



CITY OF ATWATER

CITY COUNCIL

ACTION MINUTES

January 28, 2019

OPEN SESSION: (Council Chambers)

The City Council of the City of Atwater met in Open Session this date at 5:04 PM in the City Council Chambers located at the Atwater Civic Center, 750 Bellevue Road, Atwater, California; Mayor Creighton presiding.

ROLL CALL:

Present: City Council Members Ambriz, Cale, Vierra, Mayor Pro Tem Raymond, Mayor Creighton

Absent: None

Staff Present: City Manager Waterman, City Attorney White, Executive to the City Manager Martin

Pursuant to Government Code 36804, "if the city clerk is absent, the deputy city clerk shall act, if there is none, the mayor shall appoint one of the councilmembers as city clerk pro tempore."

Mayor Creighton announced the direct appointment of Mayor Pro Tem Raymond as City Clerk Pro Tempore, and that the City Clerk vacancy will be addressed under the agenda item as posted.

MOTION: City Council Member Vierra moved to appoint Mayor Pro Tem Raymond as City Clerk Pro Tempore. The motion was seconded by City Council Member Cale and the vote was: Ayes: Vierra, Ambriz, Cale, Raymond, Creighton; Noes: None; Absent: None. The motion passed.

CLOSED SESSION: (Conference Room A)

Mayor Creighton invited public comment on Closed Session items.

No one came forward to speak.

Mayor Creighton adjourned the meeting to Conference Room A for Closed Session at 5:06 PM. Closed Session was called to order at 5:13 PM.

CLOSED SESSION:

Adjourn to Conference Room A

- **Conference with Labor Negotiator – Government Code Section 54957.6. Agency Negotiators: City Manager Waterman, City Attorney White, and Human Resources Director Del Real; Bargaining Units: Atwater Police Officers Association; AFSCME Local 2703 – Miscellaneous Unit, Clerical Unit, and Mid-Management Unit; and Unrepresented**
- **Conference with Legal Counsel – Existing Litigation – Government Code Section 54956.9: Name of case: Richard Dean Johnson and Lori Johnson v. City of Atwater, United States Eastern District Court, Case No. 1:18-CV-00920-DAD-SAB**
- **Conference with Legal Counsel – Anticipated Litigation – Significant exposure to litigation pursuant to Government Code Section 54956.9: Number of cases: (1)**
- **Pursuant to Government Code Section 54956.8, Conference with Real Property Negotiator regarding Property Disposition. Agency Negotiator: City Manager Waterman**

Property Location: 031-164-002

Closed Session recessed to Regular Session at 6:00 PM.

REGULAR SESSION: (Council Chambers)

The City Council of the City of Atwater 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 Creighton presiding.

PLEDGE OF ALLEGIANCE TO THE FLAG:

The Pledge of Allegiance was led by City Council Member Cale.

INVOCATION:

The Invocation was led by Police Chaplain Mead.

ROLL CALL: (City Council)

Present: City Council Members Ambriz, Cale, Vierra, Mayor Pro Tem Raymond, Mayor Creighton

Absent: None

Staff Present: City Manager Waterman, City Attorney White, CAL FIRE Battalion Chief Slate, Interim Police Chief Bessinger, Police Sergeant Novetzke, Human Resources Director Del Real, Finance Director Deol, Payroll Technician Armstrong, Executive to the City Manager Martin

City Attorney White announced that the Mayor's call for a vote to ratify his appointment of City Clerk Pro Tempore was not required as Government Code Section 36804 states: "if the city clerk is absent, the deputy city clerk shall act, if there is none, the mayor shall appoint one of the councilmembers as city clerk pro tempore."

MAYOR OR CITY ATTORNEY REPORT OUT FROM CLOSED SESSION:

Mayor Creighton reported that the Closed Session agenda was not completed, no action was taken and Closed Session will reconvene following Regular Session.

SUBSEQUENT NEED ITEMS:

None.

APPROVAL OF AGENDA AS POSTED OR AS AMENDED:

MOTION: *City Council Member Vierra moved to approve the agenda as posted. The motion was seconded by City Council Member Ambriz and the vote was: Ayes: Ambriz, Vierra, Cale, Raymond, Creighton; Noes: None; Absent: None. The motion passed.*

COMMENTS FROM THE PUBLIC:

Notice to the public was read.

