.m. on the fourth Thursday of the month.	Mayor Rickman Council Member Ransom - Alternate
**Duel Vocational Institution, Citizen's Advisory Committee	Alternate Months	Council Member Ransom Mayor Pro Tem Young (Alternate)
**San Joaquin County Water Advisory Commission	Monthly	Kul Sharma Stephanie Reyna-Heinstand
**San Joaquin Partnership	Monthly, on the fourth Thursday of each month	Council Member Ransom
**San Joaquin Regional Rail Commission	Monthly	Mayor Pro Tem Young Council Member Vargas (Alternate)
**Solid Waste Management Plan Advisory Task Force	As needed	Mayor Pro Tem Young Don Scholl
**Special City Selection Committee, SJVAPCD	As needed	Council Member Vargas Mayor Pro Tem Young (Alternate)
**League of California Cities, Central Valley Division Executive Committee	Quarterly	Council Member Ransom Council Member Arriola (Alternate)
Joint City/County Criminal Justice Task Force	As needed	Mayor Pro Tem Young Council Member Vargas (Alternate)

2019 - COUNCIL COMMITTEES/COMMISSIONS CONTINUED

San Joaquin Council of Government's One Voice – Washington	Annual Delegation: May 5 – 9, 2019	All Council
Altamont Regional Traffic Authority (ARTA) JPA	As needed	Mayor Rickman
Tri-Valley- San Joaquin Valley Region Rail Authority	Monthly	Council Member Vargas
LAFCo		No appointment at this time
Tracy Chamber Governmental Affairs Committee		Council Member Vargas

*Ad Hoc Committee **Outside Agencies ***Third Agency Members

CITY OF TRACY
ADMINISTRATIVE POLICY AND PROCEDURE MANUAL

SUBJECT: : NEPOTISM - *Policy*
DATE ISSUED: : November 1, 1997
SECTION: : N

SECTION 1: PURPOSE

The purpose of this policy is to provide guidance in its employment practices pertaining to the employment of relatives of City employees.

SECTION 2: POLICY STATEMENT

It is the policy of the City of Tracy not to discriminate in its employment and personnel actions with respect to its employees, prospective employees, and applicants on the basis of familial or marital status. No employee, prospective employee, or applicant shall be denied employment or benefits of employment on the basis of his or her familial or marital status. This policy applies to the selection of persons for a training program leading to employment in addition to the above-designated persons. The City of Tracy reserves the right to reasonably regulate for reasons of supervision, safety, security, or morale, the working of spouses and relatives in the same department division or facility.

SECTION 3: APPOINTMENT

The City of Tracy shall prohibit the initial appointment to a position within the City of Tracy of any person or employee who has a marital or familial relationship with the Tracy City Manager, City Attorney or members of the City Council.

SECTION 4: DEFINITIONS

A. Marital status is defined as an individual's state of marriage, non-marriage, divorce or dissolution, separation, widowhood, annulment, or other marital state for the purpose of this anti-discrimination policy.

B. Spouse is a partner in marriage as defined in California Civil Code Section 4100.

C. Familial status is defined as the state of an individual's specific relatives working for the City of Tracy and shall include spouse, child, brother, sister, parent or parent-in-law.

SECTION 5: INITIAL APPOINTMENT/PROMOTION

The City of Tracy shall prohibit the initial appointment or advancement of any person or employee to any position within any department within the City of Tracy, wherein that person so appointed or advanced would or may in any manner or form, supervise, public safety dispatch, or evaluate; or wherein that person would or may be supervised, dispatched or evaluated by any person within the same department, where, in either event, there exists a marital or familial status factor between said persons. The provisions of this paragraph shall not apply to part time employees who may supervise, dispatch or evaluate other part time employees.

SECTION 6: EMPLOYEE MARRIAGES

In the event two persons employed in the same City department marry each other and would thereby fall within the prohibitions listed in this policy, one of such employees shall be transferred to a comparable vacant position, if any exists, in another division or City department.

If no comparable position is then vacant, the married employees may remain in their respective positions for up to six (6) months. If a conflict still exists at the end of six (6) months, the married employees may designate the one to be terminated, or the employee with less seniority will be terminated.

