



CITY OF ATWATER

CITY COUNCIL ACTION MINUTES

February 12, 2018

OPEN SESSION: (Council Chambers)

The City Council of the City of Atwater met in Open Session this date at 5:30 PM in the City Council Chambers located at the Atwater Civic Center, 750 Bellevue Road, Atwater, California; Mayor Price presiding.

ROLL CALL:

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

Absent: *None*

Staff Present: *Interim City Manager de Werk, City Attorney Terpstra, Recording Secretary Rasmussen*

CLOSED SESSION: (Conference Room A)

Mayor Price invited public comments on Closed Session items.

No one came forward to speak.

Mayor Price adjourned the meeting to Conference Room A for Closed Session at 5:36 PM. Closed Session was called to order at 5:39 PM.

Conference with Labor Negotiator - Government Code Section 54957.6. Agency Negotiators: Interim City Manager de Werk and Human Resources Director Del Real; Bargaining Unit: Atwater Police Officers Association

Closed Session adjourned at 6:09 PM.

REGULAR SESSION: (Council Chambers)

The City Council of the City of Atwater met in Regular Session this date at 6:13 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 City Council Member Raymond.

ROLL CALL:

Present: City Council Members Creighton, Raymond, Vierra, Mayor Pro Tem Vineyard, Mayor Price
Absent: None
Staff Present: Interim City Manager de Werk, City Attorney Terpstra, City Clerk Hyler III, City Treasurer Heller, CAL FIRE Battalion Chief Wight, Human Resources Director Del Real, Interim Public Works Director Shaw, Recreation Supervisor Rahn, Interim Community Development Director Waterman, Finance Director Deol, Recording Secretary Rasmussen

MAYOR OR CITY ATTORNEY REPORT OUT FROM CLOSED SESSION:

City Attorney Terpstra 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:

MOTION: Mayor Pro Tem Vineyard moved to approve the agenda as posted. 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.

CEREMONIAL MATTERS:

Marines of the Central California Veterans to present the U.S. Marines Combat Fighting Knife to the City of Atwater for their continued support of veterans and observance of the 242nd Birthday of the United States Marine Corps. (Mayor Price)

Gary Brice representing the Marines of the Central California Veterans presented the U.S. Marines Combat Fighting Knife to the City of Atwater.

Mayor Price commented that it was an honor to receive the symbol of the Marines fighting strength and contributions to America. He praised the work of the Central California Veterans and thanked Gary Brice for presenting the recognition.

PRESENTATIONS:

Monthly verbal report by Merced County District 3 Supervisor McDaniel

Supervisor McDaniel was absent.

Report by Scott Malta

Scott Malta, Castle Airport Manager, clarified the use and regulation of drones in the City and around Castle Airport in his Power Point presentation. He discussed the FFA rules regarding drones, the dangers drones present to manned aircraft and some of the contributions that drones make to policing, medical applications, rescue situations, and fire incident command.

COMMENTS FROM THE PUBLIC:

Notice to the public was read.

GLORIA PEREZ, Atwater, asked the City Council members to assist in finding a project for the LOVE ATWATER program. She stated that many volunteers are ready to serve and the resources are available; all they need is a project. The group will meet on April 28, 2018 at Ralston Park to rally before working on the project. Everyone should meet from 8:00 AM to 12 noon.

JERRY MOORE, Atwater, asked about the Measure V funds and when will Atwater get some funding to address the street issues in Atwater.

Mayor Price responded that the repair work in several areas has already been engineered and the costs far exceed current funds available in the Measure V apportionment. He noted that SB1 money should be coming soon and combined with the Measure V funds, the projects may finally get going. He also stated that some State funds may be available but gave no timeline for projects' completion.

PASTOR YSIDRO DELGADO, Atwater, presented a plaque to Interim City Manager Art de Werk welcoming him to the community.

DANNY HERNANDEZ, Atwater, questioned the dismissal of Police Chief Joseph, and the manner in which it was done. He further requested the removal of the Interim City Manager.

LARRY LEE, Atwater, spoke about the dismissal of Police Chief Joseph citing the historical background of past Chief's having the benefit of multiple layers of support; none of which Police Chief Joseph received due to circumstances beyond the City's control.

ALBERT NORTHLY III, Atwater, raised questions about the possibility of Atwater adopting a policy that allows dispensaries for marijuana in the City of Atwater. He cited the revenue that could be gained from such a policy.

JEANNE KNIGHT, Atwater, spoke about the dismissal of Police Chief Joseph and noted the Atwater Police Officers Association vote of no confidence that preceded the dismissal.

