

APPROVED AS TO FORM AND LEGALITY

  
CITY ATTORNEY'S OFFICE

TRACY CITY COUNCIL

RESOLUTION NO. 2023-102

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**ADOPTING AMENDMENTS TO THE CITY COUNCIL'S A) CODE OF CONDUCT AND B) MEETING PROTOCOLS AND RULES OF PROCEDURES**

**WHEREAS**, Pursuant to best practices (and in accordance with authority granted by California Government Code section 36813), legislative bodies often adopt policies governing the roles and responsibilities of such bodies as well as norms and behaviors expected of the members; and

**WHEREAS**, In June 2019, the San Joaquin County Civil Grand Jury issued a report on its investigation of the Tracy City Council and recommended the City Council adopt an ethics policy to guide its conduct; and

**WHEREAS**, On July 16, 2019, the City Council unanimously agreed to develop and adopt an ethics/code of conduct policy, and subsequently, on October 15, 2019, the Council adopted the City Council's Code of Conduct (Code); and

**WHEREAS**, On November 5, 2019, the City Council replaced older meeting protocol rules with the new Meeting Protocols and Rules of Procedure (Protocols); and

**WHEREAS**, Both the Code and the Protocols state that they should be reviewed and revised by the City Council by December 31<sup>st</sup> of every odd year; and

**WHEREAS**, At its annual retreat on February 4-5, 2023, the City Council began a discussion of issues and observations that have been made by the City Management team, City Attorney and Councilmembers regarding the Code and the Protocols; and

**WHEREAS**, On February 28, 2023, the City Council continued the discussion in a workshop, in which the Acting City Manager, Assistant City Manager, and City Attorney provided specific recommendations for the City Council's consideration; and

**WHEREAS**, Based on the direction given by the City Councilmembers, the City Attorney is proposing that the City Council adopt the amended Code of Conduct, reflected in **Attachment A**, and the amended Council Meeting Protocols and Rules of Procedure, reflected in **Attachment B**; and

**WHEREAS**, The amendments reflect general cleanups and clarifications to existing language; and

**WHEREAS**, The amendments also remove any overlapping language in the two documents, add clarifications to existing processes, and document compliance with laws; and

**WHEREAS**, The City Attorney worked closely with the previous Acting City Manager and the Assistant City Manager in developing the proposed amendments, to timely respond to the City Council's direction; now, therefore, be it

**RESOLVED**: That the City Council of the City of Tracy hereby adopts the amendments to the Code of Conduct, including the amendments made on the floor, as reflected in the amended Attachment A (a clean copy is reflected in A-1); and

**FURTHER RESOLVED**: That the City Council hereby adopts the amendments to the Meeting Protocols and Rules of Procedure, including the amendments made on the floor, as reflected in the amended Attachment B (a clean copy is reflected in B-1); and be it

**FURTHER RESOLVED**: That the City Council hereby directs the City Manager to implement the amended Code and Protocols, as of the date of this Resolution; and be it

**FURTHER RESOLVED**: In the event of ambiguity on any terms of the amended Code or Protocols, the City Manager shall consult with and obtain from the City Attorney a determination; and be it

**FURTHER RESOLVED**, That the actions taken herein do not constitute a "project" under the California Environmental Quality Act.

\*\*\*\*\*

The foregoing Resolution 2023-102 was adopted by the Tracy City Council on June 6, 2023 by the following vote:

AYES: COUNCIL MEMBERS: ARRIOLA, BEDOLLA, EVANS, DAVIS  
NOES: COUNCIL MEMBERS: NONE  
ABSENT: COUNCIL MEMBERS: YOUNG  
ABSTENTION: COUNCIL MEMBERS: NONE



ELEASSIA DAVIS  
Mayor Pro Tem of the City of Tracy, California

ATTEST:   
ADRIANNE RICHARDSON  
City Clerk and Clerk of the Council of the  
City of Tracy, California

ATTACHMENTS

Attachment A – [Redlined version of](#) Code of Conduct

[Attachment A-1 – Clean version of Code of Conduct](#)

Attachment B – [Redlined version of](#) Meeting Protocols and Rules of Procedure

[Attachment B-1 – Clean version of Code of Conduct](#)



# **CITY COUNCIL**

# **CODE OF CONDUCT**

Adopted on October 15, 2019 by Resolution No. 2019-203

Amended on July 21, 2020 by Resolution No. 2020-133

Amended on February 16, 2021 by Resolution No. 2021-017

Amended on October 19, 2021 by Resolution No. 2021-146

Amended on June 6, 2023 by Resolution 2023-102

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- F. Ordinance 1094
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ATTACHMENT 1 - City Council Code of Conduct Norms and Values Statement

ATTACHMENT 2- Council Advisory Body Norms and Values Statement

ATTACHMENT 3 - Code of Fair Campaign Practices

## 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 is appointed by a majority vote of the Council and 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:

- Neither the City Council, as a body, 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, neither the City Council, as a body, 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 City Manager and his/her senior staff shall conduct themselves in accordance with the International City Management Association (ICMA) Code of Ethics.

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

#### 1.4 City Attorney Appointment and Responsibilities

The City Attorney is appointed by a majority vote of the City Council, ~~per~~ Section 12.08.40, and serves as the City's sole legal counsel. The City Manager shall coordinate with and receive input from the City Attorney on all administrative, policy and operational matters that have or may have legal implications to the City. Without limiting the foregoing, the City Attorney shall have the following powers and duties: the City Attorney is responsible for approving as to form all subdivision improvement agreements and security, deferred improvement agreements, liability agreements and insurance, and all governing documents for a community apartment project, condominium, stock cooperative, or conversion.

- Neither the City Council, as a body, nor any of its members shall interfere with the administration of the City Attorney's Office or give orders to the subordinates of the City Attorney.
- The City Attorney shall serve as the legal counsel to the City Council and its standing committees, Planning Commission, City Manager, and all City staff pertaining to City matters.
- The City Attorney shall review and approve, as to form and legality, all ordinances, resolutions, and related staff reports for the City Council, its standing committees, and boards and commissions conducting meetings under the Brown Act.
- The City Attorney shall review and approve, as to form and legality, all contracts, agreements, bonds, and other legal documents related to the conduct of the City's affairs.
- The City Attorney shall interpret and opine on the implementation of the Tracy Municipal Code on behalf of the City and shall prosecute violations of the Tracy Municipal Code in Superior Court.
- The City Attorney may engage outside counsel to implement the functions of the City Attorney's Office, and no other City official, including the City Manager, City Council member or staff may independently engage outside counsel on City-related matters.
- The City Attorney and his/her senior staff shall, at all times, conduct themselves in accordance with the California Rules of Professional Conduct, established by the California State Bar, and the Ethical Principles for City Attorneys, adopted by the League of California Cities' City Attorneys Department.

## 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 entity 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, ~~and unless otherwise required by state law. A~~ decision of the majority binds the Council to a course of action, unless otherwise required by State law.
- 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 boards or committees, including Council standing and ad hoc committees, and third agency member boards and committees.
- 2.1.6 ~~Based on available resources as determined by the City Manager, unless directed by the City Council, the Council as a body may participate in public relations activities regarding issues or topics pertaining to City business or that affect the community at large. This may include, but is not limited to the dissemination of information via press release, video, social media, and/or other means of communication.~~

#### 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 Mayor.

2.2.2 A Mayor Pro Tem is appointed for a one year term, by the-a majority vote of the City Council, and can be replaced at any time, by a majority vote of the City 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~~ 2.2.3 The Mayor is the official head of the City for all ceremonial purposes.

~~2.2.5~~ 2.2.4 Per the Government Code, the Mayor, with the "approval" of the City Council, shall (a) execute official documents (Section 40602b) and (b) make appointments to city boards, commissions, and committees unless otherwise specifically provided by statute (Section 40605). Approval shall be deemed to be a majority vote of the City Council, unless a super majority is required by State law for any specific action.

~~2.2.6~~ 2.2.5 The Mayor is authorized to send letters stating the City's official position to appropriate legislators as long as it is consistent with the City Council's Legislative Policy.

~~2.2.7~~ 2.2.6 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-a majority vote of the City Council.

~~2.2.8~~ 2.2.7 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 (motion) 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.~~

#### 2.42.3 Council Member Subject Matter Committees

2.4.12.3.1 The City Council may organize itself into standing and/or special/ad hoc subcommittees to facilitate Council review of policy matters and action.

2.4.22.3.2 The City 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 City Council. The City Council will endeavor to rotate appointments to standing and ad hoc standing committees to ensure equitable participation.

2.4.32.3.3 The City Council, by a majority vote, appoints and removes members to standing and ad hoc committees annually.

2.3.4 The Council also appoints and removes Council Members to third member agencies by a majority, annually.

**2.4.42.3.5** It is a best practice for non-appointed Council Members not to attend Council standing Committees to avoid the appearance of impropriety and maintain compliance with the Brown Act.

#### 2.4 Action by Subject Matter Committees -

The assigned subject matter Committee shall have initial jurisdiction over any item assigned to it by the City Council as well as any items being advanced by the City Manager that implement or relate to the overall jurisdictional purpose of such Committee and may take any of the following actions with respect to the assigned item.

The Committee may, by a vote of the consensus, decide to postpone, continue, or table an item on the agenda. On any item on an agenda, the Committee may allow for an informational presentation by City staff relating to the item. With respect to an action item, and after discussion and consideration of the item, the Committee may take one of the following actions:

- 2.4.1** Vote by consensus to approve the recommendation of staff or the originator of the proposed action item and forward the recommendation onto the full Council. The Committee may, as a condition of approval, request additional information to be presented for consideration when the full Council hears the item.
- 2.4.2** Fail to approve any recommended action, in which case the item shall not be forwarded to the full City Council; provided that the City Council shall have jurisdiction to place the item on the agenda for a future City Council meeting, in accordance with the requirements of the Meeting Protocols for agenda setting, if no action was taken on the item due to any one of the following reasons
  - Due to the cancellation of a Committee meeting or
  - Due to lack of a quorum, or
  - the Committee was not able to approve any recommended action
- 2.4.3** Propose by a consensus vote of those present one or more alternative recommendation(s) be forwarded to the full City Council for consideration and final action. The Committee may request additional information to be presented for consideration when the full Council hears the item.
- 2.4.4** Reject, by a consensus vote, jurisdiction over the action item and refer the action item back to the City Council with a recommendation for reassignment to another appropriate subject-matter committee.
- 2.4.5** Request, by consensus vote, additional, specified information from staff or the originator of the proposed action item. The action item may be continued or rescheduled for further consideration at the soonest feasible date available, allowing time for appropriate notice pursuant to the Meeting Protocols and the Brown Act.
- 2.4.6** With respect to an informational item, following discussion and consideration, a Committee shall take one of the following actions:
  - Receive the informational report, by consensus vote, without forwarding the report to the full City Council;
  - Receive the informational report and forward the report onto

the full City Council, by consensus vote;

- Request, by consensus vote, from staff or the originator of the proposed informational item. The item may be continued or rescheduled for further consideration at the soonest feasible date available, allowing time for appropriate notice pursuant to the Meeting Protocols.

## 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, City Council Members shall work for the common good of the people of Tracy and not for any private or personal interest. City Council Members must endeavor to treat all members of the public and issues before them in a fair and equitable manner.

3.2.2 City 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 City 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 City Council Member duties shall be performed in accordance with these Rules of Conduct and processes and rules of order~~and~~Council Meeting Protocols and Rules of Procedures established by the City Council as well as the Tracy Municipal Code and State law.
- 3.3.3 City 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 City Council decisions shall be based upon the merits and substance of the matter at hand.
- 3.3.5 It is the responsibility of City 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 City Council Members and the public prior to taking action on the matter.
- 3.3.6 City 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 City 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 City Council Members shall support the maintenance of a positive and constructive environment for residents, businesses, and City employees.

