



CITY OF ATWATER

CITY COUNCIL AND SUCCESSOR AGENCY TO THE ATWATER REDEVELOPMENT AGENCY

ACTION MINUTES

October 10, 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, Vineyard, Mayor Pro Tem Bergman, Mayor Price

Absent: None

Staff Present: City Manager Pietro, City Attorney Terpstra, 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 5:06 PM.

Conference with Legal Counsel – Anticipated Litigation – Government Code Section 54956.9(b): Number of cases: (3)

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

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

Closed Session adjourned at 6:00 PM.

REGULAR SESSION: (Council Chambers)

The City Council of the City of Atwater and the Governing Board of the Successor Agency to the Atwater Redevelopment Agency met in Regular Session this date at 6:04 PM in the City Council Chambers located at the Atwater Civic Center, 750 Bellevue Road, Atwater, California; Mayor/Board Chair Price presiding.

PLEDGE OF ALLEGIANCE TO THE FLAG:

The Pledge of Allegiance was led by Mayor/Board Chair Price.

INVOCATION:

The Invocation was led by Police Chaplain Mead.

ROLL CALL: (City Council/Governing Board)

Present: City Council Members/Board Members Raymond, Rivero, Vineyard, Mayor Pro Tem/Board Vice Chair Bergman, Mayor/Board Chair Price

Absent: None

Staff Present: City Manager Pietro, City Attorney Terpstra, CAL FIRE Battalion Chief Pimentel, Interim Police Chief Joseph, Community Development Director McBride, Chief Building Official Pereida, Interim Public Works Director Faretta, Human Resources Director/City Clerk/Board Secretary Del Real, 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/Board Member Vineyard moved to approve the agenda as posted. The motion was seconded by City Council Member/Board Member Raymond and the vote was: Ayes: Bergman, Rivero, Raymond, Vineyard, 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 was not in attendance to provide a monthly verbal report.

COMMENTS FROM THE PUBLIC:

Notice to the public was read.

City Attorney Terpstra announced that the public hearing for the sign ordinance is not on this October 10, 2016 regular City Council meeting agenda. Those intending to comment on the item may do so at this time, and the comments will be carried forward to a future City Council meeting when the item is agendized.

GARY BRICE, Atwater, requested clarification regarding cleaning of the solar panels.

City Manager Pietro announced that the solar panels will be cleaned in two weeks and every four months thereafter. An addendum to the contract that addresses "cleaning" is forthcoming.

BOB CALAWAY, Atwater, spoke regarding the recent Joint Special Meeting and specific "disappointing" and "inappropriate" comments made concerning Police Department and City administration staffing.

LINDA DASH, Atwater, reminded the City Council that they are to not interfere in personnel matters, which is a misdemeanor, and suggested City Attorney Terpstra hold a study session with the City Council to address the issue. Also she reminded City staff to follow procedures; certain items must go before the Community Development and Resources Commission before City Council consideration.

FRANK JOHNSON, President of Stanislaus County NAACP, spoke regarding comments made at a past regular City Council meeting concerning "the power of one vote" and the issues such comment may present, and he urged City staff to inform the community that their one vote does count.

ANDY KROTIK, Atwater, thanked City Council Member Rivero for his service, clarified the comments he made at the recent Joint Special Meeting, and informed the community that sample ballots have been mailed; he encouraged citizens to “do your homework” and vote.

LINDA DASH, Atwater, spoke of the importance of public safety and the need for increased funding to hire additional Police Officers, and she reminded the City Council of the money “given away” to developers in incentives.

ERIC LEE, Atwater, voiced his opinion in regard to the importance of one's vote, the City's appearance, staffing and restoring pay, and positivity. He stated that the City Council needs to come together and work as a group. Also he spoke of ongoing problems in the downtown area.

LARRY LEE, Atwater, spoke regarding the 40th anniversary of Kops and Fire for Kids and the toy give away/celebration that will take place the first Saturday in December. Those interested in volunteering may contact him at (209) 201-3188.

No one else came forward to speak.

CONSENT CALENDAR:

Agenda item #3 under Agreements, “Authorizing transfer of property located at Manuel Bairos Park to the Atwater Elementary School District,” was removed from the consent calendar for separate discussion and possible action.

Agenda item #8 under Informational Items Only (No Action Required), “Police Department activities and projects for the month of September, 2016,” was removed from the consent calendar for separate discussion.

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

WARRANTS:

1. October 10, 2016

ACTION: Approval of warrants as listed.

MINUTES: (City Council)

2. Regular meeting, September 26, 2016

ACTION: Approval of minutes as listed.

AGREEMENTS:

3. Authorizing transfer of property located at Manuel Bairos Park to the Atwater Elementary School District (Community Development Director McBride)

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

4. Ratifying Side Letter Agreement with Miscellaneous and Clerical Bargaining Units (Human Resources Director Del Real)

ACTION: Adoption of Resolution No. 2925-16 ratifying a Side Letter of Agreement with American Federation of State, County and Municipal Employees, Local 2703, Council 57, AFL-CIO ("AFSCME") representing the Miscellaneous Unit and Clerical Unit and authorizing and directing the City Manager to execute the agreement, in a form approved by the Deputy City Attorney, on behalf of the City.

