



CITY OF ATWATER

CITY COUNCIL (Outgoing)

ACTION MINUTES

December 10, 2018

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 Mead.

ROLL CALL:

Present: *City Council Members Creighton, Raymond, Vierra, Mayor Pro Tem Vineyard, Mayor Price*

Absent: *None*

Staff Present: *City Manager Waterman, City Attorney White, City Clerk Hyler III, Human Resources Director Del Real, Finance Director Deol, Police Sergeant Novetzke, General Services Manager/Chief Building Official Pereida, Interim Public Works Director Shaw, Recreation Supervisor Rahn, Recording Secretary Rasmussen*

SUBSEQUENT NEED ITEMS: *None.*

APPROVAL OF AGENDA AS POSTED OR AS AMENDED:

City Manager Waterman requested that the agenda be amended to administer the oaths of office to the newly elected City Council Members and well as to the newly elected Mayor prior to adjourning to the reception.

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

CEREMONIAL MATTERS:

Presentation of plaque to James Vineyard for his years of service as City Council Member to the City of Atwater

City Manager Waterman presented Mayor Pro Tem Vineyard with a plaque commemorating his years of service as City Council Member to the City of Atwater.

Presentation of plaque to James Price for his years of service as Mayor to the City of Atwater

City Manager Waterman presented Mayor Price with a plaque commemorating his years of service as Mayor to the City of Atwater.

City Manager Waterman read the Certificates of Recognition from the Merced County Board of Supervisors to Mayor Pro Tem Vineyard and Mayor Price.

COMMENTS FROM THE PUBLIC:

Notice to the public was read.

Six persons spoke congratulating newly elected City Council Members and Mayor.

Eight persons spoke thanking Mayor Pro Tem Vineyard and Mayor Price for their years of service to the City.

Two persons spoke alleging sexual harassment by Interim Police Chief Bessinger in the form of emails that were sent to several people including the City Manager; they also questioned why the City Manager failed to respond to the harassment contained in the emails.

One person spoke regarding the lack of water service to his residence.

Two persons spoke regarding the future of the Go Kart track and the PAL program; one person requested information about signing a contract for use of the Go Kart track.

One person spoke in favor of placing banners across a street in Atwater to advertise community events.

No one else came forward to speak at this time.

CONSENT CALENDAR:

Agenda item #1b under Minutes, "October 22, 2018 – Regular meeting," was removed from the consent calendar for clarification.

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

MINUTES: (City Council)

1. a) May 30, 2017 – Joint Special meeting
- c) November 13, 2018 – Regular meeting

ACTION: Approval of minutes as listed.

- b) October 22, 2018 – Regular meeting

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

MINUTES: (City Council)

October 22, 2018 – Regular meeting

Recording Secretary Rasmussen clarified the intent of action taken by City Council Members at the October 22, 2018 regular meeting related to cannabis applications by adding to the minutes in parenthesis the words "and non-dispensaries."

MOTION: City Council Member Creighton moved to approve the minutes of October 22, 2018 as clarified. The motion was seconded by Mayor Pro Tem Vineyard and the vote was: Ayes: Raymond, Vierra, Creighton, Vineyard, Price; Noes: None; Absent: None. The motion passed.

NOVEMBER 6, 2018 ELECTION RESULTS:

Resolution certifying the canvassing of votes in the November 2018 General Municipal Election (City Clerk Hyler III)

City Clerk Hyler III read into the record the results of the November 2018 General Municipal Election with Danny Ambriz as winner in District 3, Brian Raymond as winner in District 4, and Paul Creighton as winner in the Mayor's race.

MOTION: Mayor Pro Tem Vineyard moved to adopt Resolution No. 3062-18 certifying the canvassing of votes in the November 2018 General Municipal Election. The motion was seconded by Mayor Price and the vote was: Ayes: Vineyard, Vierra, Creighton, Raymond, Price; Noes: None; Absent: None. The motion passed.

CITY COUNCIL MATTERS:

Outgoing City Council comments

Mayor Pro Tem Vineyard confirmed his statement of four years ago that he would not run for a second term, and he kept that promise. He thanked his wife for her support through some difficult times. He praised staff as the backbone of the City. He thanked the citizens for affording him the privilege of serving them for four years. He confirmed that he served with dignity and respect representing the 30,000 people of the community. He thanked Mayor Price for his guidance and friendship though they did not agree on everything. And, he wished everyone a Merry Christmas.

Mayor Price acknowledged that his years of experience speaking from the podium had given him a limited view and that once he took office he quickly learned of the realities of serving on the City Council. He summarized his top three achievements while in office and cited the huge challenges that lie ahead for the City related to fiscal weakness affecting all services. He stated that despite popular claims to run the City like a business, it is just not possible. He clarified that business is in the business of making profits; cities (by law) cannot make a profit from the services that they provide to the citizens. He challenged false and erroneous statements often made during the Comments from the Public portion of meetings and advised the new City Council Members to remain attentive but non-responsible to such statements. And, he thanked his wife for her unfailing support through his term of office.

