



# CITY OF ATWATER

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## CITY COUNCIL ACTION MINUTES

**March 27, 2017**

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 Creighton, Raymond, Mayor Pro Tem Vineyard, Mayor Price  
**Absent:** City Council Member Vierra  
**Staff Present:** Interim City Manager McBride, City Attorney Terpstra, Deputy City Clerk Saavedra

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 5:02 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: (3)

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: City Manager

***Closed Session recessed to Regular session at 5:53 PM.***

REGULAR SESSION: (Council Chambers)

***The City Council of the City of Atwater met in Regular Session this date at 6:03 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, City Attorney Terpstra, Police Chief Joseph, CAL FIRE Battalion Chief Schmitz, Finance Director Deol, Human Resources Director Del Real, Interim Public Works Director Faretta, Acting Sergeant Novetzke, City Treasurer Heller, City Clerk Hyler III***

MAYOR OR CITY ATTORNEY REPORT OUT FROM CLOSED SESSION:

***City Attorney Terpstra reported that no action was taken and staff was given direction in regard to the first Closed Session item, anticipated litigation case. Labor negotiations was an update no action was taken. He announced that continuation of Closed Session is necessary for the public employee appointment matter.***

SUBSEQUENT NEED ITEMS: ***None.***

APPROVAL OF AGENDA AS POSTED OR AS AMENDED:

***MOTION:*** City Council Member Raymond moved to approve the agenda as presented. 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.

CEREMONIAL MATTERS:

Presentation to Firefighter of the Year

***Mayor Price and CAL FIRE Battalion Chief Schmitz presented a certificate to Fire Apparatus Engineer Nick Terrones in recognition of being selected as Firefighter of the Year.***

COMMENTS FROM THE PUBLIC:

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

***DANNY HERNANDEZ, Atwater, stated he agrees with Casey Steed's comment that the City of Atwater is on deathwatch. He blames the state of the City of Atwater on CAL FIRE equipment expenditures, not moving forward with a City owned tow yard, and not doing enough to fill vacant business buildings. He spoke about the use of Measure V revenue being used to repave a portion of Fruitland Avenue when other streets have more traffic and are more in need of repair. He feels the Mayor cannot do business for Castle and serve as Mayor. He voiced his concern that new weapons will not be purchased for the Police Department. He requested a second consideration of these items.***

***HELEN AMARANT, Atwater, requested clarification regarding a Public Hearing notice she received regarding the Ferrari Ranch Project with conflicting information about the meeting date. She stated the notice referenced Tuesday, April 5<sup>th</sup> and questioned if the meeting was on Tuesday, April 4<sup>th</sup> or Wednesday, April 5<sup>th</sup>.***

***Interim City Manager McBride clarified the meeting is on Wednesday, April 5, 2017 and stated a new notice will be published with the correct day of the week.***

***ADAM REED, Atwater, voiced his concern about the 92 delinquent utility customers who did not made utility payments, because of a glitch in the system, receiving a 50% discount on their bill. He questioned how the authority was given for the 50% reduction and stated the customers knew they were being provided services and should have known to pay.***

***Finance Director Deol, stated the prior City Manager Frank Pietro gave the authority to give the 50% reduction and that most people are making payments with some of the unpaid bills going back as far as 2008.***

***City Attorney Terpstra stated that Frank Pietro made the decision to provide the 50% discount with consultation with the City Attorney's office. The decision was based on the statute of limitations, legal issues, the best opportunity to attempt to collect the most amount of money possible given the resources, and on a cost benefit analysis.***

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

**CONSENT CALENDAR:**

***Agenda item #3 under Resolutions, "Adopting Resolution No. 2940-17 repealing a portion of Resolution No. 1612-01 and Resolution No. 1836-03 in its entirety regarding City Manager Position Benefits," 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 Creighton and the vote was: Ayes: Creighton, Vineyard, Vierra, Raymond, Price; Noes: None; Absent: None. The motion passed.***

