



CITY OF ATWATER

CITY COUNCIL

ACTION MINUTES

October 9, 2017

REGULAR SESSION: (Council Chambers)

The City Council of the City of Atwater met in Regular Session this date at 6:01 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 McClellan.

ROLL CALL:

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

Absent: *None*

Staff Present: *Interim City Manager Bramble, Deputy City Attorney Henderson, CAL FIRE Battalion Chief Schmitz, CAL FIRE Battalion Chief Wight, Police Chief Joseph, Acting Public Works Director Shaw, Grants Manager Waterman, City Clerk Hylar III, Recording Secretary Bengtson-Jennings*

SUBSEQUENT NEED ITEMS: *None.*

APPROVAL OF AGENDA AS POSTED OR AS AMENDED:

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

PRESENTATIONS:

Introduction of Merced County Association of Governments (MCAG) Executive Director Patrick Pittenger and presentation of the Regional Transportation Plan (MCAG Senior Planner, Matt Fell)

Patrick Pittenger, MCAG Executive Director, introduced himself as the new Executive Director and reminded the community that the Merced County Association of Governments oversees transportation planning, the administration of Measure V funds, the County bus system, the YARTS bus system, and the Regional Waste Management Authority.

Matt Fell, MCAG Senior Planner, provided an update regarding the Regional Transportation Plan, which covers 25 years (2018 - 2042), and announced several upcoming public workshops for community input. Additional information may be found at www.MercedRegionalVision.com.

Monthly verbal report by Merced County District 3 Supervisor McDaniel

Merced County District 3 Supervisor McDaniel reported on several items:

- ***The County budget was adopted and Sheriff Deputies were given a 10% raise, for a total increase of 20% in a year and a half.***
- ***The new Merced County website is "up and running," which includes a requests and complaints link.***
- ***Two additional websites are coming soon in regard to economic development and Castle.***
- ***His recent trip to the Port of Los Angeles may prove fruitful.***

Supervisor McDaniel also reminded the community of his mobile office hours, which are the fourth Thursday of each month in the City Council Chambers from 1:30 – 3:30 PM.

COMMENTS FROM THE PUBLIC:

Notice to the public was read.

DANNY HERNANDEZ, Atwater, announced that prior to the October 20, 2017 Atwater High School Homecoming varsity football game, a special ceremony will be held to honor several Atwater High School graduates, eight surviving war veterans and four others who were killed in action. Please contact Mr. Hernandez

(209-777-4702) if you know any of the individuals or their family members. He asked for public participation and announced that this event will be held annually.

LORI JOHNSON, Atwater, pleaded for City Council help concerning personal issues.

RICHARD JOHNSON, Atwater, spoke in anger at the City Council in regard to his personal wellbeing.

Mayor Price called a recess at 6:26 PM to restore order.

The City Council returned to the dais and Mayor Price resumed the meeting at 6:28 PM.

FRANK JOHNSON, Modesto, spoke regarding his "many unanswered questions" and stated, "We all have an opportunity to do what is right."

No one else came forward to speak at this time.

CONSENT CALENDAR:

Interim City Manager Bramble announced that in regard to agenda item #6 under Ordinances (Waiving Second Reading and Adoption) concerning general municipal elections, there was a typographical error. For the 2018 general municipal election, voters in districts 3 and 4 shall elect members of the City Council by district, and for the 2020 general municipal election, voters in districts 1 and 2 shall elect members of the City Council by district.

Agenda item #6 under Ordinances (Waiving Second Reading and Adoption), "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," was removed from the consent calendar for separate discussion and possible action.

Agenda item #10 under Informational Items Only (No Action Required), "Fire Department activities and projects for the month of September, 2017, was removed from the consent calendar for separate discussion.

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

WARRANTS:

1. October 9, 2017

ACTION: Approval of warrants as listed.

MINUTES: (City Council)

2. Regular meeting, September 25, 2017

ACTION: Approval of minutes as listed.

MINUTES: (Community Development and Resources Commission)

3. Regular meeting, August 16, 2017

ACTION: Acceptance of minutes as listed.

AGREEMENTS:

4. Approving an agreement with Merced Union High School District regarding School Resource Officers (Police Chief Joseph)

ACTION: Approval of an agreement, in a form approved by the City Attorney, with the Merced Union High School District regarding School Resource Officers; and authorizes and directs the Interim City Manager to execute the agreement on behalf of the City.