3.3.8 Campaign Activities. The Tracy City Council strongly encourages its members and City Board and Commission members to abide by the highest ethical standards and best practices relating to campaign activities to ensure that City elections promote decency, honesty and fair play. To that end, all candidates seeking elected office within the City of Tracy, including their official campaign representatives, are urged and encouraged to sign and comply with the Code of Fair Campaign Practices. (Attachment 3) A candidate's signed Code of Fair Campaign Practices shall be posted on the City's Elections Document webpage within three (3) business days of execution. (Reso No. 2021-017)

3.3.8.1 City staff shall send a copy of all notices (e.g. emails) sent to candidates relating to non-compliance with the TMC election sign restrictions to the entire City Council and all other candidates. (Reso No. 2021-017)

3.3.9 Implementation

3.3.9.1 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, City 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, City Council Members must file an annual written disclosure (Form 700) of their economic interests.

- 3.4.3 City 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 City 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 City Council Members for private gain and, personal and political purposes.
  - 3.4.6.1 A mass communication using City resources shall not be sent within the 60 days preceding an election that feature a currently elected or appointed official of the City of Tracy whose name will appear on the ballot at that election. When no currently elected or appointed official is otherwise designated during the 60 days preceding an election, communication of official matters shall be made by the City Manager or designee.
- 3.4.7 In keeping with their role as stewards of the public interest, City 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, City Council Members shall represent the official policies and positions of the City Council as a body. When presenting their personal opinions or positions publicly, members shall explicitly state they do not represent the City Council or the City.
- 3.4.9 When serving on external boards, commissions, subcommittees, or Joint Powers of Authorities, City Council representatives must first obtain policy direction from the City Council on any fiscal matter that exceeds

previously allocated budget(s), prior to ~~obligating the City via actions of such external board's, committees or authorities obligating the City-action.~~

#### 3.4.10 Tracy City Municipal Code Provisions

##### 3.4.10.1 Financial Interests in City Contracts Prohibited.

Section 2.04.050 of the Municipal Code prohibits members of the City 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. "Immediate family member" is defined as "any and/or all spouses, partners or adult children, whether they live in a single household or not" under this section of the TMC.

##### 3.4.10.2 Nepotism.

The City of Tracy's Nepotism Policy prohibits the initial appointment of an individual to a position within the City of Tracy who has a marital or familial relationship, as defined in Section 4 of the Policy, with any member the City Council, City Manager, or City Attorney.

##### 3.4.10.3 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))

#### 3.4.10.4 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 on any other basis protected by state and/or federal law.

#### 3.4.11 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.

##### 3.4.11.1 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.

#### 3.4.11.2 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.

#### 3.4.11.3 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.

#### 3.4.11.3.1 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.

#### 3.4.11.4 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.

#### 3.4.11.5 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 City Council may be submitted pursuant to the City Manager Attorney by any member of the Council ("Initiating Member"), with the support of another Council member ("Seconding Member"). Censure is a formal statement or resolution by the Council officially reprimanding a City Council Member for conduct that may include sanctions section 4.3 of the Meeting Protocols. It is the intent of the City Council that a request for censure be used only for significant and/or repeated violations of this Code of Conduct and not a means to address politically or personally motivated disagreements amongst City Council Members.

~~The request shall contain the specific charges on which the proposed censure is based. The City Manager Attorney shall deliver a copy of the request for censure and the charges to each member of the City Council at least 72 hours after receipt of the request. The request for censure shall first be considered by a neutral mediator selected by the Presiding Judge of the Superior Court of California of the County of San Joaquin. The neutral mediator shall conduct an investigation and prepare a written analysis of the allegation and their preliminary findings and recommendation. Said investigation shall, at a minimum, include interviews with the Initiating Member and the City Council Member who is the subject of the request. The neutral mediator's recommendation shall be to: (a) set the matter for a censure hearing and whether censure is warranted or (b) no further action should be taken with respect to the request. The neutral mediator shall present its recommendation to the City Council for its consideration and action within thirty (30) days of completing their investigation.~~

3.6.1.1 ~~The censure request shall be agendized at the next regular City Council meeting following receipt of the neutral mediator's written findings and recommendation. The City Council, as a body, shall determine whether or not to accept the neutral mediator's recommendation. If the City 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 City Council Member. Written notice of the hearing shall be delivered in person to the Member of the City Council subject to the censure hearing at least ten (10) days in advance of the scheduled hearing. If the City Council decides that no further action~~

~~is required, the City Council may also request the Initiating Member either reimburse the City the cost of the neutral mediator's services from personal funds (not campaign funds), not to exceed \$2,500, or forgo a month's salary as a City Council Member. A report regarding the Initiating Member's compliance with that request shall be presented to City Council within sixty (60) days of that request.~~

- 3.6.1.2 At the censure hearing, the ~~M~~member of the ~~City~~ 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 ~~M~~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.
- 3.6.1.3 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 At the discretion of the ~~City~~ Council, sanctions may be imposed as a result of a censure. These sanctions may be applied individually or in combination. They include, but are not limited to:
  - 3.6.2.1 Public Admonishment - A reproof or verbal warning directed to a ~~City~~ Council Member about a particular type of behavior that violates City policy.
  - 3.6.2.2 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.
- 3.6.3 Nothing in this Section shall limit the ~~City~~ Council's ability to informally address conduct considered to be not significant or a minor violation of this Code, which may include informal counseling from one ~~City~~ Council ~~M~~member to another, and a ~~City~~ Council ~~M~~member to a Council advisory body member.

## CHAPTER 4 COMMUNICATIONS

### 4.1 Relationship/Communications with Staff

Staff serves the City Council as a whole, therefore:

- 4.1.1 A City 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 the City Council Members will be shared with the full City Council.
- 4.1.3 City 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 City Council.
- 4.1.4 When preparing for City Council meetings, City Council Members should direct questions ahead of time to the City Manager so that staff can provide the desired information at the City 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. City Council Members shall not reprimand employees directly nor should they communicate their concerns to anyone other than the City Manager.
- 4.1.6 City Council Members may direct routine inquiries to either the City Manager or the appropriate department head, at the City Manager's discretion.
- 4.1.7 City 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 City 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 City Council.
- 4.2.2 It is a best practice that City Council Members refrain from attending Board, Commission, and/or Committee meetings to avoid the appearance of impropriety and to maintain compliance with the Brown Act.

#### 4.3 Handling of Litigation and Other Confidential Information

- 4.3.1 All written materials and verbal information provided to City 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 City 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 City Council Members may not request confidential written information from staff that has not been provided to all City 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 City 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 City Council's Legislative Policy.
- 4.4.4 City letterhead may be used by City Council Members only for official City business and/or to represent a policy action taken by the City Council, as a 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 City Council Member should indicate the majority position and opinion of the City Council.
- 4.4.6 Personal opinions and comments may be expressed only if the City 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 City 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 City 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 City 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

City Council Members who consult the City Attorney, their staff, and/or outside attorney(s) contracted to work engaged by the City Attorney 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 Citizen Boards and, Commissions, and Committees Generally

- 5.1.1 The Tracy City Council, Tracy Municipal Code establishes various Citizen Boards, Commissions, and Committee through the Tracy Municipal Code or by Resolution:a Planning Commission to advise the Council on land use matters (Chapter 10.04), and a Parks and Community Services Commission (Chapter 7.16) and the Youth Advisory Commission (Chapter 7.16). Through Resolution or Ordinance the following committees and commissions have been established: the Measure V Residents' Oversight Committee (Resolution No. 2004-152), Tracy Arts Commission (Ordinance No. 501), Transportation Advisory Commission (Resolution No. 2007-120), and Youth Advisory Commission (Chapter 7.16) and Environmental sustainability Commission (Resolution 2023-XX)and the Tracy Homeless Advisory Commission (Resolution No. 2021-033).
- 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 and, commissions, and committees (collectively "Council advisory bodies") provide policy recommendations to Council; they do not set or establish City policy or provide administrative direction to City staff.
- 5.1.5 City boards and, 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, and 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 City Council. The term "Commission" refers to a group of lay residents appointed to conduct external review of the City's processes. City Council members do not typically serve on commissions.~~

## 5.2 Citizen Board and, 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 and, 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 and, 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 (including all boards and commissions, and committee members) 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 and, Commission, and Committee Appointments

5.3.1 Resolution No. 2004-152 establishes the board and 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 and -Commissions, and Committees- Vacancy and Selection/Appointment Processes

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

5.4.1 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

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 member-a planning commission member~~ must comply with the applicable TMC Sections or the board/committee/commission's bylaws and in accordance with the applicable procedure.

## 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 City Council Members may receive City-funded health, retirement, and other benefits. City-funded medical, dental, and life insurance plan benefits are provided. The Council Policy Providing City Paid Health Insurance for City Treasurer, City Clerk, and City Council, adopted by Resolution No. 2003-391, states that an elected official is not eligible for City-funded health benefits if the official or the official's spouse has employer-paid health insurance.

#### 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, City 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

City 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;

Attachment 1 to City Council  
Code of Conduct

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

City 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

City 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

City 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

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

7. Communication

It is the responsibility of City Council Members to 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 City Council Members.

8. Coordination with City Staff

Appropriate City staff should be involved when City 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.

CITY COUNCIL

10. Conflict of Interest

In order to assure their independence and impartiality on behalf of the public good, City 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

City 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

City 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 City Council Members for private gain or personal and/or campaign purposes.

14. Representation of Private Interests

In keeping with their role as stewards of the public trust, City 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, City 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 City Council or the City.

16. Improper Influence

City 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

City 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. Campaign Activities.

City Council Members who seek elected office within the City shall endeavor to conduct their campaign activities in a manner that promotes decency, honesty and fair play and in accordance with the Code of Fair Campaign Elections Code (Section 20400 et seq.).

21. 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.

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Signature

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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**

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Attachment 2 to City Council  
Code of Conduct

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.

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It is the responsibility of Council advisory body members to 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.

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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.

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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.

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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.

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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 and/or campaign purposes.

Attachment 2 to City Council  
Code of Conduct

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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.

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

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Attachment 2 to City Council Code of Conduct

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Council advisory body members who seek elected office within the City shall endeavor to conduct their campaign activities in a manner that promotes decency, honesty and fair play and in accordance with the Code of Fair Campaign Elections Code (Section 20400 et seq.).

Attachment 2 to City Council  
Code of Conduct

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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.

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.

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Signature

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Date

Attachment 3 to City Council  
Code of Conduct

**CODE OF FAIR CAMPAIGN PRACTICES**

(Elections Code § 20440)

There are basic principles of decency, honesty, and fair play which every candidate for public office in the State of California has a moral obligation to observe and uphold in order that, after vigorously contested but fairly conducted campaigns, our citizens may exercise their constitutional right to a free and untrammeled choice and the will of the people may be fully and clearly expressed on the issues.

THEREFORE:

- (1) I SHALL CONDUCT my campaign openly and publicly, discussing the issues as I see them, presenting my record and policies with sincerity and frankness, and criticizing without fear or favor the record and policies of my opponents or political parties that merit this criticism.
- (2) I SHALL NOT USE OR PERMIT the use of character defamation, whispering campaigns, libel, slander, or scurrilous attacks on any candidate or his or her personal or family life.
- (3) I SHALL NOT USE OR PERMIT any appeal to negative prejudice based on a candidate's actual or perceived race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, age, sexual orientation, sex, including gender identity, or any other characteristic set forth in Section 12940 of the Government Code, or association with another person who has any of the actual or perceived characteristics set forth in Section 12940 of the Government Code.
- (4) I SHALL NOT USE OR PERMIT any dishonest or unethical practice that tends to corrupt or undermine our American system of free elections, or that hampers or prevents the full and free expression of the will of the voters including acts intended to hinder or prevent any eligible person from registering to vote, enrolling to vote, or voting.
- (5) I SHALL NOT coerce election help or campaign contributions for myself or for any other candidate from my employees.
- (6) I SHALL IMMEDIATELY AND PUBLICLY REPUDIATE support deriving from any individual or group that resorts, on behalf of my candidacy or in opposition to that of my opponent, to the methods and tactics that I condemn. I shall accept responsibility to take firm action against any subordinate who violates any provision of this code or the laws governing elections.
- (7) I SHALL DEFEND AND UPHOLD the right of every qualified American voter to full and equal participation in the electoral process.

I, the undersigned, candidate for election to public office in the State of California or treasurer or chairperson of a committee making any independent expenditures, hereby voluntarily endorse, subscribe to, and solemnly pledge myself to conduct my campaign in accordance with the above principles and practices.