OATH OF OFFICE:

- City Council Member Danny Ambriz, District 3
- City Council Member Brian Raymond, District 4
- Mayor Paul Creighton

Adam Gray, California State Assembly Member District 21, administered the oaths of office to newly elected City Council Members Danny Ambriz and Brian Raymond, and to newly elected Mayor Paul Creighton.

ADJOURNMENT:

Mayor Creighton adjourned the meeting at 7:19 PM to a brief reception honoring the outgoing and incoming members of the City Council.



Don Hyler III, City Clerk

By: Lesa Rasmussen
Recording Secretary



CITY OF ATWATER

CITY COUNCIL (Incoming) ACTION MINUTES December 10, 2018

REGULAR SESSION: (Council Chambers)

The City Council of the City of Atwater met in Regular Session this date at 7:43 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, Raymond, Vierra, Vacant, Mayor Creighton

Absent: None

Staff Present: City Manager Waterman, City Attorney White, City Clerk Hylar III, Human Resources Director Del Real, Finance Director Deol, Police Sergeant Novetzke, General Services Manager/Chief Building Official Pereida, Interim Public Works Director Shaw, Recreation Supervisor Rahn, Recording Secretary Rasmussen

OATH OF OFFICE:

- City Council Member Danny Ambriz, District 3
- City Council Member Brian Raymond, District 4
- Mayor Paul Creighton

The oath of office was administered under a previous agenda this date.

SUBSEQUENT NEED ITEMS: *None.*

APPROVAL OF AGENDA AS POSTED OR AS AMENDED:

MOTION: City Council Member Vierra moved to approve the agenda as amended; the oath of office was administered under a previous agenda this date. The motion was seconded by City Council Member Raymond and the vote was: Ayes: Ambriz, Raymond, Vierra, Creighton; Noes: None; Absent: None. The motion passed.

COMMENTS FROM THE PUBLIC:

Notice to the public was read.

No one came forward to speak at this time.

CONSENT CALENDAR:

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

WARRANTS:

1. a) November 27, 2018
b) December 10, 2018

ACTION: Approval of warrants as listed.

AGREEMENTS:

2. Approving Master Measure V Regional Project Funding Agreement, and approving Measure V Regional Project Funding Agreement for the Winton Way Reconstruction Project – Phase I and making the finding that the Project is categorically exempt from CEQA (General Services Manager Pereida)

ACTION: Approval of Master Measure V Regional Project Funding Agreement, in a form approved by the City Attorney, with Merced County Association of Governments (MCAG), and the Measure V Regional Project Funding Agreement for the Winton Way Reconstruction Project – Phase 1 with MCAG; makes the finding that the Winton Way Reconstruction Project – Phase 1 actions are categorically exempt from CEQA; and authorizes and directs the City Manager to execute all documents on behalf of the City.

3. Awarding contract for Juniper Avenue Pedestrian and Bike Path Infill Project (General Services Manager Pereida)

ACTION: Awards a General Construction Contract, in a form approved by the City Attorney, for Juniper Avenue Pedestrian and Bike Path Infill Project, City

Project No. 14-3, to Taylor Backhoe Service, Inc. of Merced, California, in the amount of \$148,112.86; and authorizes and directs the City Manager to execute the Contract on behalf of the City.

RESOLUTIONS:

4. Amending Classification Plan and adopting Salary Schedule B-19 (City Manager Waterman and Human Resources Director Del Real)

ACTION: Adoption of Resolution No. 3063-18 amending the City of Atwater Classification Plan and adopts Salary Schedule B-19 with designated modifications to be effective December 27, 2018.

CLAIMS AGAINST THE CITY:

5. Claim No. 2018-13

ACTION: After consideration and investigation, it is staff's recommendation that Claim No. 2018-13 be rejected.

OTHER ACTIONABLE ITEMS:

6. Amending 2019 Regular Meeting Schedule

ACTION: Amends the 2019 Regular Meeting Schedule to cancel the second meeting in November and December; when regular meetings are cancelled, to authorize the Mayor and City Manager to sign any documents required to maintain essential City services. Said documents shall be reviewed by the City Attorney and be scheduled for ratification of the entire City Council at the next regularly scheduled City Council meeting.