PUBLIC IMPROVEMENTS:

5. Accepting the two (2) new Title 23, Tier 4 Dump Trucks project as complete (Grants Manager Waterman)

ACTION: Acceptance of work done under contract with Fred M. Boerner Motor Co., Huntington Park, California to manufacture and deliver two (2) new Title 23, Tier 4 Dump Trucks, City Project No. 14-11, Bid Call No. 676-17; authorizes the Interim City Manager to sign a Notice of Completion and have it recorded on behalf of the City; and authorizes final payment in the amount of \$214,750.18.

ORDINANCES (WAIVING SECOND READING AND ADOPTION):

6. 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)

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

CLAIMS AGAINST THE CITY:

7. Claim No. 2017-13

ACTION: After consideration and investigation, it is staff's recommendation that Claim No. 2017-13 be rejected.

8. Claim No. 2017-14

ACTION: After consideration and investigation, it is staff's recommendation that Claim No. 2017-14 be rejected.

INFORMATIONAL ITEMS ONLY (NO ACTION REQUIRED):

9. Police Department activities and projects for the month of September, 2017 (Police Chief Joseph)
10. Fire Department activities and projects for the month of September, 2017 (CAL FIRE Battalion Chief Wight)

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

11. Water Well Levels for the month of September, 2017 (Acting Public Works Director Shaw)

ORDINANCES (WAIVING SECOND READING AND ADOPTION):

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)

MOTION: Mayor Pro Tem Vineyard moved 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 as amended, for the 2018 general municipal election, voters in districts 3 and 4 shall elect members of the City Council by district, and for the 2020 general municipal election, voters in districts 1 and 2 shall elect members of the City Council by district. The motion was seconded by Mayor Price and the vote was: Ayes: Vineyard, Price; Noes: Raymond, Vierra, Creighton; Absent: None. The motion failed.

INFORMATIONAL ITEMS ONLY (NO ACTION REQUIRED):

- Fire Department activities and projects for the month of September, 2017 (CAL FIRE Battalion Chief Wight)

CAL FIRE Battalion Chief Wight provided an update regarding strike teams battling numerous fires throughout the state as well as current staffing and resources in Atwater.

INTERIM CITY MANAGER REPORTS/UPDATES:

Verbal report regarding Purchasing Manual

Interim City Manager Bramble provided an update regarding the City's Purchasing Manual, with the objective of finalizing the document for first reading and introduction at the October 23, 2017 regular City Council meeting.

PUBLIC HEARINGS:

Waiving the first reading and introducing 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)

Interim City Manager Bramble provided an overview of proposed Ordinance No. CS 982 amending the City of Atwater Municipal Code concerning medical marijuana.

Mayor Price opened the public hearing for this item.

ZACK DRIVON, Stockton attorney, spoke regarding sensitive use setbacks and believes that such may limit development.

FRANK JOHNSON, Modesto, questioned if federal law has been passed legalizing marijuana, and he brought up liability issues.

ADAM REED, Community Development and Resources Commissioner, voiced his concerns regarding the education fee and suggested allowing setbacks in industrial zones only.

DANNY HERNANDEZ, Atwater, spoke in opposition to marijuana dispensaries due to substance abuse in general.

ROBERT RIECHEL, Atwater, spoke in regard to zoning and available property for development in Atwater.

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

By consensus, the City Council proposed several changes to the draft ordinance and unanimously agreed that in regard to the youth education fee, the use of the

word "may" is necessary to allow for greater flexibility.

Deputy City Attorney Henderson clarified, for the record, City Council changes as follows: to include language that if there are other fees imposed upon the City by any other agency, those fees are passed on to the operator/owner; to include within the 600 feet barrier requirements, churches and licensed day care facilities and preschools, in existence at the time the application is submitted; to include a common sense approach to either require the 600 feet distance barrier or other physical barrier that separates this use from other sensitive uses; and to clarify the language concerning the youth education fee to allow for the ability to impose fees regardless of school district participation.

MOTION: *Mayor Pro Tem Vineyard moved to make changes to the proposed ordinance consistent with City Council comments from tonight's meeting, and to bring back the draft ordinance for first reading and introduction at the next regular City Council meeting of October 23, 2017. The motion was seconded by Mayor Price.*

MOTION TO AMEND: *Mayor Pro Tem Vineyard moved to amend the motion to include continuing the public hearing to October 23, 2017. The motion to amend was seconded by Mayor Price.*

Mayor Pro Tem Vineyard rescinded the motion.

MOTION: *City Council Member Creighton moved to waive the first reading and introduce 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 as amended, to incorporate the changes as stated above. The motion was seconded by City Council Member Vierra and the vote was: Ayes: Vierra, Raymond, Creighton, Vineyard, Price; Noes: None; Absent: None. The motion passed.*

Waiving the first reading and introducing 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)

CAL FIRE Battalion Chief Schmitz provided a brief overview of the changes to the ordinance, last amended in 2007, and answered questions of the City Council.