Print Name: \_\_\_\_\_ Signature: \_\_\_\_\_

Date: .....



# **CITY COUNCIL**

# **CODE OF CONDUCT**

Adopted on October 15, 2019 by Resolution No. 2019-203

Amended on July 21, 2020 by Resolution No. 2020-133

Amended on February 16, 2021 by Resolution No. 2021-017

Amended on October 19, 2021 by Resolution No. 2021-146

Amended on June 6, 2023 by Resolution No. 2023-102

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- C. City Nepotism Policy
- D. City Personnel Rule 9.2 (d)
- E. Resolution No. 2004-152 - Board, Commission, Committee Vacancy, Selection, and Defining Residency Requirements, for Appointee Bodies
- F. Ordinance 1094
- G. Resolution No. 2007-075 - Council Travel Procedures

ATTACHMENT 1 - City Council Code of Conduct Norms and Values Statement

ATTACHMENT 2- Council Advisory Body Norms and Values Statement

ATTACHMENT 3 - Code of Fair Campaign Practices

## **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 is appointed by a majority vote of the Council and 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:

- Neither the City Council, as a body, 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, neither the City Council, as a body, 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 Manager and his/her senior staff shall conduct themselves in accordance with the International City Management Association (ICMA) Code of Ethics.

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

#### 1.4 City Attorney Appointment and Responsibilities

The City Attorney is appointed by a majority vote of the City Council, per Section 12.08.40, and serves as the City's sole legal counsel. The City Manager shall coordinate with and receive input from the City Attorney on all administrative, policy and operational matters that have or may have legal implications to the City. Without limiting the foregoing, the City Attorney shall have the following powers and duties:

- Neither the City Council, as a body, nor any of its members shall interfere with the administration of the City Attorney's Office or give orders to the subordinates of the City Attorney.
- The City Attorney shall serve as the legal counsel to the City Council and its standing committees, Planning Commission, City Manager, and all City staff pertaining to City matters.
- The City Attorney shall review and approve, as to form and legality, all ordinances, resolutions, and related staff reports for the City Council, its standing committees, and boards and commissions conducting meetings under the Brown Act.
- The City Attorney shall review and approve, as to form and legality, all contracts, agreements, bonds, and other legal documents related to the conduct of the City's affairs.
- The City Attorney shall interpret and opine on the implementation of the Tracy Municipal Code on behalf of the City and shall prosecute violations of the Tracy Municipal Code in Superior Court.
- The City Attorney may engage outside counsel to implement the functions of the City Attorney's Office, and no other City official, including the City Manager, City Council member or staff may independently engage outside counsel on City-related matters.
- The City Attorney and his/her senior staff shall, at all times, conduct themselves in accordance with the California Rules of Professional Conduct, established by the California State Bar, and the Ethical Principles for City Attorneys, adopted by the League of California Cities' City Attorneys Department.

## 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 entity 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, and a decision of the majority binds the Council to a course of action, unless otherwise required by State law.
- 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 boards or committees, including Council standing and ad hoc committees, and third agency member boards and 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 Mayor.

- 2.2.2 A Mayor Pro Tem is appointed, by a majority vote of the City Council, and can be replaced at any time, by a majority vote of the City Council.
- 2.2.3 The Mayor is the official head of the City for all ceremonial purposes.
- 2.2.4 Per the Government Code, the Mayor, with the "approval" of the City Council, shall (a) execute official documents (Section 40602b) and (b) make appointments to city boards, commissions, and committees unless otherwise specifically provided by statute (Section 40605). Approval shall be deemed to be a majority vote of the City Council, unless a super majority is required by State law for any specific action.
- 2.2.5 The Mayor is authorized to send letters stating the City's official position to appropriate legislators as long as it is consistent with the City Council's Legislative Policy.
- 2.2.6 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 a majority vote of the City Council.
- 2.2.7 The Mayor does not possess any power of veto.

### 2.3 Council Member Subject Matter Committees

- 2.3.1 The City Council may organize itself into standing and/or special/ ad hoc subcommittees to facilitate Council review of policy matters and action.
- 2.3.2 The City 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 City Council. The City Council will endeavor to rotate appointments to standing and ad hoc standing committees to ensure equitable participation.

2.3.3 The City Council, by a majority vote, appoints and removes members to standing and ad hoc committees annually

2.3.4 The Council also appoints and removes Council Members to third member agencies by a majority, annually

2.3.5 It is a best practice for non-appointed Council Members not to attend Council standing Committees to avoid the appearance of impropriety and maintain compliance with the Brown Act.

#### 2.4 Action by Subject Matter Committees -

The assigned subject matter Committee shall have initial jurisdiction over any item assigned to it by the City Council as well as any items being advanced by the City Manager that implement or relate to the overall jurisdictional purpose of such Committee and may take any of the following actions with respect to the assigned item.

The Committee may, by a vote of the consensus, decide to postpone, continue, or table an item on the agenda. On any item on an agenda, the Committee may allow for an informational presentation by City staff relating to the item. With respect to an action item, and after discussion and consideration of the item, the Committee may take one of the following actions:

2.4.1 Vote by consensus to approve the recommendation of staff or the originator of the proposed action item and forward the recommendation onto the full Council. The Committee may, as a condition of approval, request additional information to be presented for consideration when the full Council hears the item.

2.4.2 Fail to approve any recommended action, in which case the item shall not be forwarded to the full City Council; provided that the City Council shall have jurisdiction to place the item on the agenda for a future City Council meeting, in accordance with the requirements of the Meeting Protocols for agenda setting, if no action was taken on the item due to any one of the following reasons

- Due to the cancellation of a Committee meeting or
- Due to lack of a quorum, or
- the Committee was not able to approve any recommended action

2.4.3 Propose by a consensus vote of those present one or more alternative recommendation(s) be forwarded to the full City Council for consideration and final action. The Committee may request additional information to be presented for consideration when the full Council hears the item.

- 2.4.4 Reject, by a consensus vote, jurisdiction over the action item and refer the action item back to the City Council with a recommendation for reassignment to another appropriate subject-matter committee.
- 2.4.5 Request, by consensus vote, additional, specified information from staff or the originator of the proposed action item. The action item may be continued or rescheduled for further consideration at the soonest feasible date available, allowing time for appropriate notice pursuant to the Meeting Protocols and the Brown Act.
- 2.4.6 With respect to an informational item, following discussion and consideration, a Committee shall take one of the following actions:
  - Receive the informational report, by consensus vote, without forwarding the report to the full City Council;
  - Receive the informational report and forward the report onto the full City Council, by consensus vote;
  - Request, by consensus vote, from staff or the originator of the proposed informational item. The item may be continued or rescheduled for further consideration at the soonest feasible date available, allowing time for appropriate notice pursuant to the Meeting Protocols.

## 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, City Council Members shall work for the common good of the people of Tracy and not for any private or personal interest. City Council Members must endeavor to treat all members of the public and issues before them in a fair and equitable manner.
- 3.2.2 City 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 City 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 City Council Member duties shall be performed in accordance with these Rules of Conduct and Council Meeting Protocols and Rules of Procedures established by the City Council as well as the Tracy Municipal Code and State law.
- 3.3.3 City 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 City Council decisions shall be based upon the merits and substance of the matter at hand.
- 3.3.5 It is the responsibility of City 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 City Council Members and the public prior to taking action on the matter.
- 3.3.6 City 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 City 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 City Council Members shall support the maintenance of a positive and constructive environment for residents, businesses, and City employees.

3.3.8 Campaign Activities. The Tracy City Council strongly encourages its members and City Board and Commission members to abide by the highest ethical standards and best practices relating to campaign activities to ensure that City elections promote decency, honesty and fair play. To that end, all candidates seeking elected office within the City of Tracy, including their official campaign representatives, are urged and encouraged to sign and comply with the Code of Fair Campaign Practices. (Attachment 3) A candidate's signed Code of Fair Campaign Practices shall be posted on the City's Elections Document webpage within three (3) business days of execution. (Reso No. 2021-017)

3.3.8.1 City staff shall send a copy of all notices (e.g. emails) sent to candidates relating to non-compliance with the TMC election sign restrictions to the entire City Council and all other candidates. (Reso No. 2021-017)

3.3.9 Implementation

3.3.9.1 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, City 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, City Council Members must file an annual written disclosure (Form 700) of their economic interests.

- 3.4.3 City 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 City 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 City Council Members for private gain and, personal and political purposes.
  - 3.4.6.1 A mass communication using City resources shall not be sent within the 60 days preceding an election that feature a currently elected or appointed official of the City of Tracy whose name will appear on the ballot at that election. When no currently elected or appointed official is otherwise designated during the 60 days preceding an election, communication of official matters shall be made by the City Manager or designee.
- 3.4.7 In keeping with their role as stewards of the public interest, City 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, City Council Members shall represent the official policies and positions of the City Council as a body. When presenting their personal opinions or positions publicly, members shall explicitly state they do not represent the City Council or the City.
- 3.4.9 When serving on external boards, commissions, subcommittees, or Joint Powers of Authorities, City Council representatives must first obtain policy direction from the City Council on any fiscal matter that exceeds

previously allocated budget(s), prior to actions of such external board's, committees or authorities obligating the City.

### 3.4.10 Tracy City Municipal Code Provisions

#### 3.4.10.1 Financial Interests in City Contracts Prohibited.

Section 2.04.050 of the Municipal Code prohibits members of the City 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. "Immediate family member" is defined as "any and/or all spouses, partners or adult children, whether they live in a single household or not" under this section of the TMC.

#### 3.4.10.2 Nepotism.

The City of Tracy's Nepotism Policy prohibits the initial appointment of an individual to a position within the City of Tracy who has a marital or familial relationship, as defined in Section 4 of the Policy, with any member the City Council, City Manager, or City Attorney.

#### 3.4.10.3 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))

#### 3.4.10.4 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 on any other basis protected by state and/or federal law.

#### 3.4.11 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.

##### 3.4.11.1 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.

#### 3.4.11.2 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.

#### 3.4.11.3 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.

#### 3.4.11.3.1 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.

#### 3.4.11.4 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.

#### 3.4.11.5 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 City Council may be submitted pursuant to section 4.3 of the Meeting Protocols. It is the intent of the City Council that a request for censure be used only for significant and/or repeated violations of this Code of Conduct and not a means to address politically or personally motivated disagreements amongst City Council Members.

3.6.2 At the discretion of the City Council, sanctions may be imposed as a result of a censure. These sanctions may be applied individually or in combination. They include, but are not limited to:

3.6.2.1 Public Admonishment - A reproof or verbal warning directed to a City Council Member about a particular type of behavior that violates City policy.

3.6.2.2 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.

3.6.3 Nothing in this Section shall limit the City Council's ability to informally address conduct considered to be not significant or a minor violation of this Code, which may include informal counseling from one City Council Member to another, and a City Council Member to a Council advisory body member.

## CHAPTER 4 COMMUNICATIONS

### 4.1 Relationship/Communications with Staff

Staff serves the City Council as a whole, therefore:

- 4.1.1 A City Council Member shall not direct staff in person or in writing to initiate any action, change a course of action, or prepare any report.
- 4.1.2 Requests for information and corresponding responses made by the City Council Members will be shared with the full City Council.
- 4.1.3 City 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 City Council.
- 4.1.4 When preparing for City Council meetings, City Council Members should direct questions ahead of time to the City Manager so that staff can provide the desired information at the City 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. City Council Members shall not reprimand employees directly nor should they communicate their concerns to anyone other than the City Manager.
- 4.1.6 City Council Members may direct routine inquiries to either the City Manager or the appropriate department head, at the City Manager's discretion.
- 4.1.7 City 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 City 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 City Council.
- 4.2.2 It is a best practice that City Council Members refrain from attending Board, Commission, and/or Committee meetings to avoid the appearance of impropriety and to maintain compliance with the Brown Act.

