



# CITY OF ATWATER

## CITY COUNCIL

### ACTION MINUTES

**July 25, 2016**

OPEN SESSION: (Council Chambers)

*The City Council of the City of Atwater met in Open Session this date at 5:00 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.*

ROLL CALL:

**Present:** City Council Members Raymond, Rivero, Mayor Pro Tem Bergman, Mayor Price

**Absent:** City Council Member Vineyard

**Staff Present:** City Manager/Police Chief Pietro, Deputy City Attorney Henderson, City Clerk Del Real, 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 5:01 PM. Closed Session was called to order at 5:05 PM.*

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

***Closed Session adjourned at 5:40 PM.***

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 Liaison Officer Lee.***

ROLL CALL:

***Present: City Council Members Raymond, Rivero, Mayor Pro Tem Bergman, Mayor Price***

***Absent: City Council Member Vineyard***

***Staff Present: City Manager/Police Chief Pietro, Deputy City Attorney Henderson, CAL FIRE Battalion Chief Rahn, Police Lieutenant Joseph, Community Development Director McBride, Interim Public Works Director Faretta, Finance Director Deol, City Clerk Del Real, Recording Secretary Bengtson-Jennings***

***Mayor Price announced that CAL FIRE Battalion Chief Pimentel, as well as other fire personnel from the Atwater/Merced area, are on a strike team in southern California battling the Santa Clarita fire. He asked the community to keep them in their thoughts and prayers.***

MAYOR OR DEPUTY 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:

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

COMMENTS FROM THE PUBLIC:

*Notice to the public was read.*

*LORI JOHNSON, Atwater, spoke regarding her claim against the City and asked Mayor Price to ensure that someone from the City contact her to resolve the problem.*

*ZACHARY HUNSUCK, Atwater, spoke regarding the deteriorating condition of roads in Atwater and the importance of performing road improvements in a timely manner.*

*BILL BARKMAN, representing First Church of God, spoke regarding construction of the church's preschool and announced two upcoming events open to the public: Friday, September 30, 2016 Benefit Concert featuring Leon Patillo, former lead singer of the rock and roll group Santana; and Saturday, October 1, 2016 Dedication of Preschool and Centennial Celebration/Reception for the Church's 100 years in the community.*

*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 974 amending Chapter 8.50 to 8.60 of the Atwater Municipal Code regarding commercial marijuana cultivation, processing, delivery, and dispensing and regarding personal cultivation of medical marijuana," was removed from the consent calendar for separate discussion and possible action.*

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

WARRANTS:

1. July 25, 2016

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

MINUTES: (City Council)

2. a) Regular meeting, July 11, 2016  
b) Adjourned meeting, July 18, 2016

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

RESOLUTIONS:

3. Approving Fiscal Year 2015/2016 Regional Surface Transportation Program Exchange Funds (Interim Public Works Director Faretta)

***ACTION: Adoption of Resolution No. 2904-16 authorizing and directing the City Manager to execute and file the Regional Surface Transportation Program (RSTP) Exchange Funds Claim for Fiscal Year 2015/2016.***

4. Approving Annual Local Transportation Fund Claim for FY 2016-17 (Interim Public Works Director Faretta)

***ACTION: Adoption of Resolution No. 2912-16 approving the annual Local Transportation Fund (LTF) claim to be filed with the Merced County Association of Governments (MCAG) for Fiscal Year 2016-2017.***

AGREEMENTS:

5. Amendment No. 8 to Professional Services Agreement with West Yost Associates for engineering services related to the permitting and regulatory requirements pertaining to the former Wastewater Treatment Facility, the existing Regional Wastewater Treatment Plant and the Bert Crane Road Landfill (Interim Public Works Director Faretta)

***ACTION: Approval of amendment No. 8 to the Professional Services Agreement, in a form approved by the City Attorney, between the City of Atwater and West Yost Associates of Davis, California in an amount not to exceed \$254,100 during Fiscal Year 2016-2017, to provide technical assistance for engineering services related to the permitting and regulatory requirements associated with the City's former Wastewater Treatment Facility (WWTF), existing Regional Wastewater Treatment Plant (RWWTP) and the Bert Crane Road Landfill; and authorizes and directs the Mayor to execute the amendment on behalf of the City.***

ORDINANCES (WAIVING SECOND READING AND ADOPTION):

6. Waiving the second reading and adopting Ordinance No. CS 974 amending Chapter 8.50 to 8.60 of the Atwater Municipal Code regarding commercial marijuana cultivation, processing, delivery, and dispensing and regarding personal cultivation of medical marijuana (City Attorney Terpstra)

