



CITY OF ATWATER

CITY COUNCIL

ACTION MINUTES

December 11, 2017

OPEN SESSION: (Council Chambers)

The City Council of the City of Atwater met in Open Session this date at 5:03 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, Deputy City Attorney Henderson, City Clerk Hyler III, 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 5:04 PM. Closed Session was called to order at 5:07 PM.

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

Conference with Labor Negotiator – Government Code Section 54957.6. Agency Negotiators: Deputy City Attorney Henderson and Human Resources Director Del Real;

Bargaining Units: Atwater Police Officers Association and AFSCME Local 2703 – Miscellaneous Unit and Clerical Unit

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

Closed Session adjourned at 6:09 PM.

REGULAR SESSION: (Council Chambers)

The City Council of the City of Atwater met in Regular Session this date at 6:13 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, Police Chief Joseph, Interim Public Works Director Shaw, Recreation Supervisor Rahn, Chief Building Official Pereida, City Clerk Hyler III, City Treasurer Heller, Recording Secretary Bengtson-Jennings

MAYOR OR CITY ATTORNEY REPORT OUT FROM CLOSED SESSION:

Deputy City Attorney Henderson reported that no action was taken and staff was given direction. The Closed Session agenda was completed.

SUBSEQUENT NEED ITEMS:

Interim City Manager Bramble announced a request for a subsequent need item requiring immediate action subsequent to the agenda being posted, a resolution ratifying its intent to convey and conveying property owned by the City located at 1550 Shaffer Road.

MOTION: City Council Member Creighton moved to add the subsequent need item, a resolution ratifying its intent to convey and conveying property owned by

the City located at 1550 Shaffer Road, which will be considered immediately following the consent calendar. 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.

APPROVAL OF AGENDA AS POSTED OR AS AMENDED:

MOTION: *Mayor Pro Tem Vineyard moved to approve the agenda as amended, to add the subsequent need item concerning property at 1550 Shaffer Road to immediately follow the consent calendar. The motion was seconded by Mayor Price and the vote was: Ayes: Raymond, Creighton, Vineyard, Vierra, Price; Noes: None; Absent: None. The motion passed.*

PRESENTATIONS:

Monthly verbal report by Merced County District 3 Supervisor McDaniel

Merced County District 3 Supervisor McDaniel wished everyone a Merry Christmas and he reported on several items:

- ***The County cannabis ordinance takes effect December 15, 2017.***
- ***The Burlington Northern Santa Fe Railroad Company rail spur agreement and the confirmation of appointment of two new department heads are on the next Board of Supervisors' meeting agenda.***
- ***The County is increasing its efforts to assist with the homeless issue.***
- ***The Rev. Jeffrey Brown is traveling the nation to expand Feet Changing Lives.***

Supervisor McDaniel announced that he recently represented the County at Rural Counties Representing California (RCRC), the California Association of Councils of Government (CALCOG), and California State Association of Counties (CSAC).

Supervisor McDaniel announced that there will be no mobile district office hours in December. Mobile district office hours will resume in January and will be held the fourth Thursday of each month from 1:30 – 3:30 PM in the City Council Chambers.

COMMENTS FROM THE PUBLIC:

Notice to the public was read.

JONATHAN COOK, Atwater, voiced his frustrations with the Public Works Department, Water Division, in regard to his water service.

FRANK JOHNSON, CEO National Association for the Advancement of All People, spoke in regard to the State Controller Audit report for Atwater.

LINDA DASH, Atwater, addressed Mr. Johnson's concerns stating that there was a completely different City Council and a completely different City Manager when the mistakes were made.

RICH HOWARD, Atwater, spoke regarding Mr. Johnson's tactics to "tear down the fabric of the City body and the citizens of Atwater."

ERIC LEE, Atwater, stated that he appreciates the LED lights placed around town, which will save the City money.

HELEN AMARANT, Atwater, spoke of the wonderful Christmas parade but was disappointed with the insufficient lighting.

ADAM REED, Atwater, asked for clarification concerning a downtown committee for lighting.

No one else came forward to speak at this time.

CONSENT CALENDAR:

Agenda item #6 under Agreements, "Approving Cost Sharing/Funding Agreement between the City of Atwater and Merced County Association of Governments for Pavement Management System Data Collection and Software," was removed from the consent calendar for separate discussion and possible action.