#### 4.3 Handling of Litigation and Other Confidential Information

- 4.3.1 All written materials and verbal information provided to City 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 City 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 City Council Members may not request confidential written information from staff that has not been provided to all City 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 City 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 City Council's Legislative Policy.
- 4.4.4 City letterhead may be used by City Council Members only for official City business and/or to represent a policy action taken by the City Council, as a 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 City Council Member should indicate the majority position and opinion of the City Council.
- 4.4.6 Personal opinions and comments may be expressed only if the City 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 City 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 City 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 City 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

City Council Members who consult the City Attorney, their staff, and/or outside attorney(s) engaged by the City Attorney 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 Citizen Boards and Commissions Generally

- 5.1.1 The Tracy City Council, establishes various Citizen Boards, Commissions, and Committee through the Tracy Municipal Code or by Resolution: Planning Commission to advise the Council on land use matters (Chapter 10.04), a Parks and Community Services Commission (Chapter 7.16) and the Youth Advisory Commission (Chapter 7.16), the Measure V Residents' Oversight Committee (Resolution No. 2004-152), Tracy Arts Commission (Ordinance No. 501), Transportation Advisory Commission (Resolution No. 2007-120), and Environmental sustainability Commission (Resolution 2023-XX).
- 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 and commissions, (collectively "Council advisory bodies") provide policy recommendations to Council; they do not set or establish City policy or provide administrative direction to City staff.
- 5.1.5 City boards and commissions are advisory in nature and therefore do not represent City's official position on city matters.
- 5.1.6 Appointments to boards and commissions, 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

## 5.2 Citizen Board and Commission 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 and commissions 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 and commissions 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 (including all boards and commissions 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 and Commission Appointments

- 5.3.1 Resolution No. 2004-152 establishes the board and commission 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 and Commissions- Vacancy and Selection/Appointment Processes

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

5.4.1 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

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 member must comply with the applicable TMC Sections or the board/committee/commission's bylaws and in accordance with the applicable procedure.

## 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 City Council Members may receive City-funded health, retirement, and other benefits. City-funded medical, dental, and life insurance plan benefits are provided. The Council Policy Providing City Paid Health Insurance for City Treasurer, City Clerk, and City Council, adopted by Resolution No. 2003-391, states that an elected official is not eligible for City-funded health benefits if the official or the official's spouse has employer-paid health insurance.

#### 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, City 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

City 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;

Attachment 1 to City Council  
Code of Conduct

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

City 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

City 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

City 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

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

7. Communication

It is the responsibility of City Council Members to 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 City Council Members.

8. Coordination with City Staff

Appropriate City staff should be involved when City 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.

CITY COUNCIL

Attachment 1 to City Council  
Code of Conduct

10. Conflict of Interest

In order to assure their independence and impartiality on behalf of the public good, City 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

City 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

City 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 City Council Members for private gain or personal and/or campaign purposes.

14. Representation of Private Interests

In keeping with their role as stewards of the public trust, City 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, City 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 City Council or the City.

16. Improper Influence

City 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

City 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. Campaign Activities.

City Council Members who seek elected office within the City shall endeavor to conduct their campaign activities in a manner that promotes decency, honesty and fair play and in accordance with the Code of Fair Campaign Elections Code (Section 20400 et seq.).

21. 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.

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Signature

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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-

Attachment 2 to City Council  
Code of Conduct

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 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.

Attachment 2 to City Council  
Code of Conduct

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 and/or campaign 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.

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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. Campaign Activities.

Council advisory body members who seek elected office within the City shall endeavor to conduct their campaign activities in a manner that promotes decency, honesty and fair play and in accordance with the Code of Fair Campaign Elections Code (Section 20400 et seq.).

Attachment 2 to City Council

## Code of Conduct

### 21. 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.

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.

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Signature

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Date

Attachment 3 to City Council  
Code of Conduct

**CODE OF FAIR CAMPAIGN PRACTICES**

(Elections Code § 20440)

There are basic principles of decency, honesty, and fair play which every candidate for public office in the State of California has a moral obligation to observe and uphold in order that, after vigorously contested but fairly conducted campaigns, our citizens may exercise their constitutional right to a free and untrammeled choice and the will of the people may be fully and clearly expressed on the issues.

THEREFORE:

- (1) I SHALL CONDUCT my campaign openly and publicly, discussing the issues as I see them, presenting my record and policies with sincerity and frankness, and criticizing without fear or favor the record and policies of my opponents or political parties that merit this criticism.
- (2) I SHALL NOT USE OR PERMIT the use of character defamation, whispering campaigns, libel, slander, or scurrilous attacks on any candidate or his or her personal or family life.
- (3) I SHALL NOT USE OR PERMIT any appeal to negative prejudice based on a candidate's actual or perceived race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, age, sexual orientation, sex, including gender identity, or any other characteristic set forth in Section 12940 of the Government Code, or association with another person who has any of the actual or perceived characteristics set forth in Section 12940 of the Government Code.
- (4) I SHALL NOT USE OR PERMIT any dishonest or unethical practice that tends to corrupt or undermine our American system of free elections, or that hampers or prevents the full and free expression of the will of the voters including acts intended to hinder or prevent any eligible person from registering to vote, enrolling to vote, or voting.
- (5) I SHALL NOT coerce election help or campaign contributions for myself or for any other candidate from my employees.
- (6) I SHALL IMMEDIATELY AND PUBLICLY REPUDIATE support deriving from any individual or group that resorts, on behalf of my candidacy or in opposition to that of my opponent, to the methods and tactics that I condemn. I shall accept responsibility to take firm action against any subordinate who violates any provision of this code or the laws governing elections.
- (7) I SHALL DEFEND AND UPHOLD the right of every qualified American voter to full and equal participation in the electoral process.

I, the undersigned, candidate for election to public office in the State of California or treasurer or chairperson of a committee making any independent expenditures, hereby voluntarily endorse, subscribe to, and solemnly pledge myself to conduct my campaign in accordance with the above principles and practices.

Print Name: \_\_\_\_\_ Signature: \_\_\_\_\_

Date: \_\_\_\_\_



# **COUNCIL MEETING PROTOCOLS AND RULES OF PROCEDURE**

Adopted by Resolution No. 2019-240

Revised by Resolution Nos. 2020-112, & 2021-049, and Resolution 2023-102

## **City of Tracy – Council Meeting Protocols and Rules of Procedures**

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# City of Tracy – Council Meeting Protocols and Rules of Procedures

## Section 1 –Purpose and Applicability

### 1. Purpose and Applicability

1.1. The purpose of these Council Meeting Protocols and Rules of Procedures (“Protocols”) are to provide clear guidelines to assist the City Council, staff and the public to conduct meetings in an efficient and transparent manner and in accordance with the Ralph M. Brown Act (“Brown Act”; Government Code sections 54950-54963) and all applicable laws.<sup>1</sup> These Protocols are adopted pursuant to Section 36813. In the event of a conflict between the Brown Act and these Protocols, the Brown Act shall control.

1.2. In the event of a conflict between these Protocols, and the City of Tracy's adopted Code of Conduct (Resolution No. 2021-146), Protocols shall control.

1.2.1.3. These Protocols shall apply to the City Council, the Successor Agency to the Community Development Agency, the Tracy Public Facilities Corporation, the Tracy Industrial Development Authority, and all City Boards, Commissions, and Committees.

1.3.1.4. Suspension of Protocols. Any rule set forth herein may be suspended by a supermajority vote of the City Council.

1.4.1.5. Review and Changes to Protocols. These Protocols shall be reviewed by December 31<sup>st</sup> of every odd numbered year. A majority vote of the City Council shall be necessary to amend these Protocols.

1.5.1.6. A copy of these Protocols shall be available for public review at the City Clerk's Office and City's website ([www.cityoftracy.org](http://www.cityoftracy.org)).

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<sup>1</sup> All references to statutes are to the California Government Code unless otherwise specified.

## City of Tracy – Council Meeting Protocols and Rules of Procedures

### Section 2 –Duties (Roles and Responsibilities)

#### 2. Roles and Responsibilities at Council Meetings

- 2.1. Mayor. The Mayor is the Presiding Officer of all meetings of the full City Council. The Presiding Officer is the primary, but not the only, person responsible for ensuring that the City Council, staff, and members of the public adhere to these Protocols during City Council meetings. (Section 36802). The Chair of a City board or commission shall act as the Presiding Officer.
- 2.2. Mayor Pro Tem. The Mayor Pro Tem shall serve as the Presiding Officer in the absence of the Mayor. Absence shall be as defined by State law. Upon arrival of the Mayor, the Mayor Pro Tem shall immediately relinquish the role of Presiding Officer at the conclusion of the business then before Council. (Section 36802) The Vice Chair of a City board or commission shall act as the Presiding Officer in the absence of the Chair.
- 2.3. City Council. All members of the City Council shall comply with the Council Code of Conduct at meetings. Newly elected City Council members shall be sworn in and seated at the first regular City Council meeting after receipt of the certified election results from the County Registrar of Voters.
- 2.4. Sergeant-at-Arms. The Sergeant-at-Arms is the law enforcement official charged with maintaining security during meetings of the City Council. The Sergeant-at-Arms of the City Council shall be a police officer assigned by the Police Chief. There shall be at least one member officer so assigned and present at each meeting of the full City Council. The officer shall maintain order and enforce the orders of the City Council and Presiding Officer.
- 2.5. City Manager. Pursuant to the Council-Manager form of government established by Chapter 2.08 of the Tracy Municipal Code, the City Manager sets the Council agenda and once published, may request that the City Council, by majority vote, to withdraw an item(s), unless the item has been placed on the agenda by the City Council pursuant to XXXX. The City Manager may consult with the Mayor regarding the development of the agenda.
- 2.6. City Clerk. The City Clerk shall attend all meetings of the Council unless excused. The Deputy City Clerk shall attend Council meetings in the City Clerk's absence. The City Clerk shall record, prepare, and maintain the official records of the Council and perform other duties as directed by the City Manager. (Section 36804)
  - 2.6.1. 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.

## City of Tracy – Council Meeting Protocols and Rules of Procedures

- 2.6.1.1. 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 Section 54957.1.
- 2.6.1.2. The City Clerk shall include a report on posting of the agenda in the minutes.

2.6.2. Timekeeper. The City Clerk shall be the designated timekeeper at all City Council meetings and shall have the authority to interrupt speakers, whether members of the public or a City Council member, when their allotted speaking times have expired.

- 2.7. City Staff. City staff shall (a) prepare balanced staff reports and provide accompanying documents on all agenda items in accordance with the agenda preparation schedule; (b) be available for questions from the City Council in accordance with the Brown Act prior to and during meetings; and (c) respond to questions from the public during meetings only when requested to do so by the City Council or the City Manager.
- 2.8. City Attorney. The City Attorney shall attend all meetings of the Council unless excused. The Assistant City Attorney shall attend Council meetings in the City Attorney's absence. The City Attorney shall give opinionsadvicse, upon request from the City Council, either in writing or verbally, on questions of law. The City Attorney shall advise the Council at meetings on legal issues, including these Protocols. The City Attorney will shall serve as the Council's advisory Parliamentarian at City Council meetings, providing adviceopining on any procedural issues related to these Protocols, the Brown Act and Rosenberg's Rules, disputes and ensuring the Council and members of the public follow applicable rules and procedures.

## City of Tracy – Council Meeting Protocols and Rules of Procedures

### Section 3 – Meeting Types

#### 3. Council Meeting Types

- 3.1. Regular Meetings. Regular City Council meetings are held on the first and third Tuesdays of the month at 7:00 p.m. at City Hall Council Chambers, 333 Civic Center Plaza, Tracy, California 95376, unless otherwise noticed and as allowed under Section 54954. No meeting shall be held on a holiday as defined by Section 6700. (Section 36805)
- 3.2. Special Meetings. The City Manager, Mayor, or a majority of the members of the City Council may call a special meeting. (Section 54956). The Only the City Attorney is also authorized to call a special meeting for the sole purpose of convening a closed session, which shall be considered a special meeting and conducted in accordance with the Brown Act. (Section 36807)
- 3.3. Workshops. The purpose of a workshop is to inform the City Council of complex issues and provide an opportunity for the City Council to review documents and request additional information. However, no final City Council action shall be taken during the workshop on workshop agenda items. Workshops are open to the public and are shall be conducted as public meetings for the purpose of in accordance with the Brown Act.

