



CITY OF ATWATER

CITY COUNCIL AND REDEVELOPMENT AGENCY

ACTION MINUTES

February 23, 2009

CALL TO ORDER: (Closed Session)

The City Council of the City of Atwater met in closed session this date at 4:01 PM in Conference Room A of City Hall, 750 Bellevue Road, Atwater, California; Mayor Faul presiding.

ROLL CALL:

Present: *Councilmembers Crabb, Rivero, Mayor Pro Tem Frago, Mayor Faul presiding.*

Absent: *None*

Staff Present: *City Manager Wellman, Assistant City Manager Feathers, City Attorney Myers, Deputy City Attorney Lindgren, Director of Economic Development and Special Projects.*

1. Pursuant to Government Code Section 54957, Public Employee Performance Evaluation: City Manager.
2. Pursuant to Government Code Section 54956.9(a), regarding potential litigation. Number of cases (2)
3. Conference with Legal Counsel-Existing Litigation-Government Code Section 54856.9(b)-(1)-Name of Case: Valley Advocates and Robert B. Friesen v. City of Atwater and Atwater City Council; Case No. U151667.
4. Pursuant to Government Code Section 54956.8 Conference with Real Property Negotiator regarding potential right of way acquisition. Agency Negotiator: Director of Economic Development and Special Projects McBride.

Property Location: APN No. 001-122-008 Atwater Boulevard

5. Pursuant to Government Code Section 54957.6 Conference with Labor Negotiators. Agency Negotiator: Assistant City Manager Feathers. Bargaining Units: Atwater Police Officer Association, Miscellaneous and Clerical Units.

Closed Session adjourned at 5:41 PM.

CALL TO ORDER: (Regular Session)

The City Council and Board of Directors of the Atwater Redevelopment Agency of the City of Atwater met in regular session this date at 6:01 PM in the Council Chambers, 750 Bellevue Road, Atwater, California; Mayor/Presiding Officer Faul.

PLEDGE OF ALLEGIANCE TO THE FLAG:

The pledge of allegiance was led by Councilmember Crabb.

INVOCATION:

The invocation was given by Police Chaplain Steve Mead.

ROLL CALL:

Present: Council Members/Board Members Crabb, Frago, Rivero, Mayor/Presiding Officer Faul

Absent: None

Staff Present: City Manager/Executive Director Wellman, Assistant City Manager/Agency Treasurer Feathers, City Attorney/Legal Counsel Myers, Special Counsel Lindgren, Police Chief Hawthorne, Cal Fire Battalion Chief Banks, Public Works Director Church, Deputy Director of Engineering Guillette, Economic Development and Special Projects McBride, Parks and Community Services Director Faretta, City Clerk/Administrative Manager/Agency Secretary Del Real, Assistant City Clerk Waterman.

MAYOR REPORT OUT FROM CLOSED SESSION:

No reportable action was taken, staff was given direction.

MAYOR REPORTS:

Mayor's State of the City Address.

Mayor Faul presented her State of the City Address highlighting the City's Goals and Accomplishments.

CEREMONIAL MATTERS: *None.*

COMMENTS FROM THE PUBLIC:

Notice to the public was read.

JESS RODRIGUEZ representing the Census Bureau announced that the 2010 census is underway. The community will benefit for the next 10 years from this census.

No one else came forward to speak.

REPORTS AND PRESENTATIONS:

Midyear Financial Status Report and Preliminary Forecast for Fiscal Year 2008-2009.

MOTION: *Councilmember Crabb moved to receive and file Midyear Financial Status Report and preliminary forecast for Fiscal Year 2008-2009; and adopt Resolution No. 2436-09 approving Budget Amendment No. 15 regarding adjustments to certain appropriations based on midyear analysis. The motion was seconded by City Councilmember Rivero and the vote was: Ayes: Frago, Crabb, Rivero, Faul; Noes: None; Absent: None. The motion carried.*

Mayor Faul called a recess at 7:05 PM.

The City Council returned to the dais at 7:15 PM and the Mayor resumed the meeting.

Fiscal Year 2007-2008 Redevelopment Agency Activity Reports.

MOTION: *Mayor Pro Tem Frago moved to accept the 2007-2008 Fiscal Year Annual Redevelopment Agency Activities Report including Independent Audit Report, Statement of Indebtedness, Annual State Controller's Office Financial Transactions Report, Annual Housing Activity Report for Community Redevelopment Agencies, and recommendations for future actions and policy direction. The motion was seconded by Councilmember Crabb and the vote was: Ayes: Rivero, Frago, Crabb, Faul; Noes: None; Absent: None. The motion carried.*

CONSENT CALENDAR:

The notice to the public was read.