DAVE SARGINSON, Atwater, President of the Atwater Police Officers Association, read a statement that had also been released to the media regarding the timing, the members in attendance and the vote count regarding their vote of no confidence in Police Chief Joseph.

No one else came forward to speak.

Mayor Price called a recess at 7:19 PM.

The City Council returned to the dais and Mayor Price resumed the meeting at 7:30 PM.

CONSENT CALENDAR:

Agenda Item #1 under Warrants, "February 12, 2018," was removed from the consent calendar for separate discussion and possible action.

Agenda Item #5 under Agreements, "Approving Lease and Operating Agreements with Atwater Historical Society for use of Bloss House and grounds," was removed from the consent calendar for separate discussion and possible action.

Agenda Item #9 under Resolutions, "Authorizing the issuance of Wastewater Revenue Bonds; authorizing and directing execution of an Indenture of Trust, Continuing Disclosure Agreement, Escrow Agreements and a Bond Purchase Contract; authorizing the sale of bonds; approving an Official Statement; and providing other matters properly relating thereto," was removed from the consent calendar for separate discussion and possible action.

Agenda Item #13 under Informational Items Only (No Action Required), "Water Well Levels for the month of January 2018 and Water Well Levels for calendar year 2017," was removed from the consent calendar for separate discussion.

MOTION: City Council Member Creighton moved to approve the consent calendar as amended. The motion was seconded by City Council Member

Raymond and the vote was: Ayes: Raymond, Creighton, Vineyard, Vierra, Price; Noes: None; Absent: None. The motion passed.

WARRANTS:

1. February 12, 2018

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

MINUTES: (City Council)

2. Regular meeting, January 8, 2018

ACTION: Approval of minutes as listed.

MINUTES: (Community Development and Resources Commission)

3. Regular meeting, November 15, 2017
Special meeting, January 4, 2018

ACTION: Acceptance of minutes as listed.

AGREEMENTS:

4. Approving Atwater Police Activities League Agreement and Validation of Certificates of Liability Insurance and adopting Resolution No. 3015-18

ACTION: Adoption of Resolution No. 3015-18 approving the Lease Agreement and Validation of Certificates of Liability Insurance, in a form approved by the City Attorney, with the Atwater Police Activities League, and authorizes and directs the Interim City Manager to execute the Agreement on behalf of the City.

5. Approving Lease and Operating Agreements with the Atwater Historical Society for use of Bloss House and grounds (Recreation Supervisor Rahn)

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

6. Awarding a cooperative purchase agreement for purchase of one (1) new 2018 Vermeer SC60TX Stump Cutter (Interim Public Works Director Shaw)

ACTION: Awards a cooperative purchase agreement, in a form approved by the City Attorney, to Vermeer RDO Equipment Company, Fowler, California, for the purchase of one (1) new 2018 Vermeer SC60TX Stump Cutter in an amount not to exceed \$58,742.80; and authorizes and directs the Interim City Manager to execute the purchase agreement on behalf of the City.

ORDINANCES (WAIVING SECOND READING AND ADOPTION:

7. Waiving the second reading and adopting Ordinance No. CS 992 amending Chapter 12.32 of the Atwater Municipal Code entitled "Trees" (Interim Community Development Director Waterman)

ACTION: Waives the second reading and adopts Ordinance No. CS 992 amending Chapter 12.32 of the Atwater Municipal Code entitled "Trees".

RESOLUTIONS:

8. Accepting ownership transfer of 2007 Cargo Trailer from Merced County Fire Department to City of Atwater Police Department (Interim Police Chief Echevarria)

ACTION: Adopts Resolution No. 3014-18 accepting ownership transfer of 2007 Wells Fargo Cargo Trailer, Model RF7162 (VIN #1W4200G2177015438) from Merced County Fire Department to the City of Atwater Police Department.

9. Authorizing the issuance of Wastewater Revenue Refunding Bonds; authorizing and directing execution of an Indenture of Trust, Continuing Disclosure Agreement, Escrow Agreements and a Bond Purchase Contract; authorizing the sale of bonds; approving an Official Statement; and providing other matters properly relating thereto (Finance Director Deol)

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

INFORMATIONAL ITEMS ONLY (NO ACTION REQUIRED:

10. Police Department activities and projects for the month of January, 2018 (Interim Police Chief Echevarria)
11. Police Volunteer activities for the month of January, 2018 (Police Volunteer Vineyard)
12. Fire Department activities and projects for the month of January, 2018 (CAL FIRE Battalion Chief Wight)
13. Water Well Levels for the month of January, 2018 and Water Well Levels for calendar year 2017 (Interim Public Works Director Shaw)

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

WARRANTS:

February 12, 2018

LINDA DASH, Atwater, expressed her gratitude for the prompt response she received from the Interim City Manager regarding her questions. She further stated her concern for the amount of money being paid to the City Attorney and asserted that the financial strains on the City are too great to continue paying that much money for a City Attorney. She also lodged a complaint about cell phone use during the meeting.

