



CITY OF ATWATER

CITY COUNCIL

ACTION MINUTES

October 23, 2017

OPEN SESSION: (Council Chambers)

The City Council of the City of Atwater met in Open Session this date at 3:01 PM in the City Council Chambers located at the Atwater Civic Center, 750 Bellevue Road, Atwater, California; Mayor Price presiding.

ROLL CALL:

Present: City Council Members Creighton, Raymond, Vierra, Mayor Pro Tem Vineyard, Mayor Price

Absent: None

Staff Present: Interim City Manager Bramble, City Attorney Terpstra, Deputy City Clerk Saavedra, Recording Secretary Bengtson-Jennings

CLOSED SESSION: (Conference Room A)

Mayor Price invited public comments on Closed Session items.

No one came forward to speak.

Mayor Price adjourned the meeting to Conference Room A for Closed Session at 3:02 PM. Closed Session was called to order at 3:07 PM.

Conference with Legal Counsel – Potential Litigation – Government Code Section 54956.9(b): Number of cases: (2)

Pursuant to Government Code Section 54957, Public Employee Appointment Process:
City Manager

Closed Session adjourned at 6:15 PM.

REGULAR SESSION: (Council Chambers)

The City Council of the City of Atwater met in Regular Session this date at 6:21 PM in the City Council Chambers located at the Atwater Civic Center, 750 Bellevue Road, Atwater, California; Mayor Price presiding.

PLEDGE OF ALLEGIANCE TO THE FLAG:

The Pledge of Allegiance was led by Mayor Price.

INVOCATION:

The Invocation was led by Police Chaplain Mead.

ROLL CALL:

Present: City Council Members Creighton, Raymond, Vierra, Mayor Pro Tem Vineyard, Mayor Price

Absent: None

Staff Present: Interim City Manager Bramble, City Attorney Terpstra, CAL FIRE Battalion Chief Wight, Police Chief Joseph, Acting Public Works Director Shaw, Recreation Supervisor Rahn, Grants Manager Waterman, Chief Building Official Pereida, City Clerk Hyler III, City Treasurer Heller, Recording Secretary Bengtson-Jennings

MAYOR OR CITY ATTORNEY REPORT OUT FROM CLOSED SESSION:

City Attorney Terpstra reported that the Closed Session agenda was not completed and that continuance of Closed Session is necessary.

SUBSEQUENT NEED ITEMS: ***None.***

APPROVAL OF AGENDA AS POSTED OR AS AMENDED:

Agenda item #14 under City Attorney Reports/Updates, "Verbal report regarding appealing the decision of the Community Development and Resources Commission to deny issuance of Conditional Use Permit No. 549-17 (1485 Broadway Avenue)," was removed from the agenda in its entirety. In regard to this item, it was announced that continuance of the appeal hearing from the regular City Council Meeting of October 9, 2017 will be held on November 13, 2017.

MOTION: Mayor Price moved to approve the agenda as amended. The motion was seconded by Mayor Pro Tem Vineyard and the vote was: Ayes: Vineyard, Vierra, Raymond, Creighton, Price; Noes: None; Absent: None. The motion passed.

COMMENTS FROM THE PUBLIC:

Notice to the public was read.

MICHAEL NOGUERA, Atwater, spoke regarding the First Amendment right, specifically the protection of free speech.

DANNY HERNANDEZ, Atwater, voiced his frustrations in regard to disruptions at City Council meetings.

ERIC LEE, Atwater, spoke regarding the green boxes and containers located throughout the City.

FRANK JOHNSON, Modesto, spoke regarding the lack of diversity within the Police Department, the possible transition to a district-based election system for City Council members, and his “numerous complaints not yet answered.”

No one else came forward to speak at this time.

CONSENT CALENDAR:

Agenda item #9 under Ordinances (Waiving Second Reading and Adoption), “Waiving the second reading and adopting Ordinance No. CS 982 amending the City of Atwater Municipal Code Title 8, Chapter 8.60 “Medical Marijuana”; Title 17, Chapter 17.06 to address commercial marijuana operations in the context of crop cultivation and industry, industrial operation; and Title 17, Chapter 17.75 of the City’s Development Code to add a new Section 17.75.120 pertaining to the standards for commercial marijuana operation,” was removed from the consent calendar for separate discussion and possible action.

