



# CITY OF ATWATER

## CITY COUNCIL

### ACTION MINUTES

**February 13, 2017**

REGULAR SESSION: (Council Chambers)

*The City Council of the City of Atwater met in Regular Session this date at 6:02 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 McBride, Deputy City Attorney Henderson, Acting Police Chief Wisdom, CAL FIRE Battalion Chief Pimentel, Finance Director Deol, Human Resources Director Del Real, Interim Public Works Director Faretta, Recreation Supervisor Rahn, Acting Police Sergeant Novetzke, City Clerk Hyler III, 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: *None*

APPROVAL OF AGENDA AS POSTED OR AS AMENDED:

*Mayor Price announced a clerical change concerning agenda item #17 under City Council Matters, "Verbal update regarding Builder Permit Fee Deferral," which should read "Verbal update regarding Developer Impact Fee Deferral."*

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

CEREMONIAL MATTERS:

Certificate:

- Don Hyler III

*Mayor Price presented a Certificate of Appreciation to Don Hyler III for his service to the City as a Community Development and Resources Commissioner.*

PRESENTATIONS:

Monthly verbal report by Merced County District 3 Supervisor McDaniel

*Merced County District 3 Supervisor McDaniel spoke regarding the recent rains and the incoming weather system that may present havoc in Merced County in the next few days. He asked citizens to prepare: to pick up sandbags, to clean out gutters, and to sign up for emergency alert notifications through the Merced County Emergency Alert System. He advised everyone to drive carefully and follow emergency/caution signage when on the roads and to refrain from driving on flooded roadways. In addition, he encouraged the community to use social media for information and updates: [twitter@mercedcounty](#) and [facebook@mercedcounty](#).*

*CAL FIRE Chief Pimentel stated that Merced County and its surrounding cities are working together to prepare and protect citizens. Also they are monitoring all waterways due to the heavy rains and the necessary release of water from reservoirs.*

*Merced County District 3 Supervisor McDaniel announced several upcoming events: a grant writing workshop on March 16, 2017 at Castle Commerce Center, a job fair on April 5, 2017 at Veterans Hall in Atwater, and a Small Business Development Corporation world trade zone training in May at the Castle Commerce Center. He announced his mobile office hours, which are the fourth Thursday of each month from 1:30 – 3:30 PM in the City Council Chambers, and*

*he provided an update on former Merced County Supervisor Deidre Kelsey who is recovering from injuries sustained in a house fire during the holidays.*

COMMENTS FROM THE PUBLIC:

*Notice to the public was read.*

*No one came forward to speak at this time.*

CONSENT CALENDAR:

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

WARRANTS:

1. February 13, 2017

***ACTION:*** *Approval of warrants as listed.*

MINUTES: (City Council)

2. a) Regular meeting, January 9, 2017  
b) Regular meeting, January 23, 2017  
c) Special meeting, January 31, 2017

***ACTION:*** *Approval of minutes as listed.*

MINUTES: (Community Development and Resources Commission)

3. Regular meeting, November, 16, 2016

***ACTION:*** *Acceptance of minutes as listed.*

INFORMATIONAL ITEMS ONLY (NO ACTION REQUIRED):

4. Police Department activities and projects for the month of January, 2017 (Acting Police Chief Wisdom)
5. Police Volunteer activities for the month of January, 2017 (Police Volunteer Vineyard)
6. Fire Department activities and projects for the month of January, 2017 (CAL FIRE Battalion Chief Pimentel)

7. Public Works Department activities and projects for the month of January, 2017 (Interim Public Works Director Faretta)

ANNUAL PETITIONS:

8. Request from Valley Children's Healthcare Foundation

***ACTION: Approval of request from Valley Children's Healthcare Foundation to hold their 30<sup>th</sup> annual Kids Day Fundraiser consisting of volunteers selling the Kids Day edition of the Fresno Bee on sidewalks city-wide on Tuesday, March 7, 2017, from 5:00 AM through 3:00 PM.***

PUBLIC HEARINGS:

Waiving the first reading and introducing Ordinance No. CS 979 amending Atwater Municipal Code Section 2.04.050 "City Manager Powers and Duties" (City Attorney Terpstra)