9. **OUTSIDE EMPLOYMENT AND USE OF CITY PROPERTY**

- d. The use for private gain or advantage of City time, facilities, equipment and supplies, prestige, influence, or information obtained through one's City office or employment. No City-owned facilities, equipment or supplies, including autos, trucks, instruments, tools, supplies, machines, badges, identification cards, or other items which are the property of the City shall be used by an employee for personal or non-City business reasons except upon prior written approval of the City Manager;

RESOLUTION 2004-152

REVISING RESOLUTION NO. 2004-089 ESTABLISHING THE COUNCIL SELECTION PROCESS, AND DEFINING RESIDENCY REQUIREMENTS, FOR APPOINTEE BODIES (GOVERNMENT CODE §54970 ET SEQ. LOCAL APPOINTEE OFFICERS)

WHEREAS, Council Policy D-5 was adopted by Resolution 2002-434 on October 15, 2002, which established a selection process for appointee bodies, and

WHEREAS, A variety of terms are used to define residency for the purposes of eligibility for appointment to various Appointee bodies and a method to verify residency has not been established, and

WHEREAS, Council wishes to define the terms and identify methods by which to verify residency and to incorporate those definitions into the selection process, and

WHEREAS, The definitions established herein shall apply to all boards and commissions to which the City Council appoints members unless the Bylaws of the board or commission specifically define otherwise, and

WHEREAS, Revisions to Resolution No. 2004-089 were considered and approved by the City Council on May 18, 2004 as set forth below.

NOW, THEREFORE, the Tracy City Council hereby resolves as follows:

A. SELECTION PROCESS FOR APPOINTEE BODIES:

1. On or before December 31st of each year, the clerk shall prepare an appointment list of all regular and ongoing boards, commissions and committees that are appointed by the City Council of the City of Tracy. The list shall contain the following information:
 - a. A list of all appointee terms which will expire during the next calendar year, with the name of the incumbent appointee, the date of the appointment, the date the term expires and the necessary qualifications for the position.
 - b. A list of all boards, commissions and committees whose members serve at the pleasure of the Council and the necessary qualifications of each position.
 - c. The list of appointments shall be made available to the public for a reasonable fee that shall not exceed actual cost of production. The Tracy Public Library shall receive a copy of the list.
2. Whenever a vacancy occurs in any board, commission or committee, whether due to expiration of an appointee's term, resignation, death, termination or other causes, a special notice shall be posted in the office of the City Clerk, The Tracy Public Library, the City website, and in other places as directed within twenty (20) days after the vacancy occurs. Final

appointment to the board, commission or committee shall not be made by the City Council for at least ten (10) working days after the posting of the notice in the Clerk's office. If Council finds an emergency exists, the Council may fill the unscheduled vacancy immediately.

3. Appointments shall be made for the remainder of the term created by the vacancy except as follows:
 - a. If appointee will fill an un-expired term with six months or less remaining, the appointment shall be deemed to be for the new term.
 - b. If the vacancy is filled by an emergency appointment the appointee shall serve only on an acting basis until the final appointment is made pursuant to section 3.
 4. The council shall use the following selection process to provide an equal opportunity for appointment to a board, commission or committee:
 - a. Mayor (or designee) and a selected Council member will review applications, interview applicants and recommend a candidate for appointment to the board, commission or committee.
 - b. If the interview subcommittee determines there are multiple qualified candidates, the subcommittee can recommend the Council establish an eligibility list that can be used to fill vacancies that occur in the following twelve (12) months.
 - c. At the interview subcommittee's discretion, the chair (or designee) of the board, committee or commission for which a member will be appointed, can participate in the interviews.
 5. In the event there are not two or more applicants than vacancies on any board, commission or committee, the filing deadline may be extended by staff.
 6. An individual already serving on a City of Tracy board, committee or commission may not be appointed to serve on an additional City of Tracy board, committee, or commission concurrently.
- B. DEFINITION OF RESIDENCY REQUIREMENTS:
1. The following definitions shall be used to determine whether residency requirements are met for boards and commissions to which the Tracy City Council appoints members:
 - a. Tracy Planning Area means the geographical area defined in the City of Tracy General Plan and any amendments thereto.
 - b. City of Tracy means within the city limits of the City of Tracy.