MOTION: *City Council Member Raymond moved to approve the consent calendar as amended. The motion was seconded by Mayor Pro Tem Vineyard and the vote was: Ayes: Vierra, Raymond, Creighton, Vineyard, Price; Noes: None; Absent: None. The motion passed.*

WARRANTS:

1. October 23, 2017

ACTION: *Approval of warrants as listed.*

MINUTES: (City Council)

2. Regular meeting, October 9, 2017

ACTION: *Approval of minutes as listed.*

RESOLUTIONS:

3. Amending the 2017-2023 Capital Improvement Plan and approving projects for funding from Merced County and the State of California, effective November 1, 2017 (Interim City Manager Bramble)

ACTION: Amends and adopts the five-year 2017-2023 Capital Improvement Plan (CIP); adopts Resolution No. 2990-17 approving the use of California Senate Bill 1 funding for the completion of prioritized public improvement projects; and adopts Resolution No. 2991-17 approving the use of Measure V funding for the completion of prioritized public improvement projects.

AGREEMENTS:

4. Awarding a lease purchase for RIMS computer-aided dispatch and records management software (Police Chief Joseph)

ACTION: Awards a lease purchase, in a form approved by the City Attorney, to Sun Ridge Systems, Inc., El Dorado Hills, California for the purchase of RIMS computer-aided dispatch and records management software in an amount not to exceed \$376,958.00; authorizes and directs the Interim City Manager to execute the lease agreement purchase on behalf of the City; and adoption of Resolution No. 2988-17 approving Budget Amendment No. 3 regarding the purchase of a computer server from General Fund, Police Administration, Special Departmental Expense funds in the amount of \$8,000.00.

5. Approving Lease Agreement with Students with Aspiring Goals, Atwater Youth Soccer League, Atwater Youth Baseball, Atwater Adult Soccer League, Atwater Tackle Football League, and Central Valley Leon Soccer for use of Veterans Football/Soccer Field and Veterans Baseball Field (Recreation Supervisor Rahn)

ACTION: Approval of a lease agreement, in a form approved by the City Attorney, with Students with Aspiring goals (SWAG), Atwater Youth Soccer League (AYSL), Atwater Youth Baseball (AYB), Atwater Adult Soccer League (AASL), Atwater Tackle Football League (ATFL), and Central Valley Leon Soccer (CVLS) for the use of Veterans Football/Soccer/Baseball fields; and authorizes and directs the Interim City Manager to sign the agreement on behalf of the City.

6. Awarding a sole source purchase for carbon exchange services at Well Site 15 (Acting Public Works Director Shaw)

ACTION: Awards a sole source purchase to Evoqua Water Technologies, LLC, Oakland, California for carbon exchange services for the change out of four (4) 20,000 pound vessels with 80,000 pounds of AquaCarb® 830C (virgin coconut based carbon) at Well Site 15 in an amount not to exceed \$138,676.32; and authorizes and directs the Interim City Manager to execute the purchase order on behalf of the City.

7. Awarding a sole source purchase for the purchase of replacement UV disinfection system lamps and lamp sleeves for the Wastewater Treatment Plant (Acting Public Works Director Shaw)

ACTION: Awards a sole source purchase to DC Frost Associates for the purchase of replacement UV disinfection system lamps and lamp sleeves for the Wastewater Treatment Plant in an amount not to exceed \$155,000.00; and authorizes and directs the Interim City Manager to execute the purchase order on behalf of the City.

8. Approving a Memorandum of Understanding regarding School Resource Officers (Police Chief Joseph)

ACTION: Approval of a Memorandum of Understanding, in a form approved by the City Attorney, with Merced County Office of Education regarding School Resource Officers; and authorizes and directs the Interim City Manager to execute the Memorandum of Understanding on behalf of the City.

ORDINANCES (WAIVING SECOND READING AND ADOPTION):

9. Waiving the second reading and adopting Ordinance No. CS 982 amending the City of Atwater Municipal Code Title 8, Chapter 8.60 "Medical Marijuana"; Title 17, Chapter 17.06 to address commercial marijuana operations in the context of crop cultivation and industry, industrial operation; and Title 17, Chapter 17.75 of the City's Development Code to add a new Section 17.75.120 pertaining to the standards for commercial marijuana operations (Interim City Manager Bramble)

This item was removed from the consent calendar for separate discussion and possible action.