Agenda item #9 under Ordinances (Waiving Second Reading and Adoption), "Waiving the second reading and adopting Ordinance No. CS 987 amending Chapter 3.04 "Purchasing System" and adopting resolution repealing and readopting the City of Atwater Purchasing System Manual," was removed from the consent calendar for separate discussion and possible action.

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

WARRANTS:

1. December 13, 2017

ACTION: Approval of warrants as listed.

MINUTES: (City Council)

2. a) Regular meeting, November 13, 2017
b) Special meeting, November 29, 2017

ACTION: Approval of minutes as listed.

MINUTES: (Community Development and Resources Commission)

3. Regular meeting, October 18, 2017

ACTION: Acceptance of minutes as listed.

RESOLUTIONS:

4. Adopting Policy and Procedure 17-1 naming or dedicating City parks, recreation facilities, memorial benches, memorial bricks, City buildings and facilities (Recreation Supervisor Rahn)

ACTION: Adoption of Resolution No. 2999-17 adopting Administrative Policy and Procedure 17-1, "Procedure for Naming or Dedicating City Parks, Recreation Facilities, Memorial Benches, Memorial Bricks, City Buildings and Facilities."

AGREEMENTS:

5. Ratifying approval of Addendum No. 1 to Professional Services Agreement between the City of Atwater and VVH Consulting Engineers (Interim Community Development Director Waterman)

ACTION: Ratifies approval of Addendum No. 1 to the Professional Services Agreement between the City of Atwater and VVH Consulting Engineers, in a form approved by the City Attorney, for Planning and Community Development services; and authorizes and directs the Interim City Manager to execute the Addendum on behalf of the City.

6. Approving Cost Sharing/Funding Agreement between the City of Atwater and Merced County Association of Governments for Pavement Management System Data Collection and Software (Interim City Manager Bramble)

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

7. Awarding a Cooperative Purchase Agreement for purchase of one (1) new Tarco Leaf Loader Truck (Interim Public Works Director Shaw)

ACTION: Awards a Cooperative Purchase Agreement, in a form approved by the City Attorney, to Municipal Maintenance Equipment, Sacramento, California for the purchase of one (1) new Tarco Typhoon Model 1017 mounted on a 2018 Freightliner Model M2 106 chassis in an amount not to exceed \$198,475.51; and authorizes and directs the Interim City Manager to execute the Purchase Agreement on behalf of the City.

8. Awarding a Cooperative Purchase Agreement for purchase of one (1) new Spaulding Patcher (Interim Public Works Director Shaw)

ACTION: Awards a Cooperative Purchase Agreement, in a form approved by the City Attorney, to Municipal Maintenance Equipment, Sacramento, California for the purchase of one (1) new 6-ton Spaulding Slip-in Patch Body in an amount not to exceed \$112,201.13; and authorizes and directs the Interim City Manager to execute the Purchase Agreement on behalf of the City.

ORDINANCES (WAIVING SECOND READING AND ADOPTION):

9. Waiving the second reading and adopting Ordinance No. CS 987 amending Chapter 3.04 "Purchasing System" and adopting resolution repealing and readopting the City of Atwater Purchasing System Manual (Deputy City Attorney Ruppel)

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

INFORMATIONAL ITEMS ONLY (NO ACTION REQUIRED):

10. Police Department activities and projects for the month of November, 2017 (Police Chief Joseph)
11. Police Volunteer activities for the month of November, 2017 (Police Volunteer Vineyard)
12. Fire Department activities and projects for the month of November, 2017 (CAL FIRE Battalion Chief Wight)
13. Water Well Levels for the month of November, 2017 and Water Well Levels for 2016 (Interim Public Works Director Shaw)

AGREEMENTS:

Approving Cost Sharing/Funding Agreement between the City of Atwater and Merced County Association of Governments for Pavement Management System Data Collection and Software (Interim City Manager Bramble)

Interim City Manager Bramble spoke regarding the Pavement Management System Data Collection plan and the resulting savings the City will realize using this tool.

MOTION: Mayor Pro Tem Vineyard moved to approve the Cost Sharing/Funding Agreement between the City of Atwater and Merced County Association of Governments (MCAG), in a form approved by the City Attorney, for Pavement Management System Data Collection and Software; and to authorize and direct

the Interim City Manager to execute the Agreement on behalf of the City. The motion was seconded by Mayor Price and the vote was: Ayes: Vineyard, Vierra, Creighton, Raymond, Price; Noes: None; Absent: None. The motion passed.