- c. Citizen means a resident of the City of Tracy.
 - d. Tracy School District means the geographical area served by the Tracy Unified School District.
 - e. Sphere of Influence shall be the geographical area approved by the Local Agency Formation Commission (LAFCo) of San Joaquin County and any amendments thereto.
2. Residency, as defined above and as set forth in the applicable bylaws for each board or commission, shall be verified annually by the City Clerk. The residency must be verifiable by any of the following means:
- a. Voter registration,
 - b. Current California Driver's License or Identification,
 - c. Utility bill information (phone, water, cable, etc.),
 - d. Federal or State tax returns.
3. Members of boards or commissions shall notify the City Clerk in writing within thirty (30) days of any change in residency. If the change in residency results in the board member or commissioner no longer meeting the residency requirements, the member shall tender their resignation to the City Clerk who shall forward it to the City Council.

The foregoing Resolution 2004-152 was passed and adopted by the Tracy City Council on the 18th day of May, 2004, by the following vote:

AYES: COUNCIL MEMBERS: HUFFMAN, IVES, TOLBERT, TUCKER, BILBREY

NOES: COUNCIL MEMBERS: NONE

ABSENT: COUNCIL MEMBERS: NONE

ABSTAIN: COUNCIL MEMBERS: NONE


Mayor

ATTEST:


City Clerk

ORDINANCE 1094

AN ORDINANCE OF THE CITY OF TRACY
AMENDING ORDINANCE NO. 1064
REGARDING COMPENSATION
FOR COUNCIL MEMBERS AND ELECTED MAYOR

WHEREAS, On June 15, 2004, pursuant to Government Code section 36516(a)(2), the City Council of the City of Tracy adopted Ordinance No. 1064 establishing the Council salary at Five Hundred Thirty Two Dollars (\$532.00); and

WHEREAS, Pursuant to Government Code section 36516.1 which permits an elected Mayor to receive additional compensation, the salary for the Mayor was increased by One Hundred Dollars (\$100.00) for a total of Six Hundred Thirty Two Dollars (\$632.00); and

WHEREAS, Pursuant to Government Code section 36516(a)(4) the City Council may set the City Council salary at up to Six Hundred Dollars (\$600.00) per month based on a population between 75,000 and 150,000; and

WHEREAS, As of January 1, 2005, the California Department of Finance determined the total population of the City of Tracy is 78,307; and

WHEREAS, Pursuant to Government Code section 36516(c) any adjustment to compensation may not exceed an amount equal to 5 percent for each calendar year from the operative date of the last adjustment; and

WHEREAS, the last adjustment was operative January 1, 2005, allowing for a maximum total adjustment of ten (10%) percent to the current \$532.00 per month salary, to wit Fifty Three Dollars (\$53.00).

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF TRACY DOES ORDAIN AS FOLLOWS:

SECTION 1: The salary of each Member of the City Council of the City of Tracy shall be set at Five Hundred Eighty Five Dollars (\$585.00) per month.

SECTION 2: The Mayor of the City of Tracy shall receive additional compensation in the amount of One Hundred Dollars (\$100.00) for a total of Six Hundred Eighty Five Dollars (\$685.00) per month.

SECTION 3: This Ordinance shall take effect thirty (30) days after its final passage and adoption, however, pursuant to Government Code section 36516.5 this change in compensation shall be effective January 1, 2007, following certification of the results of the November 2006 City Council election.

SECTION 4: This Ordinance shall be published once in the Tracy Press, a newspaper of general circulation, within fifteen (15) days from and after its final passage and adoption.