Mayor Price opened the public hearing for this item.

DANNY HERNANDEZ, Atwater, voiced his concerns regarding the dangers of illegal fireworks and requested additional police presence to deter the illegal activities, perhaps including police volunteers.

City Clerk Hyler III recused himself as City Clerk for discussion.

DON HYLER III, Atwater, spoke in opposition to putting additional restrictions on organizations selling fireworks and suggested the Police and Fire Departments focus on curbing illegal activities in a particular area in Atwater each year as opposed to the entire City.

LESA RASMUSSEN, Atwater, spoke in favor of the proposed ordinance and stated her opinion that police staffing levels are a concern.

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

MOTION: Mayor Pro Tem Vineyard moved to waive the first reading and introduce Ordinance No. CS 990 amending Chapter 5.54 "Fireworks" of Title 5 "Business Taxes, Licenses, and Regulations" of the Atwater Municipal Code. The motion was seconded by City Council Member Vierra and the vote was: Ayes: Raymond, Vierra, Creighton, Vineyard, Price; Noes: None; Absent: None. The motion passed.

Appealing the decision of the Community Development and Resources Commission to deny issuance of Conditional Use Permit No. 549-17 (1485 Broadway Avenue) (Senior Planner Hendrix)

Interim City Manager Bramble presented background information concerning the appeal.

Mayor Price opened the public hearing for this item.

RAJ RANDHAWA, owner of the 89 Cent Plus Store located at 1485 Broadway Avenue, spoke regarding his request for a Conditional Use Permit to allow the sale of alcoholic beverages (beer and wine only) and the appeal.

MR. SINGH, owner of Bernie Liquor Store located at 1491 Broadway Avenue, spoke in opposition to overturning the decision of the Community Development and Resources Commission to deny the Conditional Use Permit as his business is in the same shopping center, and he believes issuing the permit would cause a price war.

DANNY HERNANDEZ, Atwater, spoke in opposition to overturning the decision of the Community Development and Resources Commission to deny the Conditional Use Permit and stated that "we have enough alcohol distributors in town."

ADAM REED, Community Development and Resources Commission, spoke of the oversaturation of alcoholic beverage licenses in the area of the 89 Cent Plus Store.

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

MOTION: City Council Member Vierra moved to continue the public hearing and bring this item back to the next regular City Council meeting of October 23, 2017 for discussion and possible action. The motion was seconded by Mayor Price and the vote was: Ayes: Creighton, Raymond, Vineyard, Vierra, Price; Noes: None; Absent: None. The motion passed.

CITY COUNCIL MATTERS:

City Council comments

City Council Member Raymond thanked everyone who helped with the recent City County Dinner hosted by the City of Atwater, and he sent prayers to his sister and family who have been evacuated three times due to wildfires.

City Council Member Vierra spoke highly of the City County Dinner; she stated the Community Center looked beautiful and the grounds meticulous. She thanked Mr. Hernandez for his efforts in coordinating the special ceremony to honor Atwater High School graduates who served in a war.

Mayor Pro Tem Vineyard reminded the community that October is breast cancer and liver cancer awareness month and to hold close those who are battling the disease. He brought up the importance of reviewing City ordinances as many need to be revised or eliminated. And, he invited the public to attend the October 14, 2017 LOVE on our Downtown Local Businesses & Volunteer Appreciation Day and farmer's market from 9:00 AM – 4:00 PM.

City Council Member Creighton thanked those who participated in the City County Dinner, which he believes showcased Atwater in a positive light. He stated that he would not support an extension of Measure H as doing so would break a promise to the people; Measure H was promised to be a temporary ½ cent sales tax.

Mayor Price recognized two 2017 Excellence in Education Award nominees from Atwater, Mary Monroe (Atwater Elementary School District, School Employee of the Year) and Carrie O'Bara (Atwater Elementary School District, transitional kindergarten teacher, Teacher of the Year). He stated his opinion in regard to extending Measure H, which he believes is necessary to supplement and not solely support public safety. He sent prayers to his brother as he fights lung cancer and his brother's wife as she recovers from a broken hip.

ADJOURNMENT:

Mayor Price adjourned the meeting to Castle Commerce Center on October 11, 2017 at 8:30 AM for Closed Session, to continue the selection process for City Manager.

The meeting adjourned at 8:44 PM.



DON HYLER III
CITY CLERK

By: Kim Bengtson-Jennings,
Recording Secretary