**WARRANTS:**

1. March 27, 2017

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

**MINUTES:**

2.
  - a) Special meeting, February 27, 2017
  - b) Regular meeting, March 13, 2017
  - c) Special meeting, March 15, 2017

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

**RESOLUTIONS:**

3. Adopting Resolution No. 2940-17 repealing a portion of Resolution No. 1612-01 and Resolution No. 1836-03 in its entirety regarding City Manager Position Benefits (City Attorney Terpstra)

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

4. Adopting Resolution No. 2937-17 approving Associate Membership with California Enterprise Development Authority and inclusion of the City of Atwater properties within the incorporated area of the City assessed Clean Energy Program (Interim City Manager McBride)

**ACTION: Adoption of Resolution No. 2937-17 approving Associate Membership between California Enterprise Development Authority (the "Authority") and the City of Atwater (the "City"); and consenting to inclusion of properties within the incorporated area of the City in the Merced County property assessed Clean Energy Program to finance distributed generation renewable energy sources and energy and water efficiency improvements; and authorizes and directs the City Manager to execute any documents relating to participation, on behalf of the City.**

**AGREEMENTS:**

5. Approving Amendment No. 6 to General Services Agreement with EMC Planning Group Amendment (Interim City Manager McBride)

**ACTION: Approval of amendment No. 6 to the General Services Agreement, in a form approved by the City Attorney, between the City of Atwater and EMC Planning Group Inc. for the Ferrari Ranch EIR and CEQA Services; and authorizes and directs the City Manager to execute the Amendment on behalf of the City.**

**RESOLUTIONS:**

Adopting Resolution No. 2940-17 repealing a portion of Resolution No. 1612-01 and Resolution No. 1836-03 in its entirety regarding City Manager Position Benefits (City Attorney Terpstra)

**MOTION: City Council Member Creighton moved to adopt Resolution No. 2940-17 repealing a portion of Resolution No. 1612-01, "Amending Resolution No. 1453-98, Compensation Plan, regarding Employee Salaries and Certain Benefits", and Resolution No. 1836-03, "Adopting Retirement Plan per IRS Section 401a (Deferred Compensation) for City Manager Position" in its entirety. The motion was seconded by Mayor Pro Tem Vineyard and the vote was: Ayes: Vierra, Vineyard, Creighton, Raymond, Price; Noes: None; Absent: None. The motion passed.**

**FUNDING AND BUDGET MATTERS:**

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

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

Accepting Audited Financial Statements for the fiscal year ended June 30, 2016 (Finance Director Deol)

***Joe Arch, JJCPA Accounting Firm, the City's contracted auditors provided an overview of the Audited Financial Statements for fiscal year ended June 30, 2016.***

*City Council member Raymond stated for the record his request for the City to look into open.gov again for financial transparency.*

***MOTION:*** *City Council Member Creighton moved to accept the Audited Financial Statements for fiscal year ended June 30, 2016. The motion was seconded by Mayor Pro Tem Vineyard and the vote was: Ayes: Vineyard, Creighton, Vierra, Raymond, Price; Noes: None; Absent: None. The motion passed.*

INTERIM CITY MANAGERS REPORTS:

Introduction of City Engineer Michael Hayes, VVH Engineering, contracted to perform city engineering services

***Interim City Manager McBride introduced contracted City Engineer Michael Hayes. Michael Hayes thanked the Mayor and City Council for being selected as the contracted City Engineer. He spoke about the projects he and his team are currently working on for the City.***

Verbal report regarding replacement of police weapons (Acting Police Sergeant Novetzke)

***Acting Police Sergeant Novetzke reported the details of the police weapons replacement are still in process with not much to report at this time.***

***By consensus, the City Council requested this item be brought back to the April 10, 2017 City Council meeting with an update.***

Verbal report regarding replacement of police vehicles (Acting Police Sergeant Novetzke)

***Acting Police Sergeant Novetzke provided an update regarding options for replacement of police vehicles. He outlined three options which included purchasing new vehicles, refurbished vehicles, and/or government surplus vehicles.***

