



CITY OF ATWATER

CITY COUNCIL

ACTION MINUTES

October 24, 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 5:02 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: (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 5:50 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 Police Chaplain McClellan.

ROLL CALL:

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

Absent: City Council Member Raymond

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, City Treasurer Heller, City Clerk Del Real, Recording Secretary Bengtson-Jennings

MAYOR OR CITY ATTORNEY REPORT OUT FROM CLOSED SESSION:

Mayor Price reported that staff was given direction regarding Public Employee Appointment: City Attorney.

City Attorney Terpstra reported that no action was taken and staff was given direction concerning all other items on Closed Session. The Closed Session agenda was completed.

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

APPROVAL OF AGENDA AS POSTED OR AS AMENDED:

Mayor Price announced a request to remove agenda item #10 under Reports and Presentations from Staff, "Verbal discussion and possible action regarding the Vacant Building and Underutilized Sites Sales Tax Rebate Program," and agenda item #11 under City Council Matters, "Verbal discussion and possible action regarding the City of Atwater Development Fee Reduction Program," from the agenda due to the absence of City Council Member Raymond.

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

CEREMONIAL MATTERS:

Certificates:

- Jeff Rivero, Yosemite High School Teacher

Mayor Price presented a plaque to Jeff Rivero for earning the National 2016 Presidential Innovation Award for Educators.

COMMENTS FROM THE PUBLIC:

Notice to the public was read.

AMY TAYLOR, County Librarian, spoke regarding the Merced County Library's "1000 Books Before Kindergarten" program, a family reading adventure for babies, toddlers, and preschoolers.

RIJO ESPINOZA and BRANDON ESPINOZA, Always Towing representatives, spoke in opposition to the City's approval of a City operated tow yard and the lack of communication/response from City staff surrounding the matter.

ADAM REED, Community Development and Resources Commissioner, voiced his opinion that the City operated tow yard is a great way to generate revenue for the City.

FRANK JOHNSON, President of Stanislaus County NAACP, questioned a past City incident and why no explanation was ever provided to the community and spoke of specifics surrounding the City operated tow yard.

DANNY HERNANDEZ, Atwater, voiced his concerns regarding the City operated tow yard and asked the City Council to rescind or modify their action for clarity.

KELLIE KENNEDY, Atwater, stated her disappointment in the City Council for allegedly questioning her integrity surrounding the recent discussions regarding the proposed sale of park property to the Atwater Elementary School District.

No one else came forward to speak.

CONSENT CALENDAR:

Agenda Item #4 under Petitions and Communications, "Valley Christian Chapel," 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 Vineyard and the vote was: Ayes: Vineyard, Rivero, Bergman, Price; Noes: None; Absent: Raymond. The motion passed.

WARRANTS:

1. October 24, 2016

ACTION: Approval of warrants as listed.

ORDINANCES (WAIVING SECOND READING AND ADOPTION):

2. Waiving the second reading and adopting Ordinance No. CS 976 amending Chapter 8.50, "Camping and Storage of Personal Property," of the Atwater Municipal Code (City Attorney Terpstra)

ACTION: Waives the second reading and adopts Ordinance No. CS 976 amending Chapter 8.50, "Camping and Storage of Personal Property," of the Atwater Municipal Code.

CLAIMS AGAINST THE CITY:

3. Claim No. 2016-13

ACTION: After consideration and investigation, it is staff's recommendation that Claim No. 2016-13 be rejected.

PETITIONS AND COMMUNICATIONS:

4. Valley Christian Chapel

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

PETITIONS AND COMMUNICATIONS:

Valley Christian Chapel

GLENN SUMMERTON, representing Valley Christian Chapel, spoke regarding their request and answered questions of the City Council.

MOTION: City Council Member Vineyard moved to approve Valley Christian Chapel's request for assistance with their annual Harvest Festival on October 31, 2016; to block off 3rd Street between Broadway Avenue and Cedar Avenue from 5:30 PM to 9:00 PM. The motion was seconded by City Council Member Rivero and the vote was: Ayes: Rivero, Vineyard, Bergman, Price; Noes: None; Absent: Raymond. The motion passed.

FUNDING AND BUDGET MATTERS:

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

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

CITY ATTORNEY REPORTS/UPDATES:

Verbal report regarding possible transition of City Council elections from current "at large" system to "district elections"

City Attorney Terpstra provided a brief report regarding the possible transition of City Council elections from the current "at large" system to "district elections" and announced that the December 12, 2016 regular City Council meeting agenda will include a presentation detailing the process of such a transition.

FRANK JOHNSON, President of Stanislaus County NAACP, voiced his frustrations with the City Council for putting this "time sensitive" issue off and stated his belief that "the citizens of Atwater want accountability for where they live and where they work."

PUBLIC HEARING:

Waiving the second reading and adopting Ordinance No. CS 978 repealing and re-enacting Title 15, "Buildings and Construction," of the Atwater Municipal Code (Chief Building Official Pereida)

Mayor Price opened the public hearing for this item.

