



CITY OF ATWATER

CITY COUNCIL

ACTION MINUTES

February 11, 2019

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 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 (5:01 PM), Interim Public Works Director Shaw, Deputy City Clerk/Executive to the City Manager Martin*

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 5:02 PM. Closed Session was called to order at 5:05 PM.

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 54957, Public Employee Appointment: Police Chief

Conference with Legal Counsel – Anticipated Litigation – Significant exposure to litigation pursuant to Government Code Section 54956.9: Number of cases: (3)

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

Property Locations: APN 031-164-002
 A portion of APN 056-241-005
 APN 056-330-016
 APN 056-330-034

Closed Session adjourned at 5:55 PM.

REGULAR SESSION: (Council Chambers)

The City Council of the City of Atwater met in Regular Session this date at 6:01 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 Vierra.

INVOCATION:

The Invocation was led by Pastor Motz.

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, CAL FIRE Battalion Chief Slate, Human Resources Director Del Real, General Services Manager/Chief Building Official Pereida, Deputy City Clerk/Executive to the City Manager Martin

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.

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

APPROVAL OF AGENDA AS POSTED OR AS AMENDED:

City Manager Waterman announced that Merced County District 3 Supervisor McDaniel is not in attendance and will not be making a presentation at tonight's meeting. The presentation will be moved to the next regular City Council meeting of February 25, 2019.

MOTION: *City Council Member Raymond moved to approve the agenda as amended. The motion was seconded by City Council Member Vierra and the vote was: Ayes: Ambriz, Cale, Raymond, Vierra, Creighton; 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 unable to attend, and this item was moved to the next regular City Council meeting of February 25, 2019.

COMMENTS FROM THE PUBLIC:

Notice to the public was read.

Jeremy Rahn, CAL FIRE Division Chief, introduced himself as the new Division Chief for the City of Atwater.

One person spoke regarding properties throughout the city that create a public nuisance including behavioral nuisances, and suggested utilizing an ordinance used by the city of Fresno to address similar issues in the City of Atwater.

One person spoke requesting information about water service receipts for payment and questioned when their water service would be restored.

City Attorney White responded that once a water bill is paid in full the water is restored. He offered to be present at the date and time where the past due bill is being paid in full, along with the City Manager and the Mayor and anyone else the payer may wish to have present to view the transaction.

One person spoke regarding the new water rates and its impact to senior citizens and disabled persons. He suggested including a request for funds to "help out a senior" in the City water bill.

No one else came forward to speak.

CONSENT CALENDAR:

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

WARRANTS

1. February 11, 2019

ACTION: Approval of warrants as listed.

MINUTES: (City Council)

2. January 28, 2019 – Regular meeting

ACTION: Approval of minutes as listed.

PUBLIC HEARINGS:

Ordinance approving the Aegle Commodities, Inc. Development Agreement regarding Cannabis Business Pilot Program; property location 240 Airpark Road, Atwater (City Attorney White)

City Attorney White provided an overview of the Aegle Commodities, Inc. Development Agreement and Ordinance No. CS 1002 as presented. He cited the minimum contribution to the City at \$10,000 per month or 5% of gross revenue whichever is greater. He added that any revenue generated by the three year contract for manufacturing and associated distribution services will not be considered recurring funds, and therefore will only be used to pay off the City's debt and increase the Reserve Fund.

Mayor Creighton opened the Public Hearing.

BART BARRINGER, representing Aegle Commodities Inc., introduced himself and offered to answer any questions from the City Council or the community.

One person spoke in favor of including a youth prevention and education element in the Development Agreement.

City Attorney White clarified that an education and prevention component can be added at a later date.

One woman asked for a definition of the content of the ordinance.

Attorney White responded that the Development Agreement is ordinance.

One person asked if the only tax being placed on the cannabis businesses is the public benefit tax. He noted there seems to be a contradiction in the Development Agreement regarding the use of the public benefit funds collected related to impacts to the City.

No one else came forward to speak.

Mayor Creighton closed the Public Hearing.

MOTION: *Mayor Pro Tem Raymond moved to waive the first reading and introduce Ordinance No. CS 1002 approving a Development Agreement, in a form approved by the City Attorney, with Aegle Commodities, Inc., Cannabis Business Pilot Program Tracking No. 04-262-18, property location 240 Airpark Road, Atwater; and to authorize and direct the City Manager to execute the Agreement on behalf of the City. The motion was seconded by City Council Member Cale and the vote was: Ayes: Vierra, Ambriz, Raymond, Cale, Creighton; Noes: None; Absent: None. The motion passed.*

Ordinance approving the Bang Mingo, LLC Development Agreement regarding Cannabis Business Pilot Program; property location 1780 Bell Lane, Atwater (City Attorney White)

City Attorney White provided an overview of the Bang Mingo, LLC Development Agreement and Ordinance No. CS 1003 and clarified that this particular Agreement differs from the previously considered Agreement in that it has both a retail customer facing component as well as dispensary and cultivation activities. The minimum contribution to the City is increased and graduated to \$15,000 per month in the first year, \$25,000 a month in the second year, and \$40,000 per month in the third year. He added that the 5% of gross revenue or the stipulated amounts, whichever is high, will still apply.

Mayor Creighton opened the Public Hearing.

Mark Yandow, President of Bang Mingo, LLC reported that they anticipate a grand opening on April 20, 2019 and will be hiring approximately fifteen people.

One person spoke against approving cannabis businesses in the community.

One person spoke citing that the Development Agreement does not include a component for youth education and prevention programs. He urged that it be included.

One person questioned whether there will be odors coming from the manufacturing facilities.

One person questioned the distance of the manufacturing facilities to the school located in the area.

One person asked if a traffic study was done related to the parking area in front of Tractor Supply. It is frequently used as a cut off for through traffic.