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

PETITIONS AND COMMUNICATIONS:

7. Request from New Life Community Church for use of Ralston Park

**ACTION:** *Approval of request from New Life Community Church for use of Ralston Park on Sunday, October 1, 2016 from 7:00 AM to 1:00 PM to hold a worship service to celebrate their 16<sup>th</sup> birthday.*

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

Waiving the second reading and adopting Ordinance No. CS 974 amending Chapter 8.50 to 8.60 of the Atwater Municipal Code regarding commercial marijuana cultivation, processing, delivery, and dispensing and regarding personal cultivation of medical marijuana (City Attorney Terpstra)

**MOTION:** *City Council Member Rivero moved to waive the second reading and adopt Ordinance No. CS 974 amending Chapter 8.50 to 8.60 of the Atwater Municipal Code imposing an express ban on commercial cultivation, processing, delivery originating from within City limits, and dispensing of medical marijuana and regulating the personal cultivation of medical marijuana in the City. The motion was seconded by City Council Member Raymond and the vote was: Ayes: Rivero, Raymond, Price; Noes: Bergman; Absent: Vineyard. The motion carried.*

**FUNDING AND BUDGET MATTERS:**

Treasurer's Report for the month of June, 2016 (City Treasurer Heller)

**MOTION:** *Mayor Pro Tem Bergman moved to approve the Treasurer's Report for the month of June, 2016. The motion was seconded by City Council Member Raymond and the vote was: Ayes: Raymond, Bergman, Rivero, Price; Noes: None; Absent: Vineyard. The motion carried.*

**PUBLIC HEARINGS:**

Waiving the first reading and introducing Ordinance No. CS 975 establishing Chapter 12.34 of the Atwater Municipal Code relating to use of City property (Community Development Director McBride)

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

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

**MOTION:** *Mayor Pro Tem Bergman moved to waive the first reading and introduce Ordinance No. CS 975 establishing Chapter 12.34 of the Atwater Municipal Code authorizing the use of City owned property to the greatest extent possible to provide for necessary public services and to maximize public benefit. The motion was seconded by City Council Member Rivero and the vote was: Ayes: Rivero, Raymond, Bergman, Price; Noes: None; Absent: Vineyard. The motion carried.*

REPORTS AND PRESENTATIONS FROM STAFF:

Financial Update – Fiscal Year Ended June 30, 2016 (Finance Director Deol)

***Finance Director Deol provided a financial update regarding Fiscal Year ended June 30, 2016; she reported that the numbers are subject to change until the books close on August 30, 2016.***

***LINDA DASH, Atwater, voiced her concerns regarding the Measure H fund shortfall, specifically concerning single family permits issued, and questioned the Community Facilities District (CFD) fund's purpose.***

***ERIC LEE, Atwater, reiterated that the Measure H fund should not be used to supplant what should be supplemented and believes the City should stop giving developers a break.***

Approving modification of enforcement of the Atwater Municipal Code pertaining to Automatic Fire Sprinkler requirements (CAL FIRE Battalion Chief Pimentel)

***City Council Member Raymond recused himself, stating a conflict of interest, regarding this item. He stepped down from the dais and left the City Council Chambers at 6:30 PM.***

***MOTION: Mayor Pro Tem Bergman moved to adopt Resolution No. 2911-16 approving the modification of enforcement of the Atwater Municipal Code (AMC) pertaining to Automatic Fire Sprinkler requirements. The motion was seconded by Mayor Price and the vote was: Ayes: Rivero, Bergman, Price; Noes: None; Absent: Vineyard, Raymond. The motion carried.***

***City Council Member Raymond returned to the dais at 6:35 PM.***

CITY COUNCIL MATTERS:

City Council comments and requests for future agenda items

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

***Mayor Pro Tem Bergman had nothing to report.***

***City Council Member Rivero stated that he would speak to City Manager Pietro concerning a resident issue.***

***Mayor Price reminded the community to keep an eye on neighbors during these extremely hot days of summer and to pay particular attention while in parking lots, looking for children and pets left alone in vehicles; call the Police or Fire Departments in the event of an emergency.***

CLOSED SESSION:

***Continuation of Closed Session was not necessary.***

ADJOURNMENT:

***The meeting adjourned at 6:37 PM.***

  
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JEANNA DEL REAL, CMC  
CITY CLERK

By: Kim Bengtson-Jennings,  
Recording Secretary