10. Waiving the second reading and adopting Ordinance No. CS 990 amending Chapter 5.54 "Fireworks" of Title 5 "Business Taxes, Licenses, and Regulations" of the Atwater Municipal Code (CAL FIRE Battalion Chief Schmitz)

ACTION: Waives the second reading and adopts Ordinance No. CS 990 amending Chapter 5.54 "Fireworks" of Title 5 "Business Taxes, Licenses, and Regulations" of the Atwater Municipal Code.

ORDINANCES (WAIVING SECOND READING AND ADOPTION):

Waiving the second reading and adopting Ordinance No. CS 982 amending the City of Atwater Municipal Code Title 8, Chapter 8.60 "Medical Marijuana"; Title 17, Chapter 17.06 to address commercial marijuana operations in the context of crop cultivation and industry, industrial operation; and Title 17, Chapter 17.75 of the City's Development Code to add a new Section 17.75.120 pertaining to the standards for commercial marijuana operations (Interim City Manager Bramble)

Mayor Pro Tem Vineyard questioned the use of the word “shall” on page 31, Section 4.

City Attorney Terpstra clarified that this is a clerical error and stated that at the previous regular City Council meeting, the City Council unanimously agreed to the use of the word “may” in place of the word “shall” in regard to the youth education fee.

MOTION: Mayor Pro Tem Vineyard moved to waive the second reading and adopt Ordinance No. CS 982 amending the Atwater Municipal Code Title 8, Chapter 8.60 “Medical Marijuana”; Title 17, Chapter 17.06 to address commercial marijuana operations in the context of crop cultivation and industry, industrial operation; and Title 17, Chapter 17.75 of the City’s Development Code to add a new Section 17.75.120 pertaining to the standards for commercial marijuana operations. The motion was seconded by Mayor Price and the vote was: Ayes: Creighton, Vineyard, Raymond, Vierra, Price; Noes: None; Absent: None. The motion passed.

INFORMATIONAL ITEMS ONLY (NO ACTION REQUIRED):

Police Volunteer activities for the month of September, 2017 (Police Volunteer Vineyard)

Police Volunteer Vineyard reported on the Police Volunteer activities for the month of September, and he thanked the volunteers for their service.

PETITIONS AND COMMUNICATIONS:

Valley Christian Chapel

Interim City Manager Bramble spoke regarding the request from Valley Christian Chapel for assistance with their annual Harvest Festival.

MOTION: City Council Member Creighton moved to approve Valley Christian Chapel’s request for assistance with their annual Harvest Festival on October 31, 2017, to block off 3rd Street between Broadway Avenue and Cedar Avenue from 5:30 PM to 9:00 PM. The motion was seconded by City Council Member Raymond and the vote was: Ayes: Vineyard, Raymond, Vierra, Creighton, Price; Noes: None; Absent: None. The motion passed.

FUNDING AND BUDGET MATTERS:

Treasurer’s Report for the month of September, 2017 (City Treasurer Heller)

Mayor Pro Tem Vineyard announced that the October Audit and Finance Committee meeting was cancelled due to Closed Session and that a special Audit and Finance Committee meeting will be held Monday, November 13, 2017 at 4:00 PM.

MOTION: City Council Member Creighton moved to approve the Treasurer's Report for the month of September, 2017. The motion was seconded by Mayor Pro Tem Vineyard and the vote was: Ayes: Creighton, Raymond, Vierra, Vineyard, Price; Noes: None; Absent: None. The motion passed.

CITY ATTORNEY REPORTS/UPDATES:

Verbal report regarding appealing the decision of the Community Development and Resources Commission to deny issuance of Conditional Use Permit No. 549-17 (1485 Broadway Avenue)

This item was removed from the agenda in its entirety.

ORDINANCES AND RESOLUTIONS:

Waiving the second reading and adopting Ordinance No. CS 989 amending Chapter 2.10 "General Municipal Elections" of Title 2 "Administration and Personnel" of the Atwater Municipal Code to transition from an at-large election system to a district-based election system for City Council members (Interim City Manager Bramble)

Interim City Manager Bramble spoke regarding the proposed changes to the ordinance.

FRANK JOHNSON, Modesto, questioned the selection of the orange map.