City Attorney White stated for the record that staff determined that the traffic impact would not be greater than previously approved for that area.

No one else came forward to speak.

Mayor Creighton closed the Public Hearing.

MOTION: *City Council Member Cale moved to waive the first reading and introduce Ordinance No. CS 1003 approving a Development Agreement, in a form approved by the City Attorney, with Bang Mingo, LLC, Cannabis Business Pilot Program Tracking No. 12-262-18, property location 1780 Bell Lane, Atwater; and to authorize and direct the City Manager to execute the Agreement on behalf of the City. The motion was seconded by City Council Member Ambriz and the vote was: Ayes: Raymond, Cale, Vierra, Ambriz, Creighton; Noes: None; Absent: None. The motion passed.*

CITY MANAGER REPORTS/UPDATES:

Resolution amending City of Atwater Classification Plan and adopting Salary Schedule C-19; and determining the mechanism for delivery of Information Technology Services

City Manager Waterman provided background information regarding historical and ongoing Information Technology issues at the City. She further provided an overview of the Classification Plan and Salary Schedule C-19 and summarized the mechanism for delivering Information Technology Services for the City and the fiscal impacts to the budget. She also reported the changes to the Police Chief position as it interacts with the Human Resources Department and Human Resources Director regarding all personnel matters including investigations.

Two persons spoke representing a firm that previously bid and received verbal approval to provide IT services to the City. They questioned why their proposal and verbal award had not been acted upon. They also cited that their bid included all of the services included in the request currently being considered, but at about \$100,000 less per year. They asked why it is necessary to potentially go back out to RFP again.

City Attorney White clarified that the previous bid was never formally awarded and that a new RFP would be necessary due to the value of the contract. He suggested that City Council members may wish to create the position but not fund the position at this time.

One person asked if there will be staff available to assist the IT Manager. He also requested that the City Council please take into consideration the long term impacts related to PERS obligations.

MOTION: Mayor Pro Tem Raymond moved to adopt Resolution No. 3070-19 amending the City of Atwater Classification Plan and adopting Salary Schedule C-19 with the designated modification to be effective February 21, 2019 with the stipulation that IT Manager position created, but not be funded at this time. The motion was seconded by City Council Member Vierra and the vote was: Ayes: Vierra, Raymond, Ambriz, Cale, Creighton; Noes: None; Absent: None. The motion passed.

Ratification of Police Chief Employment Agreement

City Manager Waterman summarized the process for selection of the Police Chief. She further reported that the selection process yielded a highly qualified candidate to assume the role of Police Chief for the City of Atwater and recommended that the City Council ratify the Employment Agreement with Michael Salvador.

City Attorney White stated for the record that the City Council only ratifies the Employment Agreement of the Police Chief, and the City Manager is responsible to hire the Police Chief.

MOTION: City Council Member Vierra moved to ratify the Police Chief Employment Agreement, in a form to be approved by the City Attorney, with Michael Salvador, and to authorize and direct the City Manager to execute the Agreement on behalf of the City. The motion was seconded by Mayor Pro Tem Raymond and the vote was: Ayes: Cale, Vierra, Raymond, Ambriz, Creighton; Noes: None; Absent: None. The motion passed.

Mayor Creighton introduced Michael Salvador as the new Police Chief for the City of Atwater.

Chief Salvador thanked City Manager Waterman for his selection and the City Council for approving the contract. He summarized his 30 year career experience in law enforcement and expressed his desire to bring stability to the police force and return confidence to the community.

Discussion and possible action regarding dissolving the Community Development and Resources Commission

James Murphy III, Chairperson of the Community Development and Resources Commission commented that going to a Planning Commission-only format may preclude citizens who work from serving and attending daytime meetings. He expressed his preference for keeping the CDRC and provide current CDRC member with training.

Mary McWatters, Commissioner of the Community Development and Resources Commission expressed her disappointment at not being included or involved in the consideration for dissolution of the Commission.

One person pointed out that the reason for starting a CDRC was to consolidate multiple commissions and reduce staff time and save money. He also cited the historic issues with individual commissions not sharing information needed to make decisions within their jurisdiction. He urged keeping the CDRC.

The City Council directed staff to bring to a future agenda an item to dissolve the Community Development and Resources Commission, establish a Planning Commission and recommend that the Planning Commission consist of five members.

CITY COUNCIL MATTERS:

City Council comments

City Council Member Cale welcomed Police Chief Salvador to the City of Atwater. He congratulated the Atwater High School Girls Wrestling Team and the Girls Basketball Teams for winning the Central California Conference Championship.

City Council Member Ambriz also congratulated Police Chief Salvador on his selection. He summarized his own IT experience and his reason for wanting more research related to the IT needs in the City. He wished his sister-in-law a Happy Birthday.

Mayor Pro Tem Raymond asked that the ordinance governing food trucks in the City of Atwater be reviewed for possible amendment to allow food trucks in the City of Atwater.

City Council Member Vierra congratulated her son on graduating from the Stanislaus County Regional Center Police Academy. She also congratulated Police Chief Salvador on his selection and wished him good luck.

Mayor Creighton thanked Pastor Motz for providing the Invocation. He thanked everyone for their discussion and their opinions regarding items on the agenda. He also announced the opening of the Tulare County Farm Show. He wished everyone a Happy Valentine's Day. He also congratulated the Atwater High School Girls teams for their amazing achievements. He welcomed new Police Chief Salvador. He asked for a moment of silence in remembrance of the police officers that have been lost and those who continue to serve to protect us.

CLOSED SESSION:

Continuation of Closed Session was not necessary.

ADJOURNMENT:

The meeting adjourned at 8:08 PM.



Janell Martin, Deputy City Clerk

By: Lesa Rasmussen
P-M Transcription Services