MOTION: *Mayor Pro Tem Frago moved to approve the consent calendar. The motion was seconded by Councilmember Rivero and the vote was: Ayes: Crabb, Frago, Rivero, Faul; Noes: None; Absent: None. The motion carried.*

10. WARRANTS: (City Council/Board of Directors)

a) February 23, 2009

ACTION: Warrant numbers 45465 through 45698 in the amount of \$327,599.28 were approved.

11. **TREASURER'S REPORT:** (Note to the Public: Generally, Financial reports are provided to the City Council at the second meeting of the month covering the City's financial activities for the month immediately prior).

January 31, 2009

ACTION: Acceptance of report as listed.

12. **MINUTES:** (City Council and Redevelopment Agency Board of Directors):

Regular meeting February 9, 2009

ACTION: Approval of minutes as listed.

13. **MINUTES/REPORTS COMMISSIONS/COMMITTEES:**

Audit and Finance Committee meeting, January 20, 2009

ACTION: Acceptance of minutes as listed.

14. **CALL FOR BIDS: None.**

15. **AWARD OF BIDS: None.**

16. **RESOLUTIONS: None.**

17. **AGREEMENTS:**

Professional Services Agreement for Wastewater Treatment Plant Improvement Project.

ACTION: Approval of Professional Services Agreement, in a form approved by the City Attorney, with EDAW Inc. of Sacramento, California, in the amount of \$186,894 to provide additional assistance obtaining various permits and environmental work for the Wastewater Treatment Plant Improvements, Project No. 06-2; and authorizing and directing the Mayor to execute the amendment on behalf of the City.

18. **PUBLIC IMPROVEMENTS: None.**

19. **MAPS:**

Approving Parcel Map No. 08-2, "Trio Land Development" and approving Subdivision Agreement.

ACTION: *Approval of Parcel Map No. 08-2, "Trio Land Development," for recording and accepting all offers of dedication on behalf of the public; and authorize the City Clerk to transmit the approved Parcel Map to the Recorder's office for filing; and approving a Subdivision Improvement Agreement between City and Developer related to Parcel Map No. 08-2, in a form approved by the City Attorney, and after the required security is provided; and authorizing and directing the Mayor to execute the Subdivision Agreement on behalf of the City.*

20. REPORTS:

Declaring certain designated property as surplus and authorizing disposition of surplus property.

ACTION: *Declaring certain designated property as surplus; and authorizing disposition of surplus property through Roger Ernst and Associates, Auctioneers.*

21. ORDINANCES (WAIVING SECOND READING):

Ordinance No. CS 903 Authorizing an Amendment to the Contract between the City of Atwater and the Board of Administration of the California Public Employees' Retirement System.

ACTION: *Waiving the second reading and adopting Ordinance No. CS 903 authorizing an Amendment to the Contract between the City of Atwater and the Board of Administration of the California Public Employees' Retirement System.*

22. CLAIMS AGAINST THE CITY: (Note to the Public: Portions of this claim have been redacted because they do not affect the City Council's ability to make a decision on the claim. The claim however, is a public document and can be made available upon request by members of the public. If you have any questions or would like to request this document, please contact the city Clerk's office at (209) 357-6300). **None.**

23. FUNDING AND BUDGET MATTERS: **None.**

24. ANNUAL PETITIONS: **None.**

PETITIONS AND COMMUNICATIONS: **None.**

PUBLIC MEETINGS/HEARINGS:

Public hearing to review Neighborhood Stabilization Program possible activities.

The public hearing for this item was opened.

No one came forward to speak at this time. The public hearing was closed for this item.

MOTION: Councilmember Crabb moved to review Neighborhood Stabilization Program possible eligible activities and accept the report. The motion was seconded by Mayor Pro Tem Frago and the vote was: Ayes: Frago, Rivero, Crabb, Faul; Noes: None; Absent: None. The motion carried.

Public hearing to amend Miscellaneous Fee Schedule to set aside Fire Business Inspection and Fire Code Permit Fees.

The public hearing for this item was opened.

City Clerk Del Real announced receipt of a written response from LON BAUGH, Atwater Automotive, opposing Fire inspection and permit fees.

No one came forward to speak at this time. The public hearing was closed for this item.

MOTION: Councilmember Crabb moved to adopt Resolution No. 2429-09 as amended, to amend Resolution No. 2235-07 Miscellaneous Fee Schedule to set aside Fire Business Inspection and Fire Code Permit Fees as of January 1, 2009 and authorizing and directing the City Manager to reimburse fees collected after January 1, 2009 for fire business inspections and fire code permits. The motion was seconded by Mayor Pro Tem Frago and the vote was: Ayes: Rivero, Frago, Crabb, Faul; Noes: None; Absent: None. The motion carried.