ORDINANCES (WAIVING SECOND READING AND ADOPTION):

Waiving the second reading and adopting Ordinance No. CS 987 amending Chapter 3.04 "Purchasing System" and adopting resolution repealing and readopting the City of Atwater Purchasing System Manual (Deputy City Attorney Ruppel)

Interim City Manager Bramble spoke regarding the proposed ordinance and resolution, which will change the purchasing system, and he announced several typographical errors: Section 3.04.100 on page 4 should read \$5,000 instead of \$1,000; Section 3.04.110 on page 5 should read \$5,000 instead of \$1,000; and Section 3.04.270 on page 11 should read \$5,000 instead of \$1,000. He also announced one addition error: travel meals should read \$54.

MOTION: *Mayor Pro Tem Vineyard moved to waive the second reading and adopt Ordinance No. CS 987 amending Chapter 3.04 "Purchasing System" of the Atwater Municipal Code as amended, to correct the typographical errors as stated above: Section 3.04.100 on page 4 should read \$5,000 instead of \$1,000; Section 3.04.110 on page 5 should read \$5,000 instead of \$1,000; and Section 3.04.270 on page 11 should read \$5,000 instead of \$1,000 and to correct the one addition error: travel meals should read \$54. The motion was seconded by City Council Member Vierra and the vote was: Ayes: Raymond, Creighton, Vineyard, Vierra, Price; Noes: None; Absent: None. The motion passed.*

MOTION: *Mayor Pro Tem Vineyard moved to adopt Resolution No. 2985-17 repealing and readopting the City of Atwater Purchasing System Manual pursuant to Chapter 3.04 "Purchasing System" of the Atwater Municipal Code. The motion was seconded by City Council Member Vierra and the vote was: Ayes: Vineyard, Vierra, Creighton, Raymond, Price; Noes: None; Absent: None. The motion passed.*

RESOLUTIONS:

Ratifying its intent to convey and conveying property owned by the City located at 1550 Shaffer Road (Interim City Manager Bramble)

Interim City Manager Bramble spoke regarding the sale of property at 1550 Shaffer Road, which was purchased with Neighborhood Stabilization funds.

MOTION: *City Council Member Creighton moved to approve Resolution No. 3005-17 ratifying its intent to convey and conveying property owned by the City located at 1550 Shaffer Road. The motion was seconded by City Council Member Vierra and the vote was: Ayes: Vierra, Creighton, Vineyard, Raymond, Price; Noes: None; Absent: None. The motion passed.*

FUNDING AND BUDGET MATTERS:

Treasurer's Report for the month of November, 2017 (City Treasurer Heller)

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

CITY ATTORNEY REPORTS:

Ratifying approval of Letter Agreement/Addendum to Interim City Manager Employment Agreement extending term through December 31, 2017, and ratifying Interim City Manager Employment Agreement with Art de Werk

Deputy City Attorney Henderson spoke regarding the proposal to extend Interim City Manager Bramble's employment agreement under modified terms.

MOTION: City Council Member Creighton moved to ratify approval of the Letter Agreement/Addendum to Interim City Manager John Bramble's Employment Agreement extending the term through December 31, 2017; and to authorize and direct the Mayor to execute the Letter Agreement/Addendum on behalf of the City. The motion was seconded by Mayor Pro Tem Vineyard and the vote was: Ayes: Raymond, Creighton, Vierra, Vineyard, Price; Noes: None; Absent: None. The motion passed.

Deputy City Attorney Henderson spoke regarding the Interim City Manager Employment Agreement with Art de Werk and announced a change, in Section 3.3 "Benefits" Mr. de Werk is entitled to sick leave pursuant to State law.

DON MARTIN, Atwater, questioned several aspects of the recruitment search and stated that he would like to see the appointment of a proven, qualified City Manager.

JANALEE LIBERTO, Atwater, asked the City Council to make the difficult decision to appoint the best person, one who is honorable and who will put the City's best interest at heart.

ERIC LEE, Atwater, voiced his opinion that the City Council should appoint the most qualified, experienced, and knowledgeable City Manager, and he questioned Mr. de Werk's plans and goals for the City's future.

RICH HOWARD, Atwater, stated that opinions should not be based on what is printed in the newspaper, but he voiced his concerns with the possible appointment of Mr. de Werk.