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

AGREEMENTS:

Approving Lease and Operating Agreements with Atwater Historical Society for use of Bloss House and grounds (Recreation Supervisor Rahn)

Mayor Pro Tem Vineyard invited Atwater Historical Society (AHS) President, Greg McDaniel, to provide a brief history of the relationship between the City of Atwater and the Bloss House.

GREG McDANIEL, President of the Atwater Historical Society (AHS), described that for many years the City of Atwater has maintained control of the maintenance and operations of Bloss House. However, due to recent financial shortfalls, maintenance has been infrequent. The AHS requests to take over the maintenance and operations of the Bloss House and grounds and the new Lease and Operating Agreements are beneficial to both the "Society" and the "City". Security has also become an issue and they are planning to erect a fence around Bloss House and the grounds.

Mayor Pro Tem Vineyard praised the AHS for their many accomplishments and suggested that selling sections of the fence may be a way to raise funds for the project. He prefers a longer lease like a three or five year lease and Operating Agreement.

City Council Member Vierra expressed concern for the height of the fence being six feet tall and that some of the home's fixtures have been removed and need to be replaced. She also questioned access to the public with a fence in place.

GREG McDANIEL responded that access to the public will be protected and there are many possibilities to make that happen.

City Council Member Raymond asked about how property taxes will be paid since the City retains ownership of the property; will the City continue to pay the property taxes.

City Attorney Terpstra answered that the tax will remain unchanged, since the ownership is not being transferred.

Mayor Price commented that he also would like to see a longer term on the Lease and Operating Agreements. He would be happy to make that happen if the "Society" wanted that too.

City Attorney Terpstra advised that the terms of the Lease and Operating Agreements are typical for commercial property and that no contradictions exist in the current lease.

City Council Member Creighton referred to the Bloss House as "our museum". He praised AHS for their volunteer work. He also stated that he was in favor of approving the lease and continuing the great partnership.

MOTION: City Council Member Creighton moved to approve the Lease Agreement and Operating Agreement, in a form approved by the City Attorney, with the Atwater Historical Society for the use of the Bloss House and grounds; and authorizes and directs the Interim City Manager to sign the Agreements on behalf of the City. The motion was seconded by City Council Member Vierra. Mayor Pro Tem Vineyard moved a subsequent motion to extend the term of the Lease under item number two (2) of the Lease document to three (3) years with an option to renew the Lease for an additional three (3) years. The motion was seconded by City Council Member Raymond and the vote was: Ayes: Creighton, Raymond, Vierra, Vineyard, Price; Noes: None; Absent: None. The motion passed.

RESOLUTIONS:

Authorizing the issuance of Wastewater Revenue Refunding Bonds; authorizing and directing execution of an Indenture of Trust, Continuing Disclosure Agreement, Escrow Agreements and a Bond Purchase Contract; authorizing the sale of bonds; approving an official statement, and providing other matters properly relating thereto (Finance Director Deol)

Albert Pech'e, A & M Pech'e and Associates, LLC, provided a brief Power Point presentation describing how the report was prepared and the overall potential savings to the City.

MOTION: Mayor Pro Tem Vineyard moved to adopt Resolution No. 3013-18 authorizing the issuance of not to exceed \$18,000,000 in the principal amount of Wastewater Revenue Refunding Bonds (the "2018" Bonds) and authorizing the execution of an Indenture of Trust, Continuing Disclosure Agreement, Escrow

Agreements, Bond Purchase Contract and form of the Official Statement required for the refinancing of the 2008 Wastewater Revenue Bonds. The motion was seconded by City Council Member Vierra and the vote was: Ayes: Creighton, Raymond, Vineyard, Vierra, Price; Noes: None; Absent: None. The motion passed.

INFORMATIONAL ITEMS ONLY (NO ACTION REQUIRED):

Water Well Levels for the month of January 2018 and Water Well Levels for calendar year 2017 (Interim Public Works Director Shaw)

Mayor Pro Tem Vineyard expressed concern about watering restrictions and cautioned residents that the drought is not over. He urged everyone to continue conserving since the ground water levels have not come up.

