



CITY OF ATWATER

CITY COUNCIL

ACTION MINUTES

February 25, 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 Member Vierra, Mayor Pro Tem Raymond, Mayor Creighton

Absent: City Council Members Ambriz, Cale

Staff Present: City Attorney White, Deputy City Clerk/Executive to the City Manager Martin

Mayor Creighton stated for the record that both City Council Members Ambriz and Cale were in a meeting with the City Manager in her office at the time of roll call.

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 5:01 PM. Closed Session was called to order at 5:09 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

Conference with Legal Counsel – Existing Litigation – Government Code Section 54956.9: Name of case: Lori Johnson and Richard Johnson v. City of Atwater, et al. Case No. 19CV-00272

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

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 6:00 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 Mayor Pro Tem Raymond.

INVOCATION:

The Invocation was led by Pastor Alfred Perez.

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, Police Chief Salvador, Police Sergeant Novetzke, Finance Director Deol, Deputy City Clerk/Executive to the City Manager Martin

MAYOR OR CITY ATTORNEY REPORT OUT FROM CLOSED SESSION:

City Attorney White reported that, by unanimous vote, the City Council has authorized the City Attorney's office to initiate litigation against the State of California Bureau of Cannabis Control. The Closed Session agenda was completed.

SUBSEQUENT NEED ITEMS:

None.

APPROVAL OF AGENDA AS POSTED OR AS AMENDED:

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

CEREMONIAL MATTERS:

Certificate of Recognition – Atwater High School Girls' Varsity Basketball Team

Mayor Creighton and City Council Member Cale presented certificates of recognition to the Atwater High School Girls' Varsity Basketball Team and the coaches for their Central California Conference 2019 championship.

Certificate of Appreciation – Interim Police Chief Bessinger

Mayor Creighton announced a certificate of appreciation to outgoing Interim Police Chief Bessinger for his service to the City. Interim Police Chief Bessinger was unable to attend the ceremonies.

Oath of Office – Police Chief Salvador

Mayor Creighton administered the ceremonial oath of office to the newly appointed Police Chief, Michael Salvador.

Mayor Creighton called a recess at 6:28 PM. The City Council returned to the dais and Mayor Creighton resumed the meeting at 6:54 PM.

COMMENTS FROM THE PUBLIC:

Notice to the public was read.

James Murphy III, Chairman of the Atwater Community Development and Resources Commission, praised City Manager Waterman and City staff for their prompt response to fill the vacancies on the Commission enabling the Commission to complete the business in a fast and efficient manner.

One person spoke alledging illegal activities of a past City Manager and an Atwater police officer.

One person spoke to invite the public and the City Council to celebrate the 70th anniversary of the Atwater Veterans of Foreign Wars. The event will take place on April 6, 2019 from 12:00 PM to 5:00 PM at the Atwater VFW Hall located at 1390 Broadway Avenue. He also spoke against personal attacks coming through the veil of "public comment" and urged that the practice stop.

One person spoke regarding a proposed gas station to be located on Elm Avenue and Winton Way. She urged the City Council to reject the application when it comes before them since the area is already saturated with gas stations. She also cited multiple accidents at that location and a new gas station will present a danger to the community.

No one else came forward to speak at this time.

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: Cale, Vierra, Raymond, Ambriz, Creighton; Noes: None; Absent: None. The motion passed.

WARRANTS:

1. February 25, 2019

ACTION: Approval of warrants as listed.

TREASURER'S REPORT:

2. January 31, 2019

ACTION: Acceptance of report as listed.

RESOLUTIONS:

3. Authorizing grant application submittal to San Joaquin Valley Air Pollution Control District for the Public Benefit Grant Program (Police Chief Salvador)

ACTION: Adoption of Resolution No. 3072-19 authorizing grant application submittal to the San Joaquin Valley Air Pollution Control District for the Public Benefit (New Alternative Fuel Vehicle Purchase) Grant Program; and authorizes and directs the City Manager to execute all documents on behalf of the City.

AGREEMENTS:

4. Accepting State Office of Homeland Security Grant Program funds for equipment and training (CAL FIRE Battalion Chief Slate)

ACTION: Authorizes and directs the City Manager to accept the California Governor's Office of Emergency Services FY17 Homeland Security Grant Program funds in the amount of \$18,000 for the purchase of communications equipment; and authorizes and directs the City Manager to execute all documents related to the grant award on behalf of the City.