#### 3.4. Closed Sessions.

3.4.1. The City Attorney shall convene a special closed session meeting under the following circumstances:

3.4.1.1. When requested by the City Manager to discuss a matter in closed session, and the City Attorney determines such a matter is permissible for discussion in closed session under the Brown Act;

3.4.1.2. When requested by the City Council, pursuant to Section 4.3, to discuss a matter in closed session, and the City Attorney determines such a matter is permissible for discussion in closed session under the Brown Act;

3.4.1.3. When the City Attorney deems it so necessary and determines a closed session is permissible under the Brown Act.

3.4.1.3.4.2. Closed sessions shall be held in accordance with the Brown Act. Non-agendized matters shall not be discussed in closed session. Closed sessions may precede or follow a City Council meeting.

3.4.2.3.4.3. All closed session information, verbal or written, is privileged and confidential and shall not be shared with any person not at the closed session. Any member sharing information in violation of this rule may be subject to censure by the City Council or other legal remedies as set forth in Section 54963.

## City of Tracy – Council Meeting Protocols and Rules of Procedures

3.4.3.3.4.4. The public may speak regarding any closed session item prior to the closed session as required by the Brown Act.

3.4.4.3.4.5. The Presiding Officer ~~The City Attorney shall attend all closed sessions unless excused by the majority of the Council as related to personnel evaluations or disciplinary matters related to the City Attorney and~~ shall report out in public session any reportable actions there taken by Council and the vote on such actions, in accordance with the Brown Act.

3.5. Teleconferenced Meetings. The City Council may hold a meeting by teleconference, meaning a meeting of the Council in which members are in different locations and connected by electronic means, through either audio or video, or both. Any teleconference meeting of the Council must ~~be comply~~ comply with the requirements ~~under of Government~~ Section 54953 ~~and any other state applicable law adopted by the California Legislature~~, including but not limited to the requirement that all votes taken shall be by roll call.

3.6. Emergency Meetings. In the case of an emergency, as defined by Section 54956.5, as ~~may be amended from time to time~~, a majority of Council may call a meeting and dispense with the special meeting notice and posting requirements under the Brown Act. Any emergency meeting held shall comply with the applicable Brown Act provisions.

3.7. The City Clerk shall ensure that the applicable noticing and posting requirements under the Brown Act are followed for all meetings of the ~~City Council and shall poll and confirm a quorum is available for all such meetings in advance of publication.~~

## **City of Tracy – Council Meeting Protocols and Rules of Procedures**

### **Section 4 – Meeting Agendas**

#### **4. Meetings Agendas**

4.1. Purpose of Agenda. The Council meeting agenda documents serve four purposes:

- To communicate and inform City Council, City staff, the public and the press about City business.
- To comply with mandated state laws.
- To facilitate the decision-making process by including sufficient background information so that the City Council can obtain a full understanding of the issues and staff's analysis and recommendation prior to their consideration and action.
- To serve as a historical reference that can be kept as a record of proceedings and actions as needed for future actions and/or litigation.

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

4.2. Posting and Distribution of Agendas. At a minimum, the posting and distribution of all agendas shall be done in accordance with the Brown Act. Agendas for regular meetings shall be posted not less than 72 hours prior to the meeting (Section 54954.2(a)(1)); special meeting agendas shall be posted not less than 24 hours prior to the meeting (Section 54956).

4.2.1. 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 the bylaws of a particular Board or Commission. Posting of agendas at City Hall shall be the official location for purposes of Brown Act compliance.

4.2.2. Agenda packets are provided electronically to City Council Members on the Thursday prior to a City Council meeting unless technical difficulties occur. If technical difficulties occur, the City Clerk will endeavor to provide Council with hard copies of the agenda as soon as reasonably possible. Distribution to the staff, public and media shall occur immediately after distribution to the City Council. Members of the public may sign up to receive notification that a Council meeting agenda has been posted on the City's website ([www.cityoftracy.org](http://www.cityoftracy.org)). The City Clerk will mail copies of the agenda or particular agenda items to any person submitting a request. (Section 54954.1) Said requests will be valid for one year. 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 for inspection at the Tracy Library and City Clerk's office. Agendas for Council meetings are posted on the City's website ([www.cityoftracy.org](http://www.cityoftracy.org)).

## City of Tracy – Council Meeting Protocols and Rules of Procedures

4.3. Agenda Item Submission. Council Member Request for Agenda Items. Council Members may seek to have an item discussed by the City Council at a future meeting and shall follow the below processes to have an item placed on a future City Council agenda:

4.3.1. Council Member Request for Agenda Items. Council Members wishing to have a matter discussed by the City Council During "Council Items and Comments", a Council Member may make a motion, and seconded by a second Council Member, to request that to place an agenda item be placed on a future City Council agenda, and upon receiving a second to such motion, the City Manager shall place the item on a future agenda.

4.3.1.1. When the motion is made, the City Manager may provide information regarding current workloads, staffing and/or anticipated research that may affect the timing of completing the requested item, so as to establish more accurate and realistic expectations of when such item will be placed on a future City Council agenda.

4.3.1.2. If no discussion is had regarding the timing, the City Manager shall place the requested item on a future City Council agenda within a reasonable time.

4.3.1.3. The motion maker may include a specific meeting date on which the item must be brought to the City Council for consideration, and such date shall prevail, unless the City Manager provides information to explain that such date is not possible either due to current workloads, staffing and/or anticipated research, during a Council meeting, under "Council Items and Comments."

~~Council Member Request for Agenda Items. 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 and Comments."~~

4.3.2. A Council Member may request a time sensitive item be placed on the next City Council agenda, may be requested by contacting the City Manager, or their designee, via telephone, email or in person. Upon the request of a Council Member, the item will be placed on a future the next City Council agenda as long as the motion maker obtains one other Council Member to second concurs with the request. In the interest of transparency and Brown Act compliance, the motion maker Council shall limit discussions, outside of City Council meetings, about requests to support agenda items to a maximum of two only one other Council Member to obtain support for a second to the motion s regarding the time-sensitive request.

4.3.2.1. For purposes of this section 4.3.2, "time-sensitive" shall mean any agenda item that is considered urgent by the sponsor and that has a deadline for action that is prior to the next meeting of the City Council. All necessary information should be submitted to City Council for a valid time-sensitive request.

## **City of Tracy – Council Meeting Protocols and Rules of Procedures**

4.3.2.2. In the event of a time-sensitive request, the City Manager shall notify the rest of the City Council when two Council Members request an item to be placed on the agenda. The City Manager will determine when to place the item on the next City Council-a future-agenda, unless the City Manager has communicated to the two requesting Councilmembers that such timeframe is not possible based on current workloads, staffing and/or research. The City Manager shall consult and coordinate with the City Attorney on all time-sensitive matters.

4.3.1.4.3.2.3. If the time-sensitive item is not able to be placed on the next City Council agenda, due to the information provided by the City Manager pursuant to Section 4.3.2.2, then the Council Member may place the item on a future City Council agenda pursuant to Section 4.3.1 based on time necessary to complete the research and staff workload considerations.

4.3.2.4.3.3. Other Public Agencies. Agenda items such as presentations and proposals from other public entities must be sponsored for agenda placement by two Council members or the City Manager.

## City of Tracy – Council Meeting Protocols and Rules of Procedures

### Section 5 –Conduct of Meetings

#### 5. Conduct of Meetings

5.1. Order of Business. The suggested order of business of Council meetings shall be as follows. ~~However, the Mayor may reorder the items unless a majority of Council members object. The Mayor shall announce the reorder prior to calling members of the public to speak during the meeting open to the public.~~

1. Call to Order
2. Roll Call
3. Pledge of Allegiance
4. Invocation
5. Presentations/Proclamations and Awards
- 5.6. Special Orders of the Business Day
- 6.7. Consent Calendar
- 7.8. Items from the Audience/Public Comment
- 8.9. Continued Public Hearings
- 9.10. Public Hearings
- 10.11. Regular Items
- 11.12. Items from the Audience/Public Comment
- 12.13. Staff Items
- 13.14. Council Items and Comments
- 14.15. Adjournment

5.2. Call to Order. The Presiding Officer shall take the chair at the hour appointed for the meeting and shall immediately call the meeting to order.

5.3. Roll Call. A majority of the members of the Council then in office shall constitute a quorum. (Section 36810)

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

5.5. Presentations/Proclamations and Awards. This portion of the Agenda is dedicated for presentations, such as proclamations and awards, employee of the month recognitions, board and commission recognitions, and employee swearing-ins, and shall be limited to a 15-minute maximum period.

5.6. Special Orders of the Business Day. The order of business shall be as set forth in the published agenda. ~~However, the Mayor may reorder the agenda items unless a majority of Council members object, or a Council Member may request that the Mayor reorder agenda items. The Mayor, as the Presiding Officer, shall be the decision maker on the order of business, except that the Mayor's decision may be appealed by a Council Member and such appeal shall be decided upon by a majority vote of the City Council. Upon a final determination that a reorder is occurring, ~~t~~The Mayor shall announce the reorder prior to calling members of the public to speak during the meeting open to the public. Any proceeding with the meeting, special items to be~~

## City of Tracy – Council Meeting Protocols and Rules of Procedures

considered by City Council will be discussed during this agenda item. This may include a suspension of certain rules, a petitioner's request to withdraw an ordinance or resolution, or annual housekeeping items.

**5.6.5.7.** Consent Calendar. All items listed on the Consent Calendar are considered to be routine matters or consistent with previous City Council direction, such as resolutions confirming action from a previous meeting or the adoption of an ordinance previously introduced by Council. 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 a member of the City Council, City staff or the public request discussion on a specific item.

**5.7.5.8.** Items from the Audience/Public Comment. It is the policy of the City Council that members of the public be allowed to address the Council on any item of interest to the public, before or during its consideration of that item, that is within the City Council's subject matter jurisdiction. (Section 54954.3(a)).

**5.7.1.5.8.1.** Agendas for regular meetings will have two opportunities for "Items from the Audience/Public Comment." (Section 54954.3(a)). In the interest of allowing the City Council to have adequate time to address the agendized items of business, the first public comment opportunity will be limited to a 15-minute maximum period. (Section 54954.3(b)). The second opportunity will not have a maximum time limit period. A five-minute maximum time limit per speaker will apply to all individuals speaking during the "Items from the Audience/Public Comment" portion of the agenda. The City Clerk shall be the timekeeper. Speakers may not concede any part of their allotted time to another speaker.

**5.7.1.1.5.8.1.1.** However, in the event there are 15 or more individuals wishing to speak regarding any agenda item including the "Items from the Audience/Public Comment" portion of the agenda and regular items, the maximum amount of time allowed per speaker will be three minutes.

**5.7.2.5.8.2.** Each speaker shall avoid repetition of the remarks of the prior speakers, and when speaking under a specific agenda item, shall speak only to that agenda item. To promote time efficiency and an orderly meeting, the Presiding Officer may request that a spokesperson be designated to represent similar views. A designated spokesperson shall have 10 minutes to speak.

**5.7.3.5.8.3.** Speaker Cards. To facilitate the orderly process of public comment and to assist the City Council to conduct its business as efficiently as possible, members of the public wishing to address the City Council are requested to, but not required to, hand a speaker card, which includes the speaker's name or other identifying designation and address, to the City Clerk prior to the agenda item being called. Generally, once the City Council begins its consideration of an item, no more speaker cards will be accepted. An individual's failure to present a speaker card or state their name shall not preclude the individual from addressing the City Council. (Section 54953.3)

## City of Tracy – Council Meeting Protocols and Rules of Procedures

**5.8.5.9.** Public Hearings. Public hearings are required for a variety of City Council actions such as 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. However, in the event there are 15 or more individuals wishing to speak regarding a public hearing item, the maximum amount of time allowed per speaker will be three minutes. ~~The City Clerk shall be the timekeeper.~~

**5.8.1.5.9.1.** Public Hearings for Land Use and Other Matters. The Presiding Officer may designate individuals as the “Proponent/Appellant” or “Opponent” and provide each with additional time for comments and the opportunity to present a rebuttal.

**5.9.5.10.** Regular Items. This portion of the Agenda is for non-public hearing agenda items that require Council action or direction such as status or informational reports from staff and Council requests for agenda items.