Mayor Price stated that the affects of unimpeded water flow will dramatically affect our lakes as levels will be down. He emphasized that restrictions need to remain in place.

PUBLIC HEARINGS:

Waiving first reading and introducing Ordinance No. CS 993 amending Chapter 2.0 of the Atwater Municipal Code entitled "City Parks," Title 12 "Streets, Sidewalks and Public Places", Section 12.08.010 "Prohibited Hours" (Interim Public Works Director Shaw)

Interim Public Works Director Shaw gave a brief report on the need to incorporate all of the City of Atwater parks, and any future parks, into the ordinance to ensure that all parks have consistent hours of access and restriction.

Mayor Price asked how the parks would be secured and would they be gated.

Interim Public Works Director Shaw responded that he is working with the Police Department to secure the parks with gates and posting of signs.

Mayor Pro Tem Vineyard asked about the hours by which existing programs will be permitted access, citing that some youth programs extend beyond the proposed hours.

Interim Public Works Director Shaw replied that permitted programs can already be there later by Ordinance.

City Council Member Creighton commented that more education to the public needs to be done about staying out of the parks past posted hours.

Mayor Price opened the public hearing.

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

MOTION: Mayor Pro Tem Vineyard moved to waive the first reading and introduce Ordinance No. CS 993 amending Chapter 2.0 of the Atwater Municipal Code entitled "City Parks", Title 12 "Streets, Sidewalks and Public Places", Section 12.08.010 "Prohibited Hours". The motion was seconded by Mayor Price and the vote was: Ayes: Vierra, Vineyard, Creighton, Raymond, Price; Noes: None; Absent: None. The motion passed.

Declaring the City's intent to convey City owned real property located at 3116 Virginia Street (Interim Community Development Director Waterman)

Mayor Price opened the public hearing.

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

MOTION: City Council Member Vierra moved to adopt Resolution No. 3011-18 conveying City owned real property located at 3116 Virginia Street, Assessor's Parcel No. 150-065-010. The motion was seconded by Mayor Pro Tem Vineyard and the vote was: Ayes: Raymond, Creighton, Vineyard, Vierra, Price; Noes: None; Absent: None. The motion passed.

INTERIM CITY MANAGER REPORTS/UPDATES:

Verbal update regarding a Consultant for the Police Management Audit

Two potential consultants have been identified; however, both declined the project. Recruitment of another potential consultant is being pursued.

Verbal update regarding proposed reorganization of the Community Development and Resources Commission

Staff has been investigating the dissolution of the Community Development and Resources Commission; however, there are a number of high priority projects that staff are also working on. He suggested postponing any further discussion for at least six weeks.

REPORTS AND PRESENTATIONS FROM STAFF:

Verbal update regarding Business Licenses (Chief Building Official Pereida)

Chief Building Official Pereida reported that he discovered ten (10) business license applications had not been processed adequately and he took the necessary action to cure the problem and avoid any future recurrence.

CITY COUNCIL MATTERS:

City Council comments

Mayor Pro Tem Vineyard commented that WinCo was recently lost in Merced due to community unrest and maybe Atwater could garner that retail business. He stated that he has received many calls regarding yard sales and citizens are unhappy that they are happening too often. He suggested a return to an annual permitting process that is fair to all.

Interim City Manager de Werk responded that staff will work on the potential for pursuing WinCo, and will also look at updating the Ordinance regarding yard sales.

City Council Member Creighton praised the work of the Atwater Historical Society and looks forward to many future events at the location.

City Council Member Vierra encouraged all citizens to contact the members of the City Council with any questions or concerns. She urged that everyone give the Interim City Manager a chance.

City Council Member Raymond had nothing to report.

Mayor Price thanked Jack Mobley for his invitation to attend the Faith Bible Church and participate as a judge in the food competition. He also stated that ACE train meetings have taken place; the train currently runs from Stockton and Atwater is pursuing a route for the train to come to Merced (via an Atwater station). However, Atwater is in competition with the City of Livingston for the station location. He asked Interim Public Works Director Shaw about the progress on replacing dividing lines on Winton Way.

Interim Public Works Director Shaw replied that work will begin next week and that they will be installing yellow reflective buttons for a longer lasting effect and making the lane divisions safer.

Mayor Price thanked everyone for their condolences on the recent passing of his brother from cancer.

CLOSED SESSION:

Continuation of Closed Session was not necessary.

ADJOURNMENT:

The meeting adjourned at 8:55 PM in the memory of William "Bill" Garrison.



DON HYLER III, CITY CLERK

By: Lesa Rasmussen,
Recording Secretary