PUBLIC IMPROVEMENTS:

5. Accepting public improvements within Tract No. 04-6, Juniper Meadows II (Community Development Director McBride)

ACTION: Acceptance of the public improvements within Tract No. 04-6, Juniper Meadows II, on behalf of the public.

REPORTS:

6. Monthly review of local drought emergency (City Attorney Terpstra)

ACTION: Reaffirms the facts and findings in Resolution No. 2823-15 declaring the existence of a local drought emergency.

ORDINANCES (WAIVING FIRST READING AND INTRODUCTION):

7. Waiving the first reading and introducing Ordinance No. CS 978 repealing and re-enacting Title 15, "Buildings and Construction," of the Atwater Municipal Code and setting a Public Hearing (Chief Building Official Pereida)

ACTION: Waives the first reading and introduces Ordinance No. CS 978 repealing and re-enacting Title 15, "Buildings and Construction," of the Atwater Municipal Code; and authorizes and directs the City Manager to schedule a Public Hearing for adoption of Ordinance No. CS 978 on October 24, 2016.

INFORMATIONAL ITEMS ONLY (NO ACTION REQUIRED):

8. Police Department activities and projects for the month of September, 2016 (Interim Police Chief Joseph)

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

9. Police Volunteer activities for the month of September, 2016 (Police Volunteer Vineyard)
10. Fire Department activities and projects for the month of September, 2016 (CAL FIRE Battalion Chief Pimentel)
11. Public Works Department activities and projects for the month of September, 2016 (Interim Public Works Director Faretta)

AGREEMENTS:

Authorizing transfer of property located at Manuel Bairos Park to the Atwater Elementary School District (Community Development Director McBride)

Community Development Director McBride spoke regarding the transfer of property located at Manuel Bairos Park to the Atwater Elementary School District for expansion of school facilities.

KELLIE KENNEDY, Atwater, spoke in opposition to the transfer of a portion of Manuel Bairos Park to the Atwater Elementary School District and stated her belief that the school district should “make better decisions on behalf of the citizens of Atwater.” She urged the City Council to refrain from selling the property.

MOTION: Mayor Price moved to defer the item and to send it to the Community Development and Resources Commission for consideration and evaluation. The motion was seconded by Mayor Pro Tem Bergman.

SANDRA SCHIBER, Atwater Elementary School District Superintendent, spoke of the importance of the proposed site expansion project and the resulting “time sensitive” construction plans. She stressed that the proposed expansion will enhance the site.

GARY BRICE, Atwater, voiced his opinion that it is not necessary for this item to go before the Community Development and Resources Commission for consideration at this time.

DON HYLER. Atwater, questioned City procedures moving forward.

SUBSTITUTE MOTION: City Council Member Vineyard moved to authorize transfer of a portion of Manuel Bairos Park to the Atwater Elementary School District for the expansion of Peggy Heller School. The motion was seconded by City Council Member Rivero and the vote was: Ayes: Vineyard, Rivero; Noes: Raymond, Bergman, Price; Absent: None. The motion failed.

CITY ATTORNEY REPORTS/UPDATES:

Verbal update regarding Mobile Home Park Conversions

City Attorney Terpstra provided a verbal update regarding mobile home park conversions, specifically in regard to modifying an existing use. He reiterated the fact that the City is in need of affordable housing.

JOHN YOUNG, Atwater, voiced his frustrations regarding the conversion of Rancho Grande Mobile Home Park from a senior park to a family park and stated his belief that the City could have taken prior action.

ROBERT BRIA, Atwater, spoke regarding travel trailers used as residences in mobile home parks and regarding safety concerns at Rancho Grande Mobile Home Park.

City Council Member Rivero asked that a future regular City Council meeting agenda include discussion concerning travel trailers "occupied" in the City.

INFORMATIONAL ITEMS ONLY (NO ACTION REQUIRED):

Police Department activities and projects for the month of September, 2016 (Interim Police Chief Joseph)

Interim Police Chief Joseph reported on Police Department activities and projects for the month of September, 2016 as well as recruitment for new Police Officers. He stated that presently crime rates are down in the City approximately 30 percent.

Merced County Sheriff Warnke spoke regarding Police Officer recruitment issues in the Central Valley.

PUBLIC HEARINGS:

Waiving the first reading and introducing Ordinance No. CS 976 amending Chapter 8.50, "Camping, Sleeping and Storage of Personal Property," of the Atwater Municipal Code (Deputy City Attorney Henderson)

City Attorney Terpstra clarified the reason for amending Chapter 8.50 of the Atwater Municipal Code, which is to remove all references to "sleeping" from said chapter including the title.

