



# CITY OF ATWATER

## CITY COUNCIL

### ACTION MINUTES

**May 22, 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 McBride, 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 at this time.*

*Mayor Price adjourned the meeting to Conference Room A for Closed Session at 5:04 PM. Closed Session was called to order at 5:10 PM.*

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

Pursuant to Government Code Section 54956.8, Conference with Real Property Negotiator regarding Property Disposition. Agency Negotiator: Community Development Director McBride

Property Locations: APN 003-170-034  
APN 004-084-011  
APN 003-071-001

***Closed Session adjourned at 5:55 PM.***

REGULAR SESSION: (Council Chambers)

***The City Council of the City of Atwater met in Regular Session this date at 6:06 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 Andy Krotik in the absence of 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/Community Development Director McBride, City Attorney Terpstra, CAL FIRE Battalion Chief Schmitz, Finance Director Deol, Police Chief Joseph, Acting Police Sergeant Novetzke, Interim Public Works Director Faretta, 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 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:

***MOTION: City Council Member Creighton moved to approve the agenda as amended, to move agenda item #15 regarding refinancing of the City's Wastewater Bonds to immediately follow the consent calendar. The motion was seconded by Mayor Pro Tem Vineyard and the vote was: Ayes: Vierra, Creighton, Raymond, Vineyard, Price; Noes: None; Absent: None. The motion passed.***

CEREMONIAL MATTERS:

Presentation to City of Livingston Police Chief Chavez and Police Lieutenant Soria

***Mayor Price and Police Chief Joseph made the presentation of Certificates of Appreciation to Police Chief Chavez and Police Lieutenant Soria for assisting the City of Atwater during Atwater Police Chief Joseph's absence for FBI training.***

Presentation to Chris and George Morrow, Jim Brisco Enterprises

***Mayor Price and Police Chief Joseph made the presentation of Certificates of Appreciation to Chris and George Morrow for their assistance on the tow yard site preparation.***

COMMENTS FROM THE PUBLIC:

***Notice to the public was read.***

***A concerned citizen spoke regarding a recent shooting incident in Atwater and the quick response of the Atwater Police Department.***

***JEANIE KNIGHT, Atwater spoke of the abundance of negative comments toward the City Council and City staff recently and asked that the "ugliness" please stop.***

***ANDY KROTIK, Atwater, thanked Interim Public Works Director Faretta for his service to the City. He thanked Interim City Manager McBride as well and stated his opinion that it is time for the City Council to hire a City Manager.***

***DENNIS ANDERSON, Atwater, expressed his appreciation to Interim Public Works Director Faretta and wished him well in his retirement.***

***ROBERT BENDORF, Marketing Development Manager for the HERO Program, provided an update regarding the HERO program in Atwater wherein over 117 homeowners have realized energy savings due to the program since 2014.***

***GREG McDANIEL, Atwater, spoke regarding this year's 4<sup>th</sup> of July event, and he invited the community to support the various fundraisers in which all of the proceeds will go toward the expense of the event. For additional information citizens may go to [www.atwater4thofjuly.com](http://www.atwater4thofjuly.com).***

***FRANK JOHNSON, Modesto, stated that he will continue to address the City Council on behalf of concerned citizens, to bring up issues that have been brought to his attention and to ask for accountability for any transgressions.***

***BOB CALAWAY, Atwater, announced that four new pictures have been added to the military history column on the City's website and that six more aircraft are coming to Castle Air Museum in the near future. He questioned the status of the***

***Purchasing Manual update.***

***City Attorney Terpstra announced that a verbal report regarding the Purchasing Manual update will be placed on the next regular City Council meeting agenda of June 12, 2017.***

***No one else came forward to speak.***

**CONSENT CALENDAR:**

***Agenda item #6 under Ordinances (Waiving Second Reading and Adoption), "Waiving the second reading and adopting Ordinance No. CS 980 approving Pre-Zoning (Z 17-01) and Ordinance No. CS 981 approving the Ferrari Ranch Development Agreement," 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: Vineyard, Creighton, Raymond, Vierra, Price; Noes: None; Absent: None. The motion passed.***