* * * * *

The foregoing Ordinance 1094 was introduced at a regular meeting of the Tracy City Council held on the 4th day of April, 2006, and was finally adopted by said Council at the regular meeting held on the 18th day of April, 2006, by the following vote:

AYES:	COUNCIL MEMBERS:	IVES, SUNDBERG, TOLBERT, BILBREY
NOES:	COUNCIL MEMBERS:	TUCKER
ABSENT:	COUNCIL MEMBERS:	NONE
ABSTAIN:	COUNCIL MEMBERS:	NONE



Mayor

ATTEST:



City Clerk

Resolution No. 2007-075

REVISING THE POLICY AND PROCEDURES
FOR TRAVEL AND EXPENSES REIMBURSEMENT
FOR ELECTED AND APPOINTED OFFICIALS

WHEREAS, the City Council finds that it is in the best interests of the City that elected and appointed officials remain informed and trained in activities, developments and professional trends affecting the affairs of the City and that attendance at institutes, hearings, meetings, conferences, or other gatherings is of value to the City and its citizens; and

WHEREAS, appointed officials include Planning Commission, Parks and Recreation Commission members, and other non-employee members of boards, commissions, and committees; and

WHEREAS, the City of Tracy takes its stewardship over the use of its limited public resources seriously; and

WHEREAS, public resources should only be used when there is a substantial benefit to the City; and

WHEREAS, such benefits include:

- a. The opportunity to discuss the community's concerns with state and federal officials;
- b. Participating in regional, state and national organizations whose activities affect the City;
- c. Attending educational seminars designed to improve officials' skill and information levels; and
- d. Promoting public service and morale by recognizing such service; and

WHEREAS, a) legislative and other regional, state and federal agency business is frequently conducted over meals; b) sharing a meal with regional, state and federal officials is frequently the best opportunity for a more extensive, focused and uninterrupted communication about the City's policy concerns; and c) each meal expenditure must comply with the limits and reporting requirements of local, state and federal law; and

WHEREAS, this Policy provides guidance to elected and appointed officials on the use and expenditure of City resources, as well as the standards against which those expenditures will be measured; and

WHEREAS, Government Code section 36514.5 allows council members to be reimbursed for actual and necessary expenses incurred in the performance of their official duties; and

WHEREAS, On April 17, 2007, Council revised the policy to include a remedy for non-compliance by Board and Commission members; and

WHEREAS, this Policy satisfies the requirements of Government Code sections 53232.2 and 53233.3.

NOW, THEREFORE, the Tracy City Council does resolve, declare, determine and order as follows:

SECTION 1: Resolution No. 2007-023 is hereby repealed. The Travel and Expenses Reimbursement Policy and Procedures for Elected and Appointed Officials in the City of Tracy, attached hereto as Exhibit "A", is hereby adopted.

SECTION 2: This resolution shall take effect immediately upon adoption.

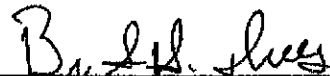
The foregoing Resolution 2007-075 was passed and adopted by the Tracy City Council on the 17th day of April, 2007, by the following vote:

AYES: COUNCIL MEMBERS: SUNDBERG, TOLBERT, TUCKER, IVES

NOES: COUNCIL MEMBERS: NONE

ABSENT: COUNCIL MEMBERS: ABERCROMBIE

ABSTAIN: COUNCIL MEMBERS: NONE



Mayor

ATTEST:



City Clerk

EXHIBIT "A" TO RESOLUTION NO. 2007-075

POLICY FOR REIMBURSEMENT
FOR TRAVEL AND EXPENSES
FOR ELECTED AND APPOINTED OFFICIALS

The City Council of the City of Tracy believes that it is important that elected and appointed officials (including Planning Commissioners, Parks and Recreation Commissioners, and other volunteer members of boards, commissions, and committees) remain informed and trained in issues affecting the affairs of the City and that attendance at institutes, hearings, meetings, conferences, or other gatherings is of value to the City and its citizens. The benefits include:

- a. The opportunity to discuss the community's concerns with state and federal officials;
- b. Participation in regional, state and national organizations whose activities affect the City;
- c. Attending educational seminars improve officials' skill and information levels; and
- d. Promoting public service and morale by recognizing such service.

In order to promote these endeavors, to protect public resources and foster public trust in the use of those resources, as well as comply with state law requirements regarding reimbursement of expenses, the City Council hereby sets forth the travel and expense reimbursement policies for the City of Tracy.

All anticipated conferences, conventions and professional meetings shall be budgeted for in the current operating budget. As the trip is being paid for with public funds, it shall be the responsibility of the official undertaking the trip to make every effort to attend the entire conference and/or as many sessions as possible.