**5.10.5.11.** Staff Items. This portion of the agenda provides an opportunity for the City Manager, City Attorney, and City staff to provide information of community interest to the City Council.

**5.12.** Council Items and Comments. This portion of the agenda is for each member of the City Council to provide brief reports on any intergovernmental agency meetings, conferences, community meetings, meetings of other legislative bodies, or other events of interest to the community that they attended, as well as meetings attended at the City's expense. This portion of the agenda is also for the City Council to provide guidance and direction to staff concerning items to be included on future agendas and information to be provided in response to questions raised during “Items from the Audience/Public Comment.”

**5.10.1.5.12.1.** Under this portion of the agenda, two Council members may request staff to provide information, perform studies, or undertake other action. If the requested action is routine in nature, the City Manager will direct staff to proceed. However, if the request cannot be accomplished within the approved budget or City Council priorities, or if it will involve substantial staff resources, the City Manager will report to the City Council at a subsequent City Council meeting and request further direction. At that time, the consensus of a majority of the City Council will be required to proceed.

**5.10.2.5.12.2.** Agendas for regular and special meetings of the Council shall include a “Council Items and Comments” section. (Resolution No. 2021-049)

**5.11.5.13.** Adjournment. If a City Council meeting is still in session at 11:00 p.m., the Presiding Officer shall ask the question of whether the City Council desires to consider any new items after 11:00 p.m. The City Council shall determine, by motion, which

## City of Tracy – Council Meeting Protocols and Rules of Procedures

specific items will be considered or continued. The City Manager shall inform the City Council of any time sensitive items. Any item continued due to the lateness of the hour shall automatically be placed on the agenda for the next regularly scheduled City Council meeting unless otherwise scheduled by motion action of a majority of the City Council.

**5.12.5.14.** Non-Agendized Items. The Brown Act prohibits the City Council from discussing or acting upon any non-agendized matter, unless an exception under Section 54954.2 applies. For non-agendized items, City Council members may briefly respond to statements made or questions posed by individuals during public comment; ask questions for clarification; direct the individual to the appropriate staff person; or request that the matter be placed on a future agenda or that staff provide additional information to the City 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 seeking clarifications, may be made to statements or questions raised on items not on the agenda (Section 54954.2(a)(3)). Action on any item not on the agenda shall be deferred until the item is properly listed on the agenda for a subsequent City Council meeting unless added due to an immediate need if permitted under state law.

**5.13.5.15.** Voting Requirements. All ordinances, resolutions, and orders for payment of money require a majority vote of the total membership of the City Council in accordance with Section 36939, unless otherwise required by State law.

**5.13.1.5.15.1.** It is a best practice that all City Council members vote on every item of business unless prevented from doing so by virtue of an actual or potential conflict of law or other valid abstention under applicable laws. City Council Members are encouraged to disclose the reason for that abstention prior to the City Council engaging in discussion on that item.

**5.14.5.16.** Parliamentary Procedures. City Council meetings shall be conducted in accordance with the Rosenberg's Rules of Order: Simple Parliamentary Procedures for the 21<sup>st</sup> Century unless otherwise specified herein. (Appendix A - Rosenberg's Rules of Order, Revised 2011, as may be amended). City Boards and Commissions may use Rosenberg's Rules of Order or any other informal meeting protocols or parliamentary procedures to conduct their meetings. (Resolution No. 2021-049)

**5.14.1.5.16.1.** Time Limit for City Council Discussion and Debate. Each City Council Member shall have an aggregate maximum of five minutes to speak during each City Council discussion item and debate of a motion. (Resolution No. 2021-049)  
The City Clerk shall be the timekeeper for all Council discussions.

**5.14.2.5.16.2.** Point of Order. Any City Council member may ask for a point of order, at which time the Presiding Officer will ask for an explanation. Points of order relate to matters that a City Council member considers inappropriate conduct for the meeting, such as the failure to adhere to these Protocols. The Presiding Officer shall rule on the matter. Any member can move to appeal the Presiding Officer's

## City of Tracy – Council Meeting Protocols and Rules of Procedures

ruling, with a second from another Council member. Following debate, the ruling of the Presiding Officer may be reversed by a majority vote.

5.15.5.17. Written Communications from the City and the Public. The City Clerk shall manage communications to members regarding meeting topics to ensure compliance with the Brown Act.

5.15.1.5.17.1. Except for records exempt from disclosure under the California Public Records Act and otherwise by law, agendas or any other writings distributed to all or a majority of the members of a legislative body for discussion or consideration at a public meeting are disclosable to the public, and shall be made available upon request without delay.

5.15.2.5.17.2. Materials distributed to the members during the meeting shall be available for viewing by the public during the meeting if the materials were prepared by the City or a City Council member, or posted on the City's website within 48 hours the conclusion of the meeting if prepared by another person.

5.16.5.18. Written Materials after the City Council Agenda has been Distributed. On occasion, the City Council may receive, from members of the public, written materials either after the Agenda has been posted or at a City Council meeting. These written materials are typically related to an agendized item or handed out during "Items from the Audience/Public Comment." Upon the City Council receiving these written materials, they become a public record. For materials related to an agendized item, a copies 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 City Council meeting.

5.16.1.5.18.1. For agendized items, staff may distribute materials to the City Council after the agenda has been published, only in compliance with the Brown Act. Any such materials about an agendized item that are received less than 72 hours before a Council meeting that are distributed to a majority of Council will be made available at the City Council meeting for the public to review.

5.16.2.5.18.2. Interested parties or their authorized representatives may address the Council by written communications regarding agenda items.

5.16.2.1.5.18.2.1. Documents (6 copies are recommended) that members of the public submit to the City Council at the meeting shall be given directly to the City Clerk for distribution and shall not be given directly to the City Council. The documents will be available to the public on the City's website within 48 hours of the conclusion of the meeting.

5.17.5.19. Compliance with the Americans with Disabilities Act (ADA). 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 Council meeting,

## **City of Tracy – Council Meeting Protocols and Rules of Procedures**

should contact the City Clerk's Office at (209) 831-6105 at least 24 hours prior to the meeting.

## City of Tracy – Council Meeting Protocols and Rules of Procedures

### Section 6 – Conduct of the Public

#### 6. Conduct of the Public

- 6.1. Purpose of Public Comment. The City, in accordance with the Brown Act, provides the public the opportunity to address the City Council body as a whole and express their opinions regarding agendized items and non-agendized matters within the subject matter jurisdiction of the City Council. (Section 54954.3) Items are generally considered to be within the City Council's subject matter jurisdiction if they are within the City Council's scope of influence.
  - 6.1.1. Nothing in these Protocols shall be construed as prohibiting public criticism of the City's policies, procedures, programs or services, or the acts or omissions of the City Council. However, these Protocols are not intended to confer any privilege or protection for expression beyond that otherwise provided by law. (Section 54954.3(c)).
  - 6.1.2. Public comments should not be addressed to individual City Council members nor City staff, but rather to the City Council as a whole.
  - 6.1.3. While members of the public may speak their opinions on City business, personal attacks on members and City officials, use of swear words, and verbal or non-verbal signs or displays of disrespect for individuals are discouraged as they impede good communication with the City Council.
  - 6.1.4. Consistent with the Brown Act, the City Council is limited in its ability to respond to public comments regarding non-agendized matters. The limited circumstances under which members may respond to public comments are set out in Rule 5.13.
- 6.2. In the interest of conducting an efficient meeting, the Presiding Officer may stop a member of the public whose comments are not confined to the agendized item being heard. In addition, during the "Items from the Audience/Public Comment" portion of the agenda, the Presiding Officer may stop a member of the public whose comments are not within the subject matter jurisdiction of the City.
- 6.3. Rules of Decorum. While the City Council is in session, no person in the audience at a City Council meeting shall engage in conduct that disrupts the orderly conduct of a Council meeting, including, but not limited to, the utterance of loud, threatening or abusive language, refusing to abide speaker time limits and leave the podium when directed; whistling, clapping, stamping of feet, yelling or shouting or interrupting a speaker who is addressing the City Council; repeated waiving of arms; or other disruptive acts. Clapping at any time during a City Council meeting, except during the "Presentations/Proclamations and Awards" portion of the meeting, shall be considered a disruption.
- 6.4. Any person who disrupts the orderly course of the meeting may be issued a criminal citation pursuant to Penal Code section 403 and/or called out of order by the Presiding

## **City of Tracy – Council Meeting Protocols and Rules of Procedures**

Officer and barred from further participation during that session of the City Council in accordance with the Brown Act.

- 6.4.1. All persons attending a Council meeting shall obey any lawful order or direction of the Presiding Officer or Sergeant-at-Arms.
- 6.4.2. The Sergeant-at-arms shall assist the Presiding Officer in enforcing these rules of decorum at City Council meetings, including but not limited, removing disruptive audience members. Additionally, any City Council member may at any time call for a point of order, to request the timely enforcement of these rules of decorum.

6.5. Location of Speaker. Members of the public wishing to address the City Council must approach the podium when recognized by the Presiding Officer and shall speak only from the podium.

## **City of Tracy – Council Meeting Protocols and Rules of Procedures**

### **Section 7 – Miscellaneous**

#### **7. Miscellaneous**

- 7.1. Conflicts of Interests. It is the responsibility of every Council member to disclose conflicts of interest on agendized items, in accordance with Sstate and local conflict of interest laws.
- 7.2. Proclamations. The Mayor issues proclamations to provide special recognition by the City to an individual, event, issue etc. Proclamations are not statements of policy and do not require the official approval or action of the City Council.
- 7.3. Broadcasting of Council Meetings. Generally, City Council meetings are broadcast live on Channel 26 and the City's website ([www.cityoftracy.org](http://www.cityoftracy.org)), unless technical difficulties make that infeasible. Reruns of the preceding City Council meeting are shown every Wednesday at 8:00 p.m., every Thursday at 10:00 a.m., and every Saturday at 9:00 a.m. on Channel 26.
  - 7.3.1. Recordings of City Council meetings shall be accessible on the City's website ([www.cityoftracy.org](http://www.cityoftracy.org)) by the end of the following business day. DVD recordings of Council meetings are available at costs established in the City's Master Fee Schedule.

## **City of Tracy – Council Meeting Protocols and Rules of Procedures**

### **Appendices**

- A. Rosenberg's Rules of Order, revised 2011, Simple Rules of Parliamentary Procedure for the 21<sup>st</sup> Century. Judge Dave Rosenberg



# **COUNCIL MEETING PROTOCOLS AND RULES OF PROCEDURE**

Adopted by Resolution No. 2019-240  
Revised by Resolution Nos. 2020-112, 2021-049 and 2023-103

## **City of Tracy – Council Meeting Protocols and Rules of Procedures**

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## **City of Tracy – Council Meeting Protocols and Rules of Procedures**

### **Section 1 –Purpose and Applicability**

#### **1. Purpose and Applicability**

- 1.1. The purpose of these Council Meeting Protocols and Rules of Procedures (“Protocols”) are to provide clear guidelines to assist the City Council, staff and the public to conduct meetings in an efficient and transparent manner and in accordance with the Ralph M. Brown Act (“Brown Act”, Government Code sections 54950-54963) and all applicable laws.<sup>1</sup> These Protocols are adopted pursuant to Section 36813. In the event of a conflict between the Brown Act and these Protocols, the Brown Act shall control.
- 1.2. In the event of a conflict between these Protocols, and the City of Tracy’s adopted Code of Conduct (Resolution No. 2021-146), Protocols shall control.
- 1.3. These Protocols shall apply to the City Council, the Successor Agency to the Community Development Agency, the Tracy Public Facilities Corporation, the Tracy Industrial Development Authority, and all City Boards, Commissions, and Committees.
- 1.4. Suspension of Protocols. Any rule set forth herein may be suspended by a supermajority vote of the City Council.
- 1.5. Review and Changes to Protocols. These Protocols shall be reviewed by December 31<sup>st</sup> of every odd numbered year. A majority vote of the City Council shall be necessary to amend these Protocols.
- 1.6. A copy of these Protocols shall be available for public review at the City Clerk’s Office and City’s website ([www.cityoftracy.org](http://www.cityoftracy.org)).