Mayor Price opened the public hearing for this item.

DON HYLER, Atwater, and ERIC LEE, Atwater, asked several questions concerning sleeping in vehicles and in doorways throughout the City in light of the proposed ordinance.

No one else 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 976 amending Chapter 8.50, "Camping and Storage of Personal Property," of the Atwater Municipal Code. The motion was seconded by City Council Member Vineyard and the vote was: Bergman, Raymond, Vineyard, Rivero, Price; Noes: None; Absent: None. The motion passed.

REPORTS AND PRESENTATIONS FROM STAFF:

Approving City Operated Tow Yard at Corporation Yard and authorizing Measure H Funds for site improvements (Interim Police Chief Joseph)

Interim Police Chief Joseph requested an amendment to the resolution to use General Fund instead of Measure H funds for the site improvements for the City Operated Tow Yard.

MOTION: Mayor Pro Tem Bergman moved to adopt Resolution No. 2924-16 as amended approving a City Operated Tow Yard at the City Corporation Yard and authorizing the use of General Funds to improve the location. The motion was seconded by City Council Member Vineyard and the vote was: Ayes: Raymond, Vineyard, Bergman, Rivero, Price; Noes: None; Absent: None. The motion passed.

Approving First Amendment to the Promissory Note between Luis Naranjo Villalobos and the Successor Agency to the Atwater Redevelopment Agency (Community Development Director McBride)

MOTION: City Council Member/Board Member Vineyard moved to adopt Resolution No. SA 2016-4 approving the First Amendment to the Promissory Note, in a form approved by the City Attorney, between Luis Naranjo Villalobos and the Successor Agency to the Atwater Redevelopment Agency. The motion was seconded by City Council Member/Board Member Raymond and the vote was: Ayes: Rivero, Raymond, Bergman, Vineyard, Price; Noes: None; Absent: None. The motion passed.

Verbal update regarding Public Safety CFD compared to "Mello Roos" CFD 1-90 and Maintenance Districts (Community Development Director McBride)

Community Development Director McBride provided a brief description of Mello Roos CFD 1-90, Public Safety CFDs, and Maintenance Districts due to numerous inquiries surrounding recent tax bills. He stated, Mello Roos CFD 1-90 was established to repay infrastructure costs which subsequently were passed on to the homeowner; all debt has been paid off. Public Safety CFDs were formed in 2004 to pay for public safety in certain developments within the City, namely Mello Ranch, America West, Jacobs Tract, Atwater South, and Meadow View Estates. And, Maintenance Districts were established to maintain facilities

(Lighting & Drainage and Landscape Maintenance); a thorough analysis is completed each year and public meetings are held to set rates.

CITY COUNCIL MATTERS:

Approving resolution opposing Proposition 57, the California Parole for Non-Violent Criminals and Juvenile Court Trial Requirements Initiative (City Council Members Raymond and Vineyard)

Merced County Sheriff Warnke spoke in opposition to Proposition 57 and the probable rise in crime rates if the proposition passes. He urged the community to vote "No" on the measure.

Interim Police Chief Joseph spoke regarding Proposition 57 and the potential for crime and the homeless population to increase in Atwater.

ERIC LEE, Atwater, confirmed what Sheriff Warnke stated and spoke in opposition to Proposition 57.

MOTION: Mayor Pro Tem Bergman moved to adopt Resolution No. 2927-16 opposing Proposition 57, the California Parole for Non-Violent Criminals and Juvenile Court Trial Requirements Initiative. The motion was seconded by City Council Member Vineyard and the vote was: Ayes: Vineyard, Bergman, Rivero, Raymond, Price; Noes: None; Absent: None. The motion passed.

City Council comments and requests for future agenda items

City Council Member Vineyard thanked City Council Member Raymond for including him in the Proposition 57 opposition "fight" and announced that October is Breast Cancer Awareness Month. He asked that the community keep those who have cancer and those who have survived cancer in their prayers.

City Council Member Raymond thanked Interim Police Chief Joseph and Merced County Sheriff Warnke for taking a stand and speaking up in regard to Proposition 57. Also, he stated that context matters, and he clarified several of his previous comments which were misstated.

City Council Member Rivero announced that he will provide City Manager Pietro with a list of "items" in the City that may require fixing such as the road divider at the Applegate Road/Winton Way Improvement project site.

Mayor Pro Tem Bergman had nothing to report.

Mayor Price spoke of the recent Joint Special Meeting/Town Hall Meeting and announced that another will be scheduled in the near future. Also, he announced an upcoming meeting on October 27, 2016 at 6:00 PM at the Community Center regarding the Fruitland Avenue construction project, transportation funding

matters, and Measure B and how it will affect the City's streets if passed. He invited the community to attend.

ADJOURNMENT:

The meeting adjourned at 7:57 PM.



JEANNA DEL REAL, CMC
CITY CLERK/BOARD SECRETARY

By: Kim Bengtson-Jennings,
Recording Secretary