***Deputy City Attorney Henderson spoke regarding the proposed revision to Municipal Code Section 2.04.050, which will require the City Manager to obtain the City Council's "advice and consent" prior to entering into employment contracts with department directors.***

***ERIC LEE, Atwater, voiced his concerns with the word "consent" and the resulting loss of power for the City Manager if the ordinance is adopted.***

***BASIC MOTION: City Council Member Creighton moved to waive the first reading and introduce Ordinance No. CS 979 amending Section 2.04.050 "City Manager Powers and Duties" of the Atwater Municipal Code relating to employment contracts. The motion was seconded by City Council Member Vierra.***

***MOTION TO AMEND BASIC MOTION: Mayor Pro Tem Vineyard moved to amend the basic motion, to remove and replace the word "consent" with the word "recommend." The motion was seconded by Mayor Price.***

***Mayor Price opened the public hearing for this item.***

***LINDA DASH, Atwater, suggested changing the word "consent" to "review" and allowing the City Manager to continue negotiating employee contracts as the City Council cannot interfere in personnel matters.***

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

***The City Council considered the motion to amend the basic motion.***

***MOTION TO AMEND BASIC MOTION: The vote was: Ayes: Vineyard, Price; Noes: Creighton, Raymond, Vierra; Absent: None. The motion failed.***

*The motion to amend the basic motion did not pass. Therefore, the City Council considered the basic motion.*

**BASIC MOTION:** *City Council Member Creighton moved to waive the first reading and introduce Ordinance No. CS 979 amending Section 2.04.050 "City Manager Powers and Duties" of the Atwater Municipal Code relating to employment contracts. 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.*

*Mayor Price called a recess at 7:15 PM.*

*The City Council returned to the dais and Mayor Price resumed the meeting at 7:26 PM.*

CITY ATTORNEY REPORTS/UPDATES:

Verbal report regarding By-District Election procedures (Requested by Mayor Pro Tem Vineyard)

*Deputy City Attorney Henderson spoke regarding By-District Election procedures based on AB 350 which changed several provisions of the elections code.*

*DANNY HERNANDEZ, Atwater, spoke in opposition to districting for Atwater and stated his belief that the City is not big enough or diverse enough to warrant such.*

*GARY BRICE, Atwater, voiced his opinion that this City Council has other pressing needs and that they should table this item.*

**MOTION:** *Mayor Pro Tem Vineyard moved to direct staff to move forward with forming a 5-7 member committee utilizing community organizations and for the committee to research the cost of consultants. The motion was seconded by City Council Member Vierra and the vote was: Ayes: Vierra, Vineyard; Noes: Raymond, Creighton, Price; Absent: None. The motion failed.*

Resolution affirming the General Services Agreement between the City of Atwater and Environmental Compliance Resources for graffiti abatement services in the City of Atwater

*City Council Member Creighton recused himself from discussion and possible action regarding this item. He stepped down from the dais at 7:46 PM.*

*Deputy City Attorney Henderson spoke regarding the General Services Agreement between the City of Atwater and Environmental Compliance Resources (ECR) for graffiti abatement services and stated for the record that City Council Member Creighton is an owner of ECR and that he has requested*

*that this disclosure be noted in the minutes of the February 13, 2017 regular City Council meeting.*

*MIKE RAYMOND, Atwater, questioned a provision of the agreement.*

*ERIC LEE, Atwater, voiced his concerns with the open-ended contract and questioned how much time and City money was spent on determining if the contract is acceptable and not in violation of Government Code Section 1090 (Conflicts of Interest in Public Contracting).*

***MOTION:*** *City Council Member Raymond moved to adopt Resolution No. 2936-17 affirming the General Services Agreement between the City of Atwater and Environmental Compliance Resources for graffiti abatement services in the City of Atwater. The motion was seconded by City Council Member Vierra and the vote was: Ayes: Raymond, Vierra, Price; Noes: Vineyard; Absent: None; Abstain: Creighton. The motion passed.*