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

MOTION: City Council Member Vineyard moved to waive the second reading and adopt Ordinance No. CS 978 repealing and re-enacting Title 15, "Buildings and Construction," of the Atwater Municipal Code. The motion was seconded by Mayor Pro Tem Bergman and the vote was: Ayes: Vineyard, Bergman, Rivero, Price; Noes: None; Absent: Raymond. The motion passed.

RECONSIDERATION OF AGENDA ITEM:

Reconsideration of agenda item from the October 10, 2016 City Council meeting (Mayor Price)

MOTION: Mayor Price moved to reconsider the agenda item from the October 10, 2016 City Council meeting, "Authorizing transfer of property located at Manuel Bairos Park to the Atwater Elementary School District." The motion was seconded by City Council Member Vineyard and the vote was: Ayes: Rivero, Bergman, Vineyard, Price; Noes: None; Absent: Raymond. The motion passed.

REPORTS AND PRESENTATIONS FROM STAFF:

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

ADAM REED, Atwater, stated his concerns regarding the proposed transfer of a portion of Manuel Bairos Park to the Atwater Elementary School District in light of the City's General Plan, Open Space Element. He questioned the legal ramifications of the dedication of property if sold.

City Attorney Terpstra stated he would look into the matter of the dedication of said property to the City for public benefit and if such dedication would restrict future use of the property. Also, he stated he would review the Subdivision Map Act to verify that a public to public sale is exempt whether a division of land or grafting of a parcel onto another parcel.

SANDRA SCHIBER, Atwater Elementary School District Superintendent, stated the school district will engage in a traffic study and will work with the City to complete said study. Also, she spoke of the growth "problem" and the need for middle school expansion, which ultimately will benefit all residents of Atwater.

KELLIE KENNEDY, Atwater, spoke in opposition to the potential sale of a portion of Manuel Bairos Park to the Atwater Elementary School District and believes the school district should look at the entire population of the City before making a decision to expand Peggy Heller School.

CINDY VIERRA, Atwater, asked several questions concerning the use of the park and in regard to when Peggy Heller School was a K-8 grade school previously.

ELENA RIDGE, Atwater, questioned the school district's choice for site expansion.

LUCIO SOTELO, Atwater, spoke in favor of the proposed transfer of a portion of Manuel Bairos Park to the Atwater Elementary School District for the expansion of Peggy Heller School and of the resulting park "improvements."

EMILY FALKE, Atwater, voiced her disappointment in Atwater Elementary School District Superintendent Schiber.

KELLY FINCHER, Atwater Elementary School District Board Member, spoke in defense of Atwater Elementary School District Superintendent Schiber and thanked the City Council for their dedication to the City.

DANNY HERNANDEZ, Atwater, questioned the number of students at Peggy Heller School who reside in Winton.

MOTION: Mayor Pro Tem Bergman moved to authorize a Purchase and Sale Agreement, in a form approved by the City Attorney, for transfer of a portion of Manuel Bairos Park to the Atwater Elementary School District for the expansion of Peggy Heller School contingent upon City Attorney review of possible restrictions in use of dedication of property and the Subdivision Map Act. The motion was seconded by Mayor Price and the vote was: Ayes: Vineyard, Bergman, Rivero, Price; Noes: None; Absent: Raymond. The motion passed.

Verbal discussion and possible action regarding the Vacant Building and Underutilized Sites Sales Tax Rebate Program (Community Development Director McBride)

This item was removed from the agenda in its entirety due to the absence of City Council Member Raymond.

CITY COUNCIL MATTERS:

Verbal discussion and possible action regarding the City of Atwater Development Fee Reduction Program (City Council Member Raymond)

This item was removed from the agenda in its entirety due to the absence of City Council Member Raymond.

City Council comments and requests for future agenda items

City Council Member Vineyard spoke regarding the recent Fall Clean-Up Day and announced the Spring Clean-Up Day will be March 18, 2017. He thanked City staff for their hard work and dedication to the City and encouraged the community to thank them as well. He announced the Veterans Day event at Veterans Park, November 11, 2016 will begin at 4:00 PM.

Mayor Pro Tem Bergman echoed City Council Member Vineyard's comments regarding City employees. He asked that a future regular City Council meeting agenda include an item concerning parameters for the Community Development and Resources Commission. Also, he thanked all veterans for their service.

City Council Member Rivero reminded the community to drive carefully on Halloween and to watch for children crossing the streets. He encouraged everyone to vote: to talk with the candidates, to read the voting materials, and to make well informed decisions.

Mayor Price announced that the four candidates running for City Council vacancies are present this evening. He recognized a local Korean War veteran who currently is on an Honor Flight trip to Washington D.C. (Joe Castelleone) and asked the community to thank him for his service upon his return. He reminded the community to be extra watchful over children near canal banks in light of a recent drowning. He reminded the community of the upcoming Kops and Fire for Kids Day December 3, 2016; to give Atwater children "a deserving Christmas."

CLOSED SESSION:

Closed Session was not necessary.

ADJOURNMENT:

The meeting adjourned at 7:46 PM.



JEANNA DEL REAL, CMC
CITY CLERK

By: Kim Bengtson-Jennings,
Recording Secretary