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<sup>1</sup> All references to statutes are to the California Government Code unless otherwise specified.

## **City of Tracy – Council Meeting Protocols and Rules of Procedures**

### **Section 2 –Duties (Roles and Responsibilities)**

#### **2. Roles and Responsibilities at Council Meetings**

- 2.1. Mayor. The Mayor is the Presiding Officer of all meetings of the full City Council. The Presiding Officer is the primary, but not the only, person responsible for ensuring that the City Council, staff, and members of the public adhere to these Protocols during City Council meetings. (Section 36802). The Chair of a City board or commission shall act as the Presiding Officer.
- 2.2. Mayor Pro Tem. The Mayor Pro Tem shall serve as the Presiding Officer in the absence of the Mayor. Absence shall be as defined by State law. Upon arrival of the Mayor, the Mayor Pro Tem shall immediately relinquish the role of Presiding Officer at the conclusion of the business then before Council. (Section 36802) The Vice Chair of a City board or commission shall act as the Presiding Officer in the absence of the Chair.
- 2.3. City Council. All members of the City Council shall comply with the Council Code of Conduct at meetings. Newly elected City Council members shall be sworn in and seated at the first regular City Council meeting after receipt of the certified election results from the County Registrar of Voters.
- 2.4. Sergeant-at-Arms. The Sergeant-at-Arms is the law enforcement official charged with maintaining security during meetings of the City Council. The Sergeant-at-Arms of the City Council shall be a police officer assigned by the Police Chief. There shall be at least one officer so assigned and present at each meeting of the full City Council. The officer shall maintain order and enforce the orders of the City Council and Presiding Officer.
- 2.5. City Manager. Pursuant to the Council-Manager form of government established by Chapter 2.08 of the Tracy Municipal Code, the City Manager sets the Council agenda and once published, may request that the City Council, by majority vote, to withdraw an item.
- 2.6. City Clerk. The City Clerk shall attend all meetings of the Council unless excused. The Deputy City Clerk shall attend Council meetings in the City Clerk's absence. The City Clerk shall record, prepare, and maintain the official records of the Council and perform other duties as directed by the City Manager. (Section 36804)
  - 2.6.1. 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.
    - 2.6.1.1. 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

## **City of Tracy – Council Meeting Protocols and Rules of Procedures**

the City Council. The Council shall report at a public meeting any action taken in closed session, as required by Section 54957.1.

- 2.6.1.2. The City Clerk shall include a report on posting of the agenda in the minutes.
- 2.6.2. Timekeeper. The City Clerk shall be the designated timekeeper at all City Council meetings and shall have the authority to interrupt speakers, whether members of the public or a City Council member, when their allotted speaking times have expired.
- 2.7. City Staff. City staff shall (a) prepare balanced staff reports and provide accompanying documents on all agenda items in accordance with the agenda preparation schedule; (b) be available for questions from the City Council in accordance with the Brown Act prior to and during meetings; and (c) respond to questions from the public during meetings only when requested to do so by the City Council or the City Manager.
- 2.8. City Attorney. The City Attorney shall attend all meetings of the Council unless excused. The Assistant City Attorney shall attend Council meetings in the City Attorney's absence. The City Attorney shall give advice, upon request from the City Council, on questions of law. The City Attorney shall serve as the Parliamentarian at City Council meetings, opining on any procedural issues related to these Protocols, the Brown Act and Rosenberg's Rules.

## **City of Tracy – Council Meeting Protocols and Rules of Procedures**

### **Section 3 – Meeting Types**

#### **3. Council Meeting Types**

- 3.1. Regular Meetings. Regular City Council meetings are held on the first and third Tuesdays of the month at 7:00 p.m. at City Hall Council Chambers, 333 Civic Center Plaza, Tracy, California 95376, unless otherwise noticed and as allowed under Section 54954. No meeting shall be held on a holiday as defined by Section 6700. (Section 36805)
- 3.2. Special Meetings. The City Manager, Mayor, or a majority of the members of the City Council may call a special meeting. (Section 54956). Only the City Attorney is authorized to convene a closed session, which shall be considered a special meeting and conducted in accordance with the Brown Act. (Section 36807)
- 3.3. Workshops. The purpose of a workshop is to inform the City Council of complex issues and provide an opportunity for the City Council to review documents and request additional information. However, no final City Council action shall be taken during the workshop on agendized items. Workshops are open to the public and shall be conducted as public meetings in accordance with the Brown Act.

3.4. Closed Sessions.

- 3.4.1. The City Attorney shall convene a special closed session meeting under the following circumstances:
  - 3.4.1.1. When requested by the City Manager to discuss a matter in closed session, and the City Attorney determines such a matter is permissible for discussion in closed session under the Brown Act;
  - 3.4.1.2. When requested by the City Council, pursuant to Section 4.3, to discuss a matter in closed session, and the City Attorney determines such a matter is permissible for discussion in closed session under the Brown Act;
  - 3.4.1.3. When the City Attorney deems it so necessary and determines a closed session is permissible under the Brown Act.
- 3.4.2. Closed sessions shall be held in accordance with the Brown Act. Non-agendized matters shall not be discussed in closed session. Closed sessions may precede or follow a City Council meeting.
- 3.4.3. All closed session information, verbal or written, is privileged and confidential and shall not be shared with any person not at the closed session. Any member sharing information in violation of this rule may be subject to censure by the City Council or other legal remedies as set forth in Section 54963.

## **City of Tracy – Council Meeting Protocols and Rules of Procedures**

- 3.4.4. The public may speak regarding any closed session item prior to the closed session as required by the Brown Act.
- 3.4.5. The City Attorney shall attend all closed sessions unless excused by the majority of the Council as related to personnel evaluations or disciplinary matters related to the City Attorney and shall report out in public session any reportable actions there taken by Council and the vote on such actions, in accordance with the Brown Act.
- 3.5. Teleconferenced Meetings. The City Council may hold a meeting by teleconference, meaning a meeting of the Council in which members are in different locations and connected by electronic means, through either audio or video, or both. Any teleconference meeting of the Council must comply with the requirements of Government Section 54953 and other applicable law, including but not limited to the requirement that all votes taken shall be by roll call.
- 3.6. Emergency Meetings. In the case of an emergency, as defined by Section 54956.5, a majority of Council may call a meeting and dispense with the special meeting notice and posting requirements under the Brown Act. Any emergency meeting held shall comply with the applicable Brown Act provisions.
- 3.7. The City Clerk shall ensure that the applicable noticing and posting requirements under the Brown Act are followed for all meetings of the City Council and shall poll and confirm a quorum is available for all such meetings in advance of publication.

## **City of Tracy – Council Meeting Protocols and Rules of Procedures**

### **Section 4 – Meeting Agendas**

#### **4. Meetings Agendas**

4.1. Purpose of Agenda. The Council meeting agenda documents serve four purposes:

- To communicate and inform City Council, City staff, the public and the press about City business.
- To comply with mandated state laws.
- To facilitate the decision-making process by including sufficient background information so that the City Council can obtain a full understanding of the issues and staff's analysis and recommendation prior to their consideration and action.
- To serve as a historical reference that can be kept as a record of proceedings and actions as needed for future actions and/or litigation.

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

4.2. Posting and Distribution of Agendas. At a minimum, the posting and distribution of all agendas shall be done in accordance with the Brown Act. Agendas for regular meetings shall be posted not less than 72 hours prior to the meeting (Section 54954.2(a)(1)); special meeting agendas shall be posted not less than 24 hours prior to the meeting (Section 54956).

4.2.1. 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 the bylaws of a particular Board or Commission. Posting of agendas at City Hall shall be the official location for purposes of Brown Act compliance.

4.2.2. Agenda packets are provided electronically to City Council Members on the Thursday prior to a City Council meeting unless technical difficulties occur. If technical difficulties occur, the City Clerk will endeavor to provide Council with hard copies of the agenda as soon as reasonably possible. Distribution to the staff, public and media shall occur immediately after distribution to the City Council. Members of the public may sign up to receive notification that a Council meeting agenda has been posted on the City's website ([www.cityoftracy.org](http://www.cityoftracy.org)). The City Clerk will mail copies of the agenda or particular agenda items to any person submitting a request. (Section 54954.1) Said requests will be valid for one year. 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 for inspection at the Tracy Library and City Clerk's office. Agendas for Council meetings are posted on the City's website ([www.cityoftracy.org](http://www.cityoftracy.org)).

## **City of Tracy – Council Meeting Protocols and Rules of Procedures**

4.3. Agenda Item Submission, Council Member Request for Agenda Items. Council Members may seek to have an item discussed by the City Council at a future meeting and shall follow the below processes to have an item placed on a future City Council agenda:

4.3.1. During "Council Items and Comments", a Council Member may make a motion , to place an item on a future City Council agenda, and upon receiving a second to such motion, the City Manager shall place the item on a future agenda.

4.3.1.1. When the motion is made, the City Manager may provide information regarding current workloads, staffing and/or anticipated research that may affect the timing of completing the requested item, so as to establish more accurate and realistic expectations of when such item will be placed on a future City Council agenda.

4.3.1.2. If no discussion is had regarding the timing, the City Manager shall place the requested item on a future City Council agenda within a reasonable time.

4.3.1.3. The motion maker may include a specific meeting date on which the item must be brought to the City Council for consideration, and such date shall prevail, unless the City Manager provides information to explain that such date is not possible either due to current workloads, staffing and/or anticipated research.

4.3.2. A Council Member may request a time sensitive item be placed on the next City Council agenda, by contacting the City Manager, or their designee, via telephone, email or in person. Upon the request of a Council Member, the item will be placed on the next City Council agenda as long as the motion maker obtains one other Council Member to second the request. In the interest of transparency and Brown Act compliance, the motion maker shall limit discussions, outside of City Council meetings, to only one other Council Member to obtain support for a second to the motion regarding the time-sensitive request.

4.3.2.1. For purposes of this section 4.3.2, "time-sensitive" shall mean any agenda item that is considered urgent by the sponsor and that has a deadline for action that is prior to the next meeting of the City Council. All necessary information should be submitted to City Council for a valid time-sensitive request.

4.3.2.2. In the event of a time-sensitive request, the City Manager shall notify the rest of the City Council when two Council Members request an item to be placed on the agenda. The City Manager will place the item on the next City Council agenda, unless the City Manager has communicated to the two requesting Councilmembers that such timeframe is not possible based on current workloads, staffing and/or research. The City Manager shall consult and coordinate with the City Attorney on all time-sensitive matters.

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- 4.3.2.3. If the time-sensitive item is not able to be placed on the next City Council agenda, due to the information provided by the City Manager pursuant to Section 4.3.2.2, then the Council Member may place the item on a future City Council agenda pursuant to Section 4.3.1
- 4.3.3. Other Public Agencies. Agenda items such as presentations and proposals from other public entities must be sponsored for agenda placement by two Council members or the City Manager.

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### **Section 5 –Conduct of Meetings**

#### **5. Conduct of Meetings**

5.1. Order of Business. The suggested order of business of Council meetings shall be as follows.

1. Call to Order
2. Roll Call
3. Pledge of Allegiance
4. Invocation
5. Presentations/Proclamations and Awards
6. Order of Business
7. Consent Calendar
8. Items from the Audience/Public Comment
9. Continued Public Hearings
10. Public Hearings
11. Regular Items
12. Items from the Audience/Public Comment
13. Staff Items
14. Council Items and Comments
15. Adjournment

5.2. Call to Order. The Presiding Officer shall take the chair at the hour appointed for the meeting and shall immediately call the meeting to order.

5.3. Roll Call. A majority of the members of the Council then in office shall constitute a quorum. (Section 36810)

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

5.5. Presentations/Proclamations and Awards. This portion of the Agenda is dedicated for presentations, such as proclamations and awards, employee of the month recognitions, board and commission recognitions, and employee swearing-ins, and shall be limited to a 15-minute maximum period.

5.6. Order of Business . The order of business shall be as set forth in the published agenda. However, the Mayor may reorder agenda items or a Council Member may request that the Mayor reorder agenda items. The Mayor, as the Presiding Officer, shall be the decision maker on the order of business, except that the Mayor's decision may be appealed by a Council Member and such appeal shall be decided upon by a majority vote of the City Council. Upon a final determination that a reorder is occurring, the Mayor shall announce the reorder prior to proceeding with the meeting.