**WARRANTS:**

1. May 22, 2017

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

**MINUTES: (City Council)**

2.
  - a) Special meeting, April 24, 2017
  - b) Regular meeting, April 24, 2017
  - c) Special meeting, April 27, 2017

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

**MINUTES: (Community Development and Resources Commission)**

3.
  - a) Regular meeting, January 18, 2017
  - b) Regular meeting, February 15, 2017

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

**CALL FOR BIDS/RFPS:**

4. Awarding a Cooperative Purchase for the purchase and installation of equipment for two (2) police utility vehicles (Police Chief Joseph)

**ACTION: Awards a Cooperative Purchase, in a form approved by the City Attorney, to Emergency Vehicle Outfitters of Elk Grove, California for the purchase and installation of equipment for two (2) police utility vehicles in an amount not to exceed \$25,680.68; and authorizes and directs the City Manager to execute the purchase agreement on behalf of the City.**

**AGREEMENTS:**

5. Approving entering into a Software Agreement with OpenGov, Inc. for purchase of Software and Support Services (Finance Director Deal)

**ACTION: Approval of Software Agreement, in a form approved by the City Attorney, with OpenGov, Inc. for the purchase of software and support services regarding financial transparency; and authorizes and directs the City Manager to execute the agreement on behalf of the City.**

**ORDINANCES (WAIVING SECOND READING AND ADOPTION):**

6. Waiving the second reading and adopting Ordinance No. CS 980 approving Pre-Zoning (Z 17-01) and Ordinance No. CS 981 approving the Ferrari Ranch Development Agreement (Interim City Manager/Community Development Director McBride)

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

**ANNUAL PETITIONS AND COMMUNICATIONS:**

7. Request from CAL FIRE/Atwater City Fire Department for MDA "Boot Drive"

**ACTION: Approval of request from CAL FIRE/Atwater City Fire Department for annual Muscular Dystrophy Association (MDA) "Boot Drive" from 7:00 AM to 2:00 PM on Saturday, May 27, 2017.**

**ORDINANCES (WAIVING SECOND READING AND ADOPTION):**

Waiving the second reading and adopting Ordinance No. CS 980 approving Pre-Zoning (Z 17-01) and Ordinance No. CS 981 approving the Ferrari Ranch Development Agreement (Interim City Manager/Community Development Director McBride)

***Interim City Manager/Community Development Director McBride spoke regarding the Ferrari Ranch project and the multiple processes required to move the project forward. He confirmed that the City Council will have the ability to approve the specifics of the project at a later date and reiterated the City's intent to secure property rights to existing businesses.***

***MOTION: Mayor Pro Tem Vineyard moved to waive the second reading and adopt Ordinance No. CS 980 approving Pre-Zoning (Z 17-01) and Ordinance No. CS 981 approving the Ferrari Ranch Development Agreement. The motion was seconded by City Council Member Raymond and the vote was: Ayes: Raymond, Vineyard, Creighton, Vierra, Price; Noes: None; Absent: None. The motion passed.***

***Mayor Price called a recess at 6:53 PM.***

***The City Council returned to the dais and Mayor Price resumed the meeting at 7:02 PM.***

**REPORTS AND PRESENTATIONS FROM STAFF:**

Resolution authorizing re-funding 2008, 2010, and 2011 Wastewater Bonds; approving Consulting Services Agreement with A.M. Peché & Associates LLC, Bond Counsel Services Agreement with Nossaman LLP, and Underwriter Agreement with Hilltop Securities, Inc. relating to refinancing of the City's Wastewater Bonds (Interim City Manager/Community Development Director McBride)

***Albert Peché, Manager, A.M. Peché & Associates LLC, spoke regarding refinancing of the City's Wastewater Bonds and the issues and opportunities of said refinancing and the next steps.***