***For the record, Mayor Price stated he is not in favor of purchasing refurbished vehicles for front line police officers.***

***MOTION:*** *Mayor Pro Tem Vineyard moved to bring this item back to the April 10, 2017 City Council meeting with more detailed information. The motion was seconded by City Council Member Creighton and the vote was: Ayes: Vierra, Raymond, Vineyard, Creighton, Price; Noes: None; Absent: None. The motion passed.*

CITY COUNCIL MATTERS:

City Council comments

**City Council Member Raymond reiterated his earlier request for the City to take another look at open.gov to utilize as a tool to watch the budget and to devise a financial plan. He shared the loss of his beloved grandmother Pat and of Reuben Webb who he described as a good guy and a long time involved resident of our community.**

**City Council Member Vierra welcomed Police Chief Joseph back and stated she also lost another family member; her second uncle in 30 days. She offered prayers to her dad.**

**Mayor Pro Tem Vineyard offered his condolences to all the families with losses. He acknowledged members of the Crestview and Herman Street Neighborhood Watch who have adopted Heller Park and are doing a great job by providing daily clean-up of the park. He requested certificates of appreciation for presentation to Sandoval, Bucio, and Avila at the next City Council meeting or as soon as possible.**

**Mayor Pro Tem Vineyard requested an ordinance review update from Code Enforcement Officer Velasquez at the next City Council meeting. He commended Officer Velasquez and the CAL FIRE crew, from Mount Bullion, for cleaning up Atwater Boulevard and stated the area needs continued maintenance. He reported that he and the City Spring Clean-up volunteers worked from 7:00 AM until 3:30 PM. He stated this was the most people ever at a clean-up with some residents taking 3 or 4 trips. He expressed a need to meet to work out the details to make the process flow better and to move the vehicles as fast as possible at the next city clean-up. He commented that vehicles were backed up and double parked along Industrial Way to Commerce Avenue and on the other road where trucks were parked. He thanked residents for being cordial and for their patience and commended the volunteers and waste company for their hard work.**

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

**Mayor Price offered his condolence to both families who had losses and to Police Chaplain Mead for the loss of his mother. He stated beginning next month the county will start collecting the ½ cent Measure V money and that at a recent MCAG meeting bonding Measure V funds was brought up. He stated that Winton Way has major wear because it is a highly utilized truck route and Fruitland Avenue should be priority over all the other streets all over the city that are in need of repair. He requested information be brought back to next meeting to discuss bonding of the Measure V funds to allow for the project to start now instead of waiting for the estimated \$8 million needed for those streets to be repaired. At the projected annual rate of \$650,000 to \$700,000, Atwater could collect from Measure V monies, the City would have to wait seven or eight years to fund the project; if the City elects to bond the money, the project could start sooner.**

**Mayor Price announced and invited the public to attend the Financial Recovery Workshop tomorrow at the Community Center in the Jessie Frago room at 1:30 PM.**

**Mayor Pro Tem Vineyard stated if you are not able to attend the workshop and have ideas to share you can submit them via email.**

CLOSED SESSION:

**Continuation of Closed Session was necessary. Mayor Price adjourned the Regular Session to Conference Room A for continuation of Closed Session at 7:38 PM. Closed Session resumed at 7:49 PM.**

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

MAYOR OR CITY ATTORNEY REPORT OUT FROM CLOSED SESSION:

**Mayor Price announced that no action was taken, and staff was given direction. The Closed Session agenda was completed.**

ADJOURNMENT:

**The meeting was adjourned to the Atwater Community Center, Jessie Frago Room, 760 E. Bellevue Road, Atwater, on March 28, 2017 at 1:30 PM to hold a workshop regarding Financial Recovery Plan.**

**The meeting adjourned at 8:51 PM.**

  
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DON HYLER III  
CITY CLERK

By: Margarita Saavedra,  
Recording Secretary