5.7. Consent Calendar. All items listed on the Consent Calendar are considered to be routine matters or consistent with previous City Council direction, such as resolutions confirming action from a previous meeting or the adoption of an ordinance previously

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introduced by Council. 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 a member of the City Council, City staff or the public request discussion on a specific item.

5.8. Items from the Audience/Public Comment. It is the policy of the City Council that members of the public be allowed to address the Council on any item of interest to the public, before or during its consideration of that item, that is within the City Council's subject matter jurisdiction. (Section 54954.3(a)).

5.8.1. Agendas for regular meetings will have two opportunities for "Items from the Audience/Public Comment." (Section 54954.3(a)). In the interest of allowing the City Council to have adequate time to address the agendized items of business, the first public comment opportunity will be limited to a 15-minute maximum period. (Section 54954.3(b)). The second opportunity will not have a time limit period. A five-minute time limit per speaker will apply to all individuals speaking during the "Items from the Audience/Public Comment" portion of the agenda. Speakers may not concede any part of their allotted time to another speaker.

5.8.1.1. However, in the event there are 15 or more individuals wishing to speak regarding any agenda item including the "Items from the Audience/Public Comment" portion of the agenda and regular items, the maximum amount of time allowed per speaker will be three minutes.

5.8.2. Each speaker shall avoid repetition of the remarks of the prior speakers, and when speaking under a specific agenda item, shall speak only to that agenda item. To promote time efficiency and an orderly meeting, the Presiding Officer may request that a spokesperson be designated to represent similar views. A designated spokesperson shall have 10 minutes to speak.

5.8.3. Speaker Cards. To facilitate the orderly process of public comment and to assist the City Council to conduct its business as efficiently as possible, members of the public wishing to address the City Council are requested to, but not required to, hand a speaker card, which includes the speaker's name or other identifying designation and address, to the City Clerk prior to the agenda item being called. Generally, once the City Council begins its consideration of an item, no more speaker cards will be accepted. An individual's failure to present a speaker card or state their name shall not preclude the individual from addressing the City Council. (Section 54953.3)

5.9. Public Hearings. Public hearings are required for a variety of City Council actions such as 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. However, in the event there are 15 or more individuals wishing to speak

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regarding a public hearing item, the maximum amount of time allowed per speaker will be three minutes.

5.9.1. **Public Hearings for Land Use and Other Matters.** The Presiding Officer may designate individuals as the “Proponent/Appellant” or “Opponent” and provide each with additional time for comments and the opportunity to present a rebuttal.

5.10. **Regular Items.** This portion of the Agenda is for non-public hearing agenda items that require Council action or direction such as status or informational reports from staff and Council requests for agenda items.

5.11. **Staff Items.** This portion of the agenda provides an opportunity for the City Manager, City Attorney, and City staff to provide information of community interest to the City Council.

5.12. **Council Items and Comments.** This portion of the agenda is for each member of the City Council to provide brief reports on any intergovernmental agency meetings, conferences, community meetings, meetings of other legislative bodies, or other events of interest to the community that they attended, as well as meetings attended at the City's expense. This portion of the agenda is also for the City Council to provide guidance and direction to staff concerning items to be included on future agendas and information to be provided in response to questions raised during “Items from the Audience/Public Comment.”

5.12.1. Under this portion of the agenda, two Council members may request staff to provide information, perform studies, or undertake other action. If the requested action is routine in nature, the City Manager will direct staff to proceed. However, if the request cannot be accomplished within the approved budget or City Council priorities, or if it will involve substantial staff resources, the City Manager will report to the City Council at a subsequent City Council meeting and request further direction. At that time, the consensus of a majority of the City Council will be required to proceed.

5.12.2. Agendas for regular and special meetings of the Council shall include a “Council Items and Comments” section. (Resolution No. 2021-049)

5.13. **Adjournment.** If a City Council meeting is still in session at 11:00 p.m., the Presiding Officer shall ask the question of whether the City Council desires to consider any new items after 11:00 p.m. The City Council shall determine, by motion, which specific items will be considered or continued. The City Manager shall inform the City Council of any time sensitive items. Any item continued due to the lateness of the hour shall automatically be placed on the agenda for the next regularly scheduled City Council meeting unless otherwise scheduled by motion action of a majority of the City Council.

5.14. **Non-Agendized Items.** The Brown Act prohibits the City Council from discussing or acting upon any non-agendized matter, unless an exception under Section 54954.2

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applies. For non-agendized items, City Council members may briefly respond to statements made or questions posed by individuals during public comment; ask questions for clarification; direct the individual to the appropriate staff person; or request that the matter be placed on a future agenda or that staff provide additional information to the City 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 seeking clarifications, may be made to statements or questions raised on items not on the agenda (Section 54954.2(a)(3)). Action on any item not on the agenda shall be deferred until the item is properly listed on the agenda for a subsequent City Council meeting unless added due to an immediate need if permitted under state law.

5.15. **Voting Requirements.** All ordinances, resolutions, and orders for payment of money require a majority vote of the total membership of the City Council in accordance with Section 36939, unless otherwise required by State law.

5.15.1. It is a best practice that all City Council members vote on every item of business unless prevented from doing so by virtue of an actual or potential conflict of law or other valid abstention under applicable laws. City Council Members are encouraged to disclose the reason for that abstention prior to the City Council engaging in discussion on that item.

5.16. **Parliamentary Procedures.** City Council meetings shall be conducted in accordance with the Rosenberg's Rules of Order: Simple Parliamentary Procedures for the 21<sup>st</sup> Century unless otherwise specified herein. (Appendix A - Rosenberg's Rules of Order, Revised 2011, as may be amended). City Boards and Commissions may use Rosenberg's Rules of Order or any other informal meeting protocols or parliamentary procedures to conduct their meetings. (Resolution No. 2021-049)

5.16.1. **Time Limit for City Council Discussion and Debate.** Each City Council Member shall have an aggregate maximum of five minutes to speak during each City Council discussion item and debate of a motion. (Resolution No. 2021-049)

5.16.2. **Point of Order.** Any City Council member may ask for a point of order, at which time the Presiding Officer will ask for an explanation. Points of order relate to matters that a City Council member considers inappropriate conduct for the meeting, such as the failure to adhere to these Protocols. The Presiding Officer shall rule on the matter. Any member can move to appeal the Presiding Officer's ruling, with a second from another Council member. Following debate, the ruling of the Presiding Officer may be reversed by a majority vote.

5.17. **Written Communications from the City and the Public.** The City Clerk shall manage communications to members regarding meeting topics to ensure compliance with the Brown Act.

5.17.1. Except for records exempt from disclosure under the California Public Records Act and otherwise by law, agendas or any other writings distributed to all or a majority of the members of a legislative body for discussion or consideration at a

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public meeting are disclosable to the public, and shall be made available upon request without delay.

5.17.2. Materials distributed to the members during the meeting shall be available for viewing by the public during the meeting if the materials were prepared by the City or a City Council member, or posted on the City's website within 48 hours the conclusion of the meeting if prepared by another person.

5.18. Written Materials after the City Council Agenda has been Distributed. On occasion, the City Council may receive, from members of the public, written materials either after the Agenda has been posted or at a City Council meeting. These written materials are typically related to an agendized item or handed out during "Items from the Audience/Public Comment." Upon the City Council receiving these written materials, they become a public record. For materials related to an agendized item, copies 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 City Council meeting.

5.18.1. For agendized items, staff may distribute materials to the City Council after the agenda has been published, only in compliance with the Brown Act. Any such materials will be made available at the City Council meeting for the public to review.

5.18.2. Interested parties or their authorized representatives may address the Council by written communications regarding agenda items.

5.18.2.1. Documents (6 copies are recommended) that members of the public submit to the City Council at the meeting shall be given directly to the City Clerk for distribution and shall not be given directly to the City Council. The documents will be available to the public on the City's website within 48 hours of the conclusion of the meeting.

5.19. Compliance with the Americans with Disabilities Act (ADA). 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 Council meeting, should contact the City Clerk's Office at (209) 831-6105 at least 24 hours prior to the meeting.

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### **Section 6 – Conduct of the Public**

#### **6. Conduct of the Public**

- 6.1. Purpose of Public Comment. The City, in accordance with the Brown Act, provides the public the opportunity to address the City Council body as a whole and express their opinions regarding agendized items and non-agendized matters within the subject matter jurisdiction of the City Council. (Section 54954.3) Items are generally considered to be within the City Council's subject matter jurisdiction if they are within the City Council's scope of influence.
  - 6.1.1. Nothing in these Protocols shall be construed as prohibiting public criticism of the City's policies, procedures, programs or services, or the acts or omissions of the City Council. However, these Protocols are not intended to confer any privilege or protection for expression beyond that otherwise provided by law. (Section 54954.3(c)).
  - 6.1.2. Public comments should not be addressed to individual City Council members nor City staff, but rather to the City Council as a whole.
  - 6.1.3. While members of the public may speak their opinions on City business, personal attacks on members and City officials, use of swear words, and verbal or non-verbal signs or displays of disrespect for individuals are discouraged as they impede good communication with the City Council.
  - 6.1.4. Consistent with the Brown Act, the City Council is limited in its ability to respond to public comments regarding non-agendized matters.
- 6.2. In the interest of conducting an efficient meeting, the Presiding Officer may stop a member of the public whose comments are not confined to the agendized item being heard. In addition, during the "Items from the Audience/Public Comment" portion of the agenda, the Presiding Officer may stop a member of the public whose comments are not within the subject matter jurisdiction of the City.
- 6.3. Rules of Decorum. While the City Council is in session, no person in the audience at a City Council meeting shall engage in conduct that disrupts the orderly conduct of a Council meeting, including, but not limited to, the utterance of loud, threatening or abusive language, refusing to abide speaker time limits and leave the podium when directed; whistling, stamping of feet, yelling or shouting or interrupting a speaker who is addressing the City Council; repeated waiving of arms; or other disruptive acts. Clapping at any time during a City Council meeting, except during the "Presentations/Proclamations and Awards" portion of the meeting, shall be considered a disruption.
- 6.4. Any person who disrupts the orderly course of the meeting may be issued a criminal citation pursuant to Penal Code section 403 and/or called out of order by the Presiding Officer and barred from further participation during that session of the City Council in accordance with the Brown Act.

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- 6.4.1. All persons attending a Council meeting shall obey any lawful order or direction of the Presiding Officer or Sergeant-at-Arms.
- 6.4.2. The Sergeant-at-arms shall assist the Presiding Officer in enforcing these rules of decorum at City Council meetings, including but not limited, removing disruptive audience members. Additionally, any City Council member may at any time call for a point of order, to request the timely enforcement of these rules of decorum.

6.5. Location of Speaker. Members of the public wishing to address the City Council must approach the podium when recognized by the Presiding Officer and shall speak only from the podium.

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### **Section 7 – Miscellaneous**

#### **7. Miscellaneous**

- 7.1. Conflicts of Interests. It is the responsibility of every Council member to disclose conflicts of interest on agendized items, in accordance with State and local laws.
- 7.2. Proclamations. The Mayor issues proclamations to provide special recognition by the City to an individual, event, issue etc. Proclamations are not statements of policy and do not require the official approval or action of the City Council.
- 7.3. Broadcasting of Council Meetings. Generally, City Council meetings are broadcast live on Channel 26 and the City's website ([www.cityoftracy.org](http://www.cityoftracy.org)), unless technical difficulties make that infeasible. Reruns of the preceding City Council meeting are shown every Wednesday at 8:00 p.m., every Thursday at 10:00 a.m., and every Saturday at 9:00 a.m. on Channel 26.
  - 7.3.1. Recordings of City Council meetings shall be accessible on the City's website ([www.cityoftracy.org](http://www.cityoftracy.org)) by the end of the following business day. DVD recordings of Council meetings are available at costs established in the City's Master Fee Schedule.

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### **Appendices**

- A. Rosenberg's Rules of Order, revised 2011, Simple Rules of Parliamentary Procedure for the 21<sup>st</sup> Century. Judge Dave Rosenberg