INFORMATIONAL ITEMS ONLY (NO ACTION REQUIRED):

7. Police Department activities and projects for the month of November, 2018 (Interim Police Chief Bessinger)
8. Fire Department activities and projects for the month of November, 2018 (CAL FIRE Battalion Chief Wight)

REPORTS AND PRESENTATIONS FROM STAFF:

Authorization to proceed with Proposition 218 Notice for water and wastewater services and setting a public hearing for January 28, 2018 (City Manager Waterman and Finance Director Deol)

MOTION: City Council Member Vierra moved to authorize staff to proceed with a Proposition 218 Notice for water and wastewater services and setting a public hearing, to include information regarding the status of water quality, for

January 28, 2019. The motion was seconded by City Council Member Ambriz and the vote was: Ayes: Raymond, Vierra, Ambriz, Creighton; Noes: None; Absent: None. The motion passed.

CITY ATTORNEY REPORTS:

Discussion and possible action regarding the unscheduled vacancy on the City Council as a result of the November 6, 2018 General Municipal Election

City Attorney White reported that the City Council has two options before them to fill the vacancy; either hold a special election or appoint by majority vote of the City Council. He added that the City has sixty days in which to act to fill the vacancy.

MOTION: City Council Member Vierra moved to fill the unscheduled vacancy on the City Council by appointment utilizing an application and interview process. Applications will be accepted up to 5:00 PM on December 20, 2018. Interviews will be held during a Special Meeting on December 20, 2018 at 5:30 PM in City Council Chambers located at the Atwater Civic Center, 750 Bellevue Road, Atwater, California. The motion was seconded by City Council Member Ambriz and the vote was: Ayes: Vierra, Ambriz, Raymond, Creighton; Noes: None; Absent: None. The motion passed.

CITY COUNCIL MATTERS:

City Council comments

City Council Member Ambriz thanked the voters of District 3 for all their support and to his family in Fresno for their support.

City Council Member Vierra congratulated the newly elected members of the City Council. She thanked outgoing Mayor Price and Mayor Pro Tem Vineyard for their years of service to the City. She requested information regarding parks redevelopment be brought to the City Council for possible use upgrading the current parks in the City. She wished everyone a Merry Christmas and Happy Holidays.

City Council Member Raymond praised his opponent for running a good, clean campaign. He thanked friends and family for their support in the campaign and the voters for returning him to another four years of service as their City Council Member. He congratulated Merced County District 3 Supervisor McDaniel for his election and return to service on the Merced County Board of Supervisors. He also congratulated Danny Ambriz on his recent election to the City Council. He noted that it may be important to set up a vehicle replacement plan in conjunction with an enterprise-type fund for use only on fire fleet replacement. And, he announced the recent passing of Atwater Police Lieutenant Chuck Balch (retired) of Atwater.

Mayor Creighton asked for an update regarding the current balance of funds available for park renovations. He congratulated the newly elected City Council Members. He praised the recent Christmas Parade sponsored by the Atwater Chamber of Commerce and the downtown businesses for their lighting project in conjunction with the parade. He thanked California State Assemblymember Gray, representing District 21, for administering the oaths of office to the newly elected City Council Members. He thanked Mike Murphy, Mayor of Merced, and Supervisors Darin McDaniel and Lee Lor of the Merced County Board of Supervisors for attending and supporting tonight's meeting. He stressed that going forward the City Council will focus on positive progress.

CLOSED SESSION: (Conference Room A)

Mayor Creighton invited public comments on Closed Session items.

No one came forward to speak.

Mayor Creighton adjourned the meeting to Conference Room A for Closed Session at 8:17 PM. Closed Session was called to order at 8:41 PM.

Conference with Legal Counsel – Existing Litigation – Government Code Section 54956.9(a): Name of case: Frank Johnson vs. City of Atwater, Case No. 18CV-03533

Conference with Legal Counsel – Existing Litigation – Government Code Section 54956.9(d)(1): Name of case: Martin Trujillo-Perez et al. vs. David Walker et al., Case No. 18CV-04553

Conference with Legal Counsel – Anticipated Litigation – Significant exposure to litigation pursuant to Government Code Section 54956.9(d)(2): Number of cases: (1)

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

Pursuant to Government Code Section 54956.8, Conference with Real Property Negotiator regarding Property Disposition. Agency Negotiator: City Manager Waterman

Property Locations: APN 056-241-005
 APN 056-330-016
 APN 056-330-034
 APN 003-180-012

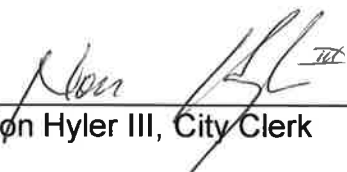
Closed Session adjourned at 10:23 PM.

MAYOR OR CITY ATTORNEY REPORT OUT FROM CLOSED SESSION:

City Attorney White reported that no action was taken and staff was given direction. The Closed Session agenda was completed.

ADJOURNMENT:

Mayor Creighton adjourned the meeting at 10:26 PM.



Don Hyler III, City Clerk

By: Lesa Rasmussen
Recording Secretary