LINDA DASH, Atwater, spoke of unwise spending in the past and stated that the next City Manager needs a mind that can get Atwater out of the hole we are in financially.

BARBARA RIIS-CHRISTENSEN, Atwater, voiced her concerns with the possible appointment of Mr. de Werk and believes there are more qualified applicants out there.

JOHN RIIS-CHRISTENSEN, Atwater, stated that the City Council is making a “very, very big mistake.”

LARRY LEE, Atwater, questioned the possible appointment of Mr. de Werk.

BUFFY McDANIEL, Atwater, stated that she has trust in the City Council to make a wise and educated decision in regard to the appointment of a City Manager.

City Council Member Vierra stated why she is making this judgment call, that she has no reservations, and she invited the community to contact her at (209) 201-2463 if they have concerns regarding this matter.

Mayor Pro Tem Vineyard stated that he will continue to listen to everyone and investigate facts and that he will vote for all 30,000 of Atwater in regard to this matter.

Mayor Price stated that he is here to perform oversight; he will do what is in the best interest of the 30,000 people in Atwater. And, he stated that he wants a permanent City Manager with a long track record of City management.

MOTION: City Council Member Raymond moved to ratify the approval of the Interim City Manager Employment Agreement with Art de Werk as amended, to change “Benefits” to include sick leave pursuant to State law; and to authorize and direct the Mayor to execute the Agreement on behalf of the City. The motion was seconded by City Council Member Vierra and the vote was: Ayes: Creighton, Raymond, Vierra; Noes: Vineyard, Price; Absent: None. The motion passed.

INTERIM CITY MANAGER REPORTS/UPDATES:

Fiscal Year 2017-18 Budget review and adopting resolution approving budget amendment

Interim City Manager Bramble provided a review of the Fiscal Year 2017-18 Budget and proposed budget amendment.

MOTION: Mayor Pro Tem Vineyard moved to adopt Resolution No. 3001-17 approving Budget Amendment No. 5 amending the Fiscal Year 2017-18 Budget. The motion was seconded by City Council Member Vierra and the vote was: Ayes:

Creighton, Vineyard, Raymond, Vierra, Price; Noes: None; Absent: None. The motion passed.

Mayor Price called a recess at 7:40 PM.

The City Council returned to the dais and Mayor Price resumed the meeting at 7:53 PM.

Verbal report regarding proposed marijuana cultivation process and fees

Administrative Analyst Dunford provided an outline of the proposed marijuana cultivation process and fees.

The City Council provided staff with input concerning the proposed process and fees.

CITY COUNCIL MATTERS:

City Council Comments

City Council Member Raymond wished everyone a Merry Christmas stating "Jesus loves you."

City Council Member Vierra had nothing to report.

City Council Member Creighton spoke regarding improvements at Veterans Park completed by the Castle Air Force Base Alumni group. A go fund me account has been established for those wishing to contribute, [gofundme.com/3y9h4](https://www.gofundme.com/3y9h4). He wished everyone a Merry Christmas and reminded the community to rake leaves around their homes for pick-up.

Mayor Pro Tem Vineyard suggested staff prepare certificates of appreciation for the Castle Air Force Base Alumni group for their efforts at Veterans Park. He spoke of the lack of lighting/Christmas lights in downtown Atwater this year. He encouraged citizens to contact him with their concerns, he encouraged City staff to continue working hard on behalf of the City, and he reminded everyone to keep the faith and to slow down and be safe this holiday season. He wished everyone a Merry Christmas. And, he asked that the community keep all fire personnel in their prayers as they fight the numerous wild fires in California.

Newly appointed Interim City Manager de Werk stated that he respects all who spoke honestly about their feelings in regard to the City Manager appointment. He stated his belief that personal integrity is of utmost importance and that his actions will speak louder than words. And, he stated that he has the energy and desire to work with this City Council and for the public.

Mayor Price announced that the State Department of Veterans Affairs has presented the City of Atwater with a certificate acknowledging the City as a

regional site for the observance of Veterans Day. He spoke of several recent traffic accidents and reminded the community to be careful on the roads. He thanked Interim City Manager Bramble for his dedication and assistance to Atwater. And, he wished everyone a Merry Christmas and a Happy New Year.

CLOSED SESSION:

Continuation of Closed Session was not necessary.

ADJOURNMENT:

The meeting adjourned at 8:20 PM.

DON HYLER III
CITY CLERK

By: Kim Bengtson-Jennings,
Recording Secretary