***Todd Smith, Senior Vice President, Hilltop Securities LLC, spoke regarding the refunding savings.***

***MOTION: City Council Member Creighton moved to adopt Resolution No. 2954-17 authorizing and directing staff to proceed with the refinancing of the City's Wastewater Bond issues and approving a financing team consisting of a municipal advisor, bond and disclosure counsel, and underwriter to begin working on such refinancing; to approve a Consulting Service Agreement with A.M. Peché & Associates LLC for Municipal Advisory Service associated with bond refinancing; to approve an Agreement for Bond and Disclosure Counsel Services with Nossaman LLP; and to approve an Underwriting Agreement with Hilltop Securities, Inc. The motion was seconded by City Council Member Raymond and the vote was: Ayes: Vierra, Raymond, Creighton, Vineyard, Price; Noes: None; Absent: None. The motion passed.***

**PETITIONS AND COMMUNICATIONS:**

Request to hold Seamless Summer Feeding Program for Summer 2017 (Atwater School District Food Service Supervisor Lisa Ludwig)

***Lisa Ludwig, Food Service Supervisor, Atwater Elementary School District, spoke regarding the School District's request to serve lunch Monday through Friday at specific parks throughout the City this summer.***

***MOTION: Mayor Pro Tem Vineyard moved to approve the request from Atwater School District, Nutrition Services Department, to hold their annual Seamless Summer Feeding Program at Heller Park, Ralston Park, and Veterans Park from June 6, 2017 to July 28, 2017, to provide free meals to children (age 18 and under) in the community. The motion was seconded by City Council Member Raymond and the vote was: Ayes: Vineyard, Vierra, Creighton, Raymond, Price; Noes: None; Absent: None. The motion passed.***

Request to hold "Blessing our City" Community Outreach Event (Maria Cruz, Radio Restaurazion 107.7 FM)

***MOTION: City Council Member Raymond moved to approve the request from Radio Restaurazion 107.7 FM to hold their Community Outreach Event, "Blessing our City," at Ralston Park on Saturday, June 17, 2017 from 10:00 AM through 1:00 PM, to provide food, clothing, and live music. The motion was seconded by City Council Member Creighton and the vote was: Ayes: Raymond, Creighton, Vineyard, Vierra, Price; Noes: None; Absent: None. The motion passed.***

FUNDING AND BUDGET MATTERS:

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

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

Verbal report regarding Proposed Budget for FY 2017/18 (Finance Director Deol)

***Finance Director Deol presented a verbal report regarding the proposed Budget for Fiscal Year 2017/18 and the next steps toward adoption. She announced that Budget Workshops will be held in the near future.***

INTERIM CITY MANAGER'S REPORTS:

Verbal update regarding Commercial Marijuana Ordinance

***Interim City Manager McBride provided a verbal update regarding the draft Commercial Marijuana Ordinance for the City of Atwater.***

***ZACH DRIVON, Stockton, Attorney for local policy reform advocacy and consulting in the cannabis industry, suggested recommendations for the draft ordinance and encouraged the City to compete for market share by allowing dispensaries to operate in Atwater.***

***SEAN ARNOLD, Atwater, spoke in favor of approving marijuana dispensaries in Atwater.***

***DANNY HERNANDEZ, Atwater, spoke in opposition to marijuana dispensaries in Atwater stating that the criminal element already exists in Atwater and the Police Department is already understaffed.***

***FRANK JOHNSON, Modesto, voiced his concerns with code enforcement should marijuana dispensaries be allowed to operate in Atwater.***

***DWIGHT LARKS, advocate for cannabis policy reform, spoke of regulating marijuana, which he believes will eliminate the black market and take away a source of revenue for gangs and will create jobs and revenue for Atwater.***