*City Council Member Creighton returned to the dais at 8:03 PM.*

CITY MANAGER REPORTS:

Verbal update regarding priorities on road repairs, reconstruction projects, and use of funding

*Interim City Manager McBride provided a verbal update regarding priorities on road repairs, reconstruction projects, and use of funding including approved projects pending completion.*

*DANNY HERNANDEZ, Atwater, voiced his concerns regarding road repair priorities and stated his belief that the City could make better use of its money; staff should concentrate on repairing roads in areas with heavy traffic.*

Verbal update regarding pedestrian safety projects, open grants, and future grant applications and projects

*Interim City Manager McBride provided a verbal update regarding pedestrian safety projects, open grants, as well as future grant applications and projects.*

REPORTS AND PRESENTATIONS FROM STAFF:

Reviewing Fiscal Year 2016-17 Mid-Year Budget and adopting resolution approving Budget Amendment No. 2 regarding certain adjustments based on mid-year budget analysis (Finance Director Deol)

*Finance Director Deol presented a review of the Fiscal Year 2016-17 Mid-Year Budget.*

*Mayor Price called a recess at 9:04 PM.*

*The City Council returned to the dais and Mayor Price resumed the meeting at 9:18 PM.*

*City Council Member Creighton requested a more detailed report during future budget discussions.*

*DANNY HERNANDEZ, Atwater, voiced his concerns regarding the proposed City tow yard.*

**MOTION:** *Mayor Pro Tem Vineyard moved to adopt Resolution No. 2935-17 approving Budget Amendment No. 2 amending Fiscal Year 2016-17 Budget regarding revenue and expenditure adjustments based on mid-year budget analysis. The motion was seconded by Mayor Price and the vote was: Ayes: Vineyard, Price; Noes: Vierra, Creighton, Raymond; Absent: None. The motion failed.*

**MOTION:** *City Council Member Vierra moved to adopt Resolution No. 2935-17 approving Budget Amendment No. 2 amending Fiscal Year 2016-17 Budget regarding revenue and expenditure adjustments based on mid-year budget analysis with the exception of Measure H "Equipment" expenditures, which includes firearms and vehicles, and to bring those items back for consideration at the first regular City Council meeting in March. The motion was seconded by Mayor Pro Tem Vineyard and the vote was: Ayes: Vineyard, Creighton, Raymond, Vierra; Noes: Price; Absent: None. The motion passed.*

Verbal update regarding CalPERS refinancing (Finance Director Deol)

*Interim City Manager McBride provided a verbal update regarding CalPERS refinancing.*

**CITY COUNCIL MATTERS:**

Verbal report regarding H.R. 23, "the Gaining Responsibility on Water Act of 2017" (City Council Member Raymond)

**MOTION:** *Mayor Price Tem Vineyard moved to endorse a letter of support regarding H.R. 23, the "Gaining Responsibility on Water (GROW) Act of 2017" to help bring water back to the valley, and to authorize and direct the Mayor to execute the letter on behalf of the City. The motion was seconded by City Council Member Creighton and the vote was: Ayes: Raymond, Creighton, Vierra, Vineyard, Price; Noes: None; Absent: None. The motion passed.*

Verbal update regarding Developer Impact Fee Deferral (City Council Member Vierra)

***MOTION: City Council Member Vierra moved to continue the Developer Impact Fee Deferral program. The motion was seconded by City Council Member Raymond and the vote was: Ayes: Creighton, Vierra, Vineyard, Raymond, Price; Noes: None; Absent: None. The motion passed.***

City Council comments

***City Council Member Raymond wished his daughter, Sarah, a Happy Birthday.***

***City Council Member Vierra had nothing to report.***

***Mayor Pro Tem Vineyard announced that March 18, 2017 is Spring Clean-Up Day; additional information can be found in the City's newsletter. He requested that a water well report be included in the packet each month.***

***City Council Member Creighton had nothing to report.***

***Mayor Price announced an upcoming Alzheimer fundraising walk. He spoke of the recent rains and the importance of emergency survival kits. He reminded the community to sign up for the County's emergency alert notification system.***