All elected officials and appointed officials (including the City Manager and City Attorney) who receive compensation for their service or reimbursement for their expenses shall comply with this Policy. This shall include Planning Commissioners, Parks and Community Services Commissioners, and Cultural Arts Commissioners.

A. AUTHORIZED EXPENSES

City funds, equipment, supplies (including letterhead), titles, and staff time must only be used for authorized City business. Expenses incurred in connection with the following types of activities generally constitute authorized expenses, as long as the other requirements of this Policy are met:

1. Communicating with representatives of regional, state and national government on City adopted policy positions;
2. Attending educational seminars designed to improve officials' skill and information levels;
3. Participating in regional, state and national organizations whose activities affect the city's interests;

4. Recognizing service to the City (for example, thanking a longtime employee with a retirement gift or celebration of nominal value and cost);
5. Attending City events;
6. Implementing a City-approved strategy for attracting or retaining businesses to the City, which will typically involve at least one staff member;
7. Meetings such as those listed above for which a meeting stipend is expressly authorized under this Policy, and
8. City council members may be reimbursed for Internet and/or Cable TV expenses related to, and used in connection with, their official duties.

All other expenditures require prior approval by the City Council.

Expenses for international and out-of-state travel, other than the annual "One-Voice" trip to Washington D.C. coordinated through the San Joaquin County Council of Governments, require prior City Council approval.

For the purposes of this Policy, if the City pays directly for the expenses it is not considered a reimbursement (e.g. conference fees).

B. EXPENSES NOT ELIGIBLE FOR REIMBURSEMENT

Examples of personal expenses that the City will not reimburse include, but are not limited to:

1. The personal portion of any trip;
2. Political or charitable contributions or events;
3. Family expenses, including partner's expenses, when accompanying official on agency-related business¹, as well as children- or pet-related expenses;
4. Entertainment expenses, including theater, movies (either in-room or at the theater), sporting events (including gym, massage and/or golf related expenses), or other cultural events;
5. Alcohol/personal bar expenses;
6. Non-mileage personal automobile expenses, including repairs, traffic citations, insurance or gasoline; and
7. Personal losses incurred while on City business.
8. Any questions regarding the propriety of a particular type of expense should be resolved by the approving authority before the expense is incurred.

¹ If trip arrangements are made, as a convenience, for spouse or family members, reimbursement to the City for any advanced expenses must be received by the City prior to the trip.

C. COMPENSATION FOR ATTENDANCE AT MEETINGS

Compensation for meeting attendance, for elected and appointed members of city boards and commissions, shall be as follows:

1. City Council members' salaries shall be set and enacted as mandated by the California Government Code.
2. Compensation for meeting attendance for members of the Planning Commission, Parks and Community Services Commission, and the Community Cultural Arts Commission, shall be established by resolution of the City Council.

D. TRANSPORTATION

When attending conferences or meetings that are of such distance that it is more economical to take commercial transportation, if an official proposes to drive his/her car in those cases, commercial air fare will be paid and not automobile mileage. Government and group rates must be used when available.

1. **Airfare.** Airfares that are reasonable and economical shall be eligible for reimbursement.
2. **Automobile.** Automobile mileage is reimbursed at Internal Revenue Service ("IRS") rates in effect at the time of travel. These rates are designed to compensate the driver for gasoline, insurance, maintenance, and other expenses associated with operating the vehicle. This amount does not include bridge and road tolls, which are also reimbursable.
3. **Car Rental.** Rental rates that are reasonable and economical shall be eligible for reimbursement.
4. **Taxis/Shuttles.** Taxis or shuttles fares may be reimbursed, including a fifteen (15%) percent gratuity per fare, when the cost of such fares is equal or less than the cost of car rentals, gasoline and parking combined, or when such transportation is necessary for time-efficiency.

E. LODGING

Lodging expenses will be reimbursed, or paid for, when travel on official city business reasonably requires an overnight stay. If such lodging is in connection with a conference, lodging expenses must not exceed the group rate published by the conference sponsor for the meeting in question if such rates are available at the time of booking. Travelers must request government rates, when available. If the group rate is not available, reimbursement at the IRS rate in effect at the time of travel shall apply (IRS Publication 463).