MARIE PICKNEY, First 5 of Merced County, spoke to announce that the "Hands On Heroes" program is accepting nominations to recognize individuals or businesses making a difference in the lives of children. The closing date for nominations is February 15, 2019.

One person spoke regarding speeding traffic at Fairway Drive and Green Sands Road near school bus stops and the entrance to a gated community.

One person spoke to remind the community that May is Police Officers Memorial month and urged the City Council to be active in the recognitions.

One person spoke regarding allegations of Brown Act violations related to several City Council Member actions in 2018. He also spoke regarding the recent ouster of the Girl Scouts Troop from the Atwater Veteran's VFW 9946 Memorial building meeting space.

One person spoke questioning the selection process of the new police chief and the internal appointment of an Atwater police officer.

City Attorney White provided an overview of the City's selection and hiring process for the position of Police Chief and confirmed conformance to the current Atwater Municipal Code.

One person spoke citing ongoing problems with motorhome parking on Angelus Court stating that the unit is expandable and blocks traffic.

No one else came forward to speak.

CONSENT CALENDAR:

Item #6 under Other Actionable Items, "City Council Reorganization/Mayor's additional Committee Assignments" was removed from the consent calendar for separate discussion and possible action.

MOTION: City Council Member Vierra moved to approve the consent calendar as amended. The motion was seconded by City Council Member Cale and the vote was: Ayes: Vierra, Cale, Ambriz, Raymond, Creighton; Noes: None; Absent: None. The motion passed.

WARRANTS

1. January 28, 2019

ACTION: Approval of warrants as listed.

MINUTES: (City Council)

2. a) Special meeting — January 3, 2019
b) Regular meeting — January 14, 2019

ACTION: Approval of minutes as listed.

MINUTES: (Community Development and Resources Commission)

3. Regular meeting, November 28, 2018

ACTION: Acceptance of minutes as listed.

TREASURER'S REPORTS:

4. a) November 30, 2018
b) December 31, 2018

ACTION: Approval of the Treasurer's Reports as presented.

OTHER ACTIONABLE ITEMS:

5. Accepting the findings and recommendations of the Merced County Civil Grand Jury and authorizing and directing the Mayor to send a letter of response (City Manager Waterman)

ACTION: Acceptance of the findings and recommendations of the Merced County Civil Grand Jury and authorizes and directs the Mayor to send a letter of response.

OTHER ACTIONABLE ITEMS:

City Council Reorganization/Mayor's additional Committee Assignments (Mayor Creighton)

- ACE Train (1 representative and 1 alternate) – Paul Creighton and Brian Raymond
- One Voice (1 representative and 1 alternate) – Paul Creighton and Danny Ambriz
- Bloss House (2 representatives) – Paul Creighton and Brian Raymond
- Christmas Parade (2 representatives) – Paul Creighton and Cindy Vierra

Mayor Creighton noted an editorial change to the assignments. One Voice representatives are Mayor Creighton and the alternate is Mayor Pro Tem Raymond. Additionally, the ACE Train representative is Mayor Creighton and the alternate is City Council Member Ambriz. These appointments were announced at the January 14, 2019 City Council meeting.

MOTION: City Council Member Vierra moved to ratify the Mayor's additional committee appointments. The motion was seconded by City Council Member Cale and the vote was: Ayes: Vierra, Cale, Raymond, Ambriz, Creighton; Noes: None; Absent: None. The motion passed.

PUBLIC HEARINGS:

Resolution approving Rate Study and adopting new rates for water and wastewater services (Finance Director Deol)

Habib Isaac, Raftelis Corporation, provided a Power Point presentation describing the historical structural deficits in the water program, as well as long

term projections for future year costs vs. revenues. The study recommends increases to the water fund by 4% each year in order to address the deficit and costs.

Albert Peche' of Peche' & Associates, provided background information regarding the 3.1 million dollar deficit in the water fund as of 2017-2018. He summarized capital costs associated with the water fund and noted that the waste water funds are very healthy.