ORDINANCES (INTRODUCTION): None.

CITY MANAGER/EXECUTIVE DIRECTOR'S REPORTS:

May 19, 2009 Statewide Special Election.

MOTION: Councilmember Crabb moved to adopt Resolution No. 2437-09 rescinding Resolution No. 2410-08 and calling and giving notice of the holding of a Special Election to be held on Tuesday, May 19, 2009 for the purpose of filling a vacancy on the City Council for an unexpired term and requesting the Board of Supervisors of the County of Merced consolidate the special election with the Statewide Special Election to be held on the date pursuant to the Election Code. The motion was seconded by Councilmember Rivero and the vote was: Ayes: Crabb, Rivero, Frago, Faul; Noes: None; Absent: None. The motion carried.

Budget Amendment for Shaffer Road Pavement Resurfacing, Rehabilitation, and Marking project.

MOTION: Mayor Pro Tem Frago moved to adopt Resolution No. 2433-09 approving Budget Amendment No. 14 regarding Shaffer Road Pavement Resurfacing, Rehabilitation, and Marking project. The motion was seconded by Councilmember Crabb and the vote was: Ayes: Rivero, Frago, Crabb, Faul; Noes: None; Absent: None. The motion carried.

Purchase of real property located at 1501 Atwater Boulevard for future right of way.

MOTION: Councilmember Crabb moved to adopt Resolution No. 2434-09 approving the purchase of real property located at 1501 Atwater Boulevard, APN 001-122-009, for future right of way, in an amount not to exceed \$270,000; authorize the payment of escrow and closing costs in an amount not to exceed \$5,000; authorize preparation and execution of the purchase contract, escrow instructions, and any other documentation related to the purchase on behalf of the City; and authorize the City Attorney to issue a letter to the property owners stating the property purchase is under threat of eminent domain proceedings. The motion was seconded by Councilmember Rivero and the vote was: Ayes: Frago, Crabb, Rivero, Faul; Noes: None; Absent: None. The motion carried.

Low and Moderate Income Housing Set Aside Excess Surplus Plan.

MOTION: Councilmember Crabb moved to adopt Resolution No. ARA 2009-5 adopting Low and Moderate Income Housing Set Aside Excess Surplus Plan ("Excess Surplus Plan"). The motion was seconded by Mayor Pro Tem Frago and the vote was: Ayes: Crabb, Rivero, Frago, Faul; Noes: None; Absent: None. The motion carried.

COMMENTS FROM THE PUBLIC:

No one came forward to speak at this time.

CITY COUNCIL/REDEVELOPMENT BOARD OF DIRECTORS MATTERS:

Councilmember Rivero stated the City of Atwater is in a good position economically. Current projects are keeping infrastructure going, and the City will be in a good position. He also stated he was happy the City Council decided to reverse their previous decision regarding the fire inspection fees.

Mayor Pro Tem Frago reported a Special Public Safety Committee meeting will be held on Tuesday, March 10, 2009 at 8:00 AM, and a Special Public Works Committee meeting will be held on Thursday, March 12, 2009 at 4:00 PM. The Audit and Finance Committee will meet on Tuesday, March 17, 2009 at 8:00 AM. He asked for a report to be provided to each Councilmember on what has been done over the last five years regarding the Mistletoe, he stated this was not an urgency item. Mayor Pro Tem Frago also asked for a report on the timeline to cancel the Cal Fire contract be placed on the next City Council agenda for March 9, 2009.

MOTION: Mayor Pro Tem Frago moved to direct City Manager to report on timelines to cancel Cal Fire contract at the March 9, 2009 City Council meeting. The motion was seconded by Councilmember Rivero and the vote was: Ayes: Crabb, Frago, Rivero; Noes: Faul; Absent: None. The motion carried.

Councilmember Crabb stated the Amgen Bike Race was held in Merced on Wednesday, and the Merco Credit Union will host a Bike Tour on Saturday in Merced. He expressed his condolences to Woody Campini's family. He also stated he would like to see an Economic Development Committee established in Atwater, to work on bringing businesses to town.

Mayor Faul adjourned meeting in memory of Fred Worden and Woody Campini, sending prayers and condolences out to their families.

CLOSED SESSION:

Not necessary.

ADJOURNMENT:

The meeting adjourned at 8:08 PM.

JEANNA DEL REAL
CITY CLERK

By Lori Waterman