F. MEALS

A local expense reimbursement policy identifying a "per diem" of reasonable rates for meals is not adopted. Receipts for expenses for meals shall be required. Actual expenses shall be reimbursed subject to the maximum per diem for the meal as set by the IRS rate in effect at the time of travel. (See Cal. Gov't Code §53232.2(c) and Publication 1542 at www.irs.gov or www.policyworks.gov/perdiem.) The City will not pay for alcohol/personal bar expenses.

G. MISCELLANEOUS EXPENSES

Officials will be reimbursed for actual telephone, fax, and parking expenses incurred on City business. Telephone bills should identify which calls were made on City business.

H. CASH ADVANCE POLICY

From time to time, it may be necessary for an official to request a cash advance to cover anticipated expenses while traveling or doing business on the City's behalf. Such request for an advance should be submitted to the City Manager ten (10) working days prior to the need for the advance with the following information:

1. The purpose of the expenditure(s);
2. The benefits of such expenditure to the residents of City;
3. The anticipated amount of the expenditure(s) (for example, hotel rates, meal costs, and transportation expenses); and
4. The dates of the expenditure(s).

Any unused advance must be returned to the City within five (5) working days of the official's return, along with an expense report and receipts documenting how the advance was used. In the event the City Manager is uncertain as to whether a request complies with this Policy, such individual must seek resolution from the City Council.

I. CREDIT CARD USE POLICY

City does not issue credit cards to individual office holders but does have an agency credit card for selected City expenses. City office holders may use the city's credit card for such purposes as airline tickets and hotel reservations by following the same procedures for cash advances. Receipts documenting expenses incurred on the City credit card and compliance with this Policy must be submitted within five (5) working days of use. Except as allowed under Section B(3), city credit cards may not be used for personal expenses, even if the official subsequently reimburses the City.

J. EXPENSE REPORT CONTENT AND SUBMISSION DEADLINES

All cash advance expenditures, credit card expenses and expense reimbursement requests must be submitted on an expense report form provided by the city. This form shall include the following advisory:

"All expenses reported on this form must comply with the city's policies relating to expenses and use of public resources. The information submitted on this form is a public record. Penalties for misusing public resources and violating the city's policies include loss of reimbursement privileges, restitution, civil and criminal penalties as well as additional income tax liability."

Expense reports must document that the expense in question met the requirements of this Policy. Officials must submit their expense reports within thirty (30) calendar days of an

expense being incurred, accompanied by receipts documenting each expense. Restaurant receipts, in addition to any credit card receipts, are also part of the necessary documentation.

Inability to provide such documentation in a timely fashion may result in the expense being borne by the official.

In the event the official does not attend the trip and non-refundable expenses have been incurred for registration, lodging and/or travel, the non-attending official shall submit a written explanation of the reasons for non-attendance to the City Manager. The City Manager shall determine if the public funds advanced must be reimbursed to the City. Any decision of the City Manager may be appealed to the City Council.

All expenses are subject to verification that they comply with this Policy.

K. REPORTS TO CITY COUNCIL, BOARD OR COMMISSION

At the next regular City Council (or Board or Commission) meeting, each official shall make a brief report (written or oral) on meetings attended at City expense. If multiple officials attended, a joint report may be made.

L. COMPLIANCE WITH LAWS; VIOLATION

City officials should keep in mind that some expenditures may be subject to reporting under the Political Reform Act and other laws. All agency expenditures are public records subject to disclosure under the Public Records Act and other applicable laws. Use of public resources or falsifying expense reports in violation of this Policy may result in any or all of the following: 1) loss of reimbursement privileges, 2) a demand for restitution to the City, 3) the agency's reporting the expenses as income to the elected official to state and federal tax authorities, 4) civil penalties of up to \$1,000 per day and three times the value of the resources used, and 5) prosecution for misuse of public resources.

Failure of an appointed Board or Commission member, after forty-five (45) days written notice, to complete the training required by AB1234 and this Policy shall result in the automatic removal of the member from their Board or Commission position.