Mayor Creighton opened the Public Hearing.

A member of the public handed City Clerk Pro Tempore Raymond seven (7) additional protests.

Two persons spoke regarding the drinking water quality and stated that their issue with increasing water rates is related to the quality of the water. Both raised several issues regarding potential health risks.

One person commented about the state regulatory agency reducing the maximum contamination levels to a measurement of parts per trillion creating removal challenges for municipalities.

One person raised questions regarding delinquent water bills going uncollected.

One person spoke regarding the lack of citizen concern for the water rate increases being addressed in this meeting.

One person raised questions related to the opportunities to have a reduced water rate schedule for seniors and those who are disabled.

One person spoke in favor of the water rate increase and finding a way to assist those who will be most negatively impacted.

Mayor Creighton closed the Public Hearing.

City Clerk Pro Tempore Raymond reported that a total of thirteen (13) written protests were received and therefore made a finding that a majority protest of property owners has not been received.

MOTION: *City Council Member Vierra moved to adopt Resolution No. 3067-19 approving Raftelis' Comprehensive Water and Wastewater Cost of Service Study dated August 8, 2018 and adopting new rates for water and wastewater services effective February 1, 2019. The motion was seconded by City Council Member Cale and the votes was: Ayes: Cale, Vierra, Ambriz, Creighton; Noes: Raymond; Absent: None. The motion passed.*

CITY COUNCIL MATTERS:

Discussion and possible action regarding the unscheduled vacancy for the position of City Clerk as a result of the resignation of Don Hyler III

MOTION: City Council Member Vierra moved to appoint Lucy Armstrong as City Clerk to fill the remainder of the term ending December 2020. The motion was seconded by Mayor Pro Tem Raymond and the vote was: Ayes: Ambriz, Vierra, Cale, Raymond, Creighton; Noes: None; Absent: None. The motion passed.

Oath of Office for newly appointed City Clerk

Mayor Creighton administered the oath of office to the newly appointed City Clerk Lucy Armstrong.

City Council Comments

City Council Member Cale recited an inspirational quote by the Reverend Dr. Martin Luther King, Jr. He also commented about his personal dedication to completely understanding the need for water rate increases.

City Council Member Ambriz offered congratulations and support to new City Clerk Armstrong. He reinforced his personal support for addressing the need to take care of our water issues.

City Council Member Vierra thanked City Council Member Cale for citing an important quote. She further expressed the importance of maintaining and providing clean water to the community.

Mayor Pro Tem Raymond thanked Don Hyler III for his role as the former City Clerk and wished him success in his new plans. He stated that while he did not support the rate increase he appreciates the great work of Raftelis Corporation. He also requested an update regarding the fire equipment replacement plan be brought to the next city council meeting.

Mayor Creighton requested that staff bring forward suggestions for returning a Planning Commission to the City of Atwater. He also stated that an audit of the City is not a bad thing and he encouraged the City to continue working with the State Assemblymember's office to secure an audit. Additionally, he asked that staff find a way to advise the community, including through the website, regarding progress related to water capital replacement projects.

CLOSED SESSION:

The City Council returned to Closed Session in Conference Room A.

Closed Session reconvened at 8:36 PM.

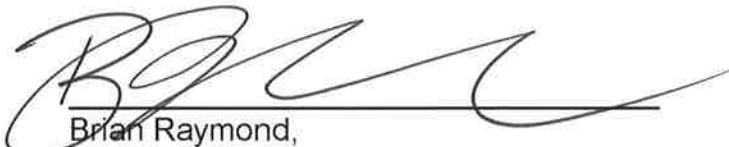
Closed Session adjourned at 9:34 PM.

MAYOR OR CITY ATTORNEY REPORT OUT FROM CLOSED SESSION:

Mayor Creighton reported that no action was taken and staff was given direction. The Closed Session agenda was completed.

ADJOURNMENT:

The meeting adjourned at 9:36 PM.

A handwritten signature in black ink, appearing to read 'Brian Raymond', written over a horizontal line.

Brian Raymond,
City Clerk Pro Tempore

By: Lesa Rasmussen
P-M Transcription Services