***Mayor Price announced that Fred Warchol was appointed as Commissioner to the scheduled vacancy on the Community Development and Resources Commission for the term of four (4) years, term ending December 2020, during the Special City Council Meeting of this evening.***

CLOSED SESSION:

***Closed Session from the Special City Council Meeting was not necessary.***

ADJOURNMENT:

***The meeting adjourned at 10:40 PM.***

  
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DON HYLER III  
CITY CLERK

By: Kim Bengtson-Jennings,  
Recording Secretary





# CITY OF ATWATER

## SPECIAL MEETING CITY COUNCIL

### ACTION MINUTES

February 13, 2017

#### CALL TO ORDER:

*The City Council of the City of Atwater met in Special Session this date at 4:04 PM in the City Council Chambers located at the Atwater Civic Center, 750 Bellevue Road, Atwater, California; Mayor Price presiding.*

#### PLEDGE OF ALLEGIANCE:

*The pledge of allegiance was led by Mayor Price.*

#### ROLL CALL:

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

**Absent:** None

**Staff Present:** City Clerk Hyler III, Recording Secretary Bengtson-Jennings

#### PUBLIC COMMENT:

*Notice to the public was read.*

*No one came forward to speak at this time.*

#### COMMISSIONER MEMBER INTERVIEWS:

Interviews for one (1) scheduled vacancy on the City of Atwater Community Development and Resources Commission, for the term of four (4) years, term ending December, 2020

***The City Council interviewed Mike Schilling, Rafael Velarde, Fred Warchol and Joseph Weiss.***

**COMMISSIONER MEMBER APPOINTMENT:**

Appointment of one (1) Commissioner Member to the scheduled vacancy on the City of Atwater Community Development and Resources Commission, for the term of four (4) years, term ending December, 2020

***Ballots were collected and the vote was:***

<b><i>City Council Member Creighton:</i></b>	<b><i>Fred Warchol</i></b>
<b><i>City Council Member Raymond:</i></b>	<b><i>Fred Warchol</i></b>
<b><i>City Council Member Vierra:</i></b>	<b><i>Joseph Weiss</i></b>
<b><i>Mayor Pro Tem Vineyard:</i></b>	<b><i>Joseph Weiss</i></b>
<b><i>Mayor Price:</i></b>	<b><i>Fred Warchol</i></b>

***MOTION: City Council Member Raymond moved to appoint Fred Warchol to the City of Atwater Community Development and Resources Commission, for the term of four (4) years, term ending December, 2020. The motion was seconded by Mayor Price and the vote was: Ayes: Creighton, Raymond, Price; Noes: Vierra, Vineyard; Absent: None. The motion passed.***

***Mayor Price called a recess at 4:51 PM.***

***The City Council returned to the dais and Mayor Price resumed the meeting at 5:12 PM.***

**CLOSED SESSION:** (Conference Room A)

***Mayor Price announced that the Closed Session item, "Conference with Legal Counsel – Anticipated Litigation – Government Code Section 54956.9(b): Number of cases (1)" has been removed from the agenda in its entirety.***

***Mayor Price invited public comments on Closed Session items.***

***No one came forward to speak at this time.***

***Mayor Price adjourned the meeting to Conference Room A for Closed Session at 5:14 PM. Closed Session was called to order at 5:20 PM.***

Conference with Legal Counsel – Anticipated Litigation – Government Code Section 54956.9(b): Number of cases (1)

***This item was removed from the agenda in its entirety.***

Pursuant to Government Code Section 54956.8, Conference with Real Property Negotiator regarding Property Disposition. Agency Negotiator: Interim City Manager McBride

Property Location: APN 056-241-005, 20.4 acres

Pursuant to Government Code Section 54956.8, Conference with Real Property Negotiator regarding Property Acquisition. Agency Negotiator: Interim City Manager McBride

Property Location: APN 150-160-026, 4.6 acres

ADJOURNMENT:

***Closed Session adjourned at 5:53 PM.***

***The special meeting adjourned at 5:53 PM.***

  
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DON HYLER III  
CITY CLERK

By: Kim Bengtson-Jennings  
Recording Secretary