**PUBLIC HEARINGS:**

Waiving the first reading and introducing Ordinance No. 983 approving sales tax revenue sharing between the City of Atwater and the County of Merced (Interim City Manager/Community Development Director McBride)

***Interim City Manager/Community Development Director McBride spoke regarding sales tax revenue sharing between the City of Atwater and the County of Merced and the benefits of such.***

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

***DWIGHT LARKS spoke in favor of creating a revenue source through a development agreement.***

***Merced County District 3 Supervisor McDaniel commended Interim City Manager McBride on his efforts with the sales tax revenue sharing agreement.***

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

***MOTION: City Council Member Creighton moved to waive the first reading and introduce Ordinance No. CS 983 approving sales tax revenue sharing between the City of Atwater and the County of Merced. 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.***

Approving the amended 5<sup>th</sup> Cycle Housing Element update and authorizing submittal of the approved Housing Element to the Department of Housing and Community Development for certification (Interim City Manager/Community Development Director McBride)

***Richard James, EMC Planning Group, Inc., spoke regarding the amended 5<sup>th</sup> Cycle Housing Element update which was approved by the State of California.***

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



**HELEN AMARANT, Atwater, questioned one component of the Housing Element.**

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

**MOTION: Mayor Pro Tem Vineyard moved to adopt Resolution No. 2953-17 approving the Amended 5<sup>th</sup> Cycle Housing Element update and authorize and direct staff to submit the approved amended Housing Element to the Department of Housing and Community Development for final certification. 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.**

**REPORTS AND PRESENTATIONS FROM STAFF:**

Verbal report regarding Federal Bureau of Investigation training (Police Chief Joseph)

**Police Chief Joseph reported on his Federal Bureau of Investigation (FBI) training and the positive connections he made with those in attendance, which will benefit the City of Atwater.**

**City Council Member Creighton requested a future agenda item regarding Department of Justice grant funding.**

Verbal report regarding weed abatement (CAL FIRE Ballation Chief Schmitz)

**CAL FIRE Battalion Chief Schmitz provided a verbal report regarding weed abatement in Atwater; notices are "in the mail."**

**CITY COUNCIL MATTERS:**

Discussion regarding FY 2017/18 Budget Workshops

**By consensus, the City Council announced a Fiscal Year 2017/18 Budget Workshop for Tuesday, May 30, 2017 at 6:00 PM in the City Council Chambers; the public was invited.**

City Council comments

**City Council Member Raymond thanked Interim Public Works Director Faretta for his service to Atwater and wished him the best in the future.**

**City Council Member Vierra congratulated Interim Public Works Director Faretta on his retirement and thanked him for his positive influence on her family.**

**Mayor Pro Tem Vineyard wished Interim Public Works Director Faretta well in his retirement. He asked that staff look into hiring additional Community Service Officers (Meter Officers) to assist with code enforcement. He announced a new**

*Olive Avenue Neighborhood Watch group. And, he spoke of the new Police Department radar trailers in-use.*

*City Council Member Creighton thanked Interim Public Works Director Faretta for his service and stated he will be missed. He asked that staff better mark the exit doors in the City Council Chambers.*

*Mayor Price spoke of Interim Public Works Director Faretta and his community support and wished him the best of luck in his future endeavors. He thanked Sheriff Warnke for law enforcement coordination concerning the recent gang/drug operation in Merced County. He invited the community to support this year's 4<sup>th</sup> of July event and challenged them to match or exceed his \$100 donation. He briefly spoke regarding neighborhood legislation. He announced that Commission Chair Gary Brice is requesting the community's help raising funds for the Police Cadet program. And, he provided an update regarding local jazz musician Rudy Moreno and his on-going need for 24-hour care; a Go Fund Me account has been created.*

CLOSED SESSION:

*Closed Session was not necessary.*

ADJOURNMENT:

*Mayor Price adjourned the meeting at 9:00 PM.*

  
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DON HYLER III  
CITY CLERK

By: Kim Bengtson-Jennings,  
Recording Secretary