MOTION: City Council Member Creighton moved to reconsider the October 9, 2017 action with district map orange; to waive the second reading and adopt Ordinance No. CS 989 amending Chapter 2.10 "General Municipal Elections" of Title 2 "Administration and Personnel" of the Atwater Municipal Code to transition from an at-large election system to a district-based election system for City Council members. The motion was seconded by Mayor Pro Tem Vineyard and the vote was: Ayes: Creighton, Vierra, Vineyard, Price; Noes: Raymond; Absent: None. The motion passed.

PUBLIC HEARINGS:

Amending the Building Permit Fee Schedule (Chief Building Official Pereida)

Chief Building Official Pereida spoke regarding the current Building Permit Fee Schedule and staff's recommendation to amend said schedule to recapture 100% recovery of contract staff fees.

Mayor Price opened the public hearing for this item.

No one came forward to speak and Mayor Price closed the public hearing.

MOTION: City Council Member Vierra moved to adopt Resolution No. 2989-17 amending the Building Permit Fee Schedule to reflect full recovery of both City staff and contracted staff fees. The motion was seconded by Mayor Pro Tem Vineyard and the vote was: Ayes: Vierra, Raymond, Vineyard, Creighton, Price; Noes: None; Absent: None. The motion passed.

CITY COUNCIL MATTERS:

City Council discussion and possible action regarding placing Measure H on the 2018 ballot

Mayor Price stated that additional information is needed prior to any City Council action. He requested that this item be placed on the next regular City Council meeting agenda of November 13, 2017 for discussion and possible action.

ERIC LEE, Atwater, reminded the community of the importance of the Measure H tax, and he encouraged citizens to review the ordinance online.

KEITH PELOWSKI, Atwater, thanked staff for the quick response to his questions concerning Measure H, and he stated that further questions are forthcoming.

City Council comments

City Council Member Raymond thanked Gloria Perez for the recent Love on our Downtown Local Businesses & Volunteer Appreciation Day event and Dan Hernandez for the Atwater High School salute to the veterans.

City Council Member Vierra thanked Dan Hernandez as well, and she praised Police Chief Joseph and the Police Department for their service.

Mayor Pro Tem Vineyard echoed City Council Member Raymond's and City Council Member Vierra's statements. He thanked those who helped with the recent Fall Clean Up and announced that the Spring Clean Up will be held April 28, 2018. He announced that this year's Christmas Parade will be held December 1, 2017 beginning at 7:00 PM. And, he reminded citizens to continue to conserve water and to turn off sprinklers when it rains.

City Council Member Creighton thanked Police Chief Joseph and his staff for their recent actions. He reminded the community to watch out for children on Halloween. He thanked Dan Hernandez for his efforts with the special ceremony to honor Atwater High School graduates who served in a war. And, he requested a future agenda item, to bring back a three day/week watering schedule.

Interim City Manager Bramble stated that the watering schedule will be addressed as part of the utility rate study.

Mayor Price praised the Atwater Police Department for their recent actions. He reminded the community that December 2, 2017 is the Kops and Fire for Kids event in front of Walmart, and he encouraged everyone to bring a toy for underprivileged children. He spoke of the recent Love on our Downtown Local Businesses & Volunteer Appreciation Day event and the grand opening of the Stage Stop Sporting Goods shop. He announced that this past week LAFCO approved the annexation for the Ferrari Ranch project. And, he apologized to the community for not being able to provide a packet for tonight's meeting.

DANNY HERNANDEZ, Atwater, thanked those who helped with the special ceremony to honor the veterans who attended Atwater High School.

CLOSED SESSION:

Continuation of Closed Session was necessary.

Mayor Price adjourned the Regular Session to Conference Room A for continuation of Closed Session at 7:08 PM. Closed Session resumed at 7:15 PM.

Closed Session adjourned at 8:35 PM.

MAYOR OR CITY ATTORNEY REPORT OUT FROM CLOSED SESSION:

City Attorney Terpstra reported that he was directed to prepare a draft employment agreement with specified terms and to bring the agreement back to the City Council for approval at the November 13, 2017 City Council meeting. City Attorney Terpstra was further directed to work with Murphy and Associates to contact the preferred City Manager candidate and outline key terms of the employment agreement. City Attorney Terpstra reported that no other action was taken and staff was given direction. The Closed Session agenda was completed.

ADJOURNMENT:

The meeting adjourned at 8:47 PM.

DON HYLER III
CITY CLERK

By: Kim Bengtson-Jennings,
Recording Secretary