ORDINANCES (WAIVING SECOND READING AND ADOPTION):

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

ACTION: Waives the second reading and adopts 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 authorizes and directs the City Manager to execute the Agreement on behalf of the City.

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

ACTION: Waives the second reading and adopts 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 authorizes and directs the City Manager to execute the Agreement on behalf of the City.

PETITIONS AND COMMUNICATIONS:

7. Request from Valley Children’s Hospital for annual Kids Day fundraiser (Darrellyn Colldar)

ACTION: Approval of request from Valley Children’s Hospital to hold their 32nd annual Kids Day fundraiser (newspaper sales) at various locations within the City limits on March 5, 2019 from 5:00 AM – 3:00 PM.

8. Request from Atwater Youth Baseball, Softball & T-ball for assistance with Opening Day ceremonies (Michael Barnett, President)

ACTION: Approval of request from Atwater Youth Baseball, Softball & T-ball (AYBS&T) for assistance with Opening Day ceremonies on March 23, 2019 from 6:00 AM – 12:00 PM; to set out barricades and “No Parking” signs; to help control traffic and parking; and to assist with the “Procession of Players” beginning at Broadway and Fifth Street and ending at Memorial Park.

PETITIONS AND COMMUNICATIONS:

Request from Castle Family Health Center for letter of support regarding funding through a New Access Point Grant (Edward Lujano, CEO)

MOTION: Mayor Pro Tem Raymond moved to approve request from Castle Family Health Center for a letter of support regarding application for funding through a

New Access Point Grant (HRSA-19-080) by the federal Health Resources and Services Administration/Bureau of Primary Health Care. The motion was seconded by City Council Member Vierra and the vote was: Ayes: Ambriz, Vierra, Raymond, Creighton; Noes: None; Absent: None; Abstain: Cale. The motion passed.

FUNDING AND BUDGET MATTERS:

Resolution approving Budget Amendment No. 3 amending Fiscal Year 2018-19 Budget regarding Revenue and Expenditure Adjustments based on Mid-Year Analysis (Finance Director Deol)

Finance Director Deol introduced the Resolution and Budget Amendment and offered to answer any questions from the City Council or the public.

MOTION: City Council Member Vierra moved to adopt Resolution No. 3071-19 approving Budget Amendment No. 3 amending Fiscal Year 2018-19 Budget regarding revenue and expenditure adjustments based on mid-year budget analysis. The motion was seconded by City Council Member Cale and the vote was: Ayes: Raymond, Vierra, Cale, Ambriz, Creighton; Noes: None; Absent: None. The motion passed.

PUBLIC HEARINGS:

Ordinance approving a Development Agreement by and between the City of Atwater and Dabout, Inc. regarding Cannabis Business Pilot Program; property locations: 301 Business Parkway, 288 Business Parkway, 308 Business Parkway, 591 Business Parkway, and 571 Business Parkway, Atwater (City Attorney White)

City Attorney White provided an overview of the project which includes manufacturing and distribution services at multiple neighboring locations. He summarized the revenue to be realized by the City, and he confirmed that a Conditional Use Permit will be required governing operations of the business.

Mayor Creighton opened the Public Hearing.

One person spoke against approval of the Development Agreement for Dabout, Inc.

No one else came forward to speak and Mayor Creighton closed the Public Hearing.

MOTION: Mayor Pro Tem Raymond moved to waive the first reading and introduce Ordinance No. CS 1004 approving a Development Agreement, in a form approved by the City Attorney, between the City of Atwater and Dabout, Inc. regarding Cannabis Business Pilot Program, Tracking No. 06-262-18, property locations: 301 Business Parkway, 288 Business Parkway, 308 Business Parkway, 591 Business Parkway, and 571 Business Parkway, 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 Vierra and the vote was: Ayes: Vierra, Raymond, Cale, Ambriz, Creighton; Noes: None; Absent: None. The motion passed.

Ordinance approving a Development Agreement by and between the City of Atwater and Medallion Wellness, Inc. regarding Cannabis Business Pilot Program; property location: 341 Business Parkway, Atwater (City Attorney White)

City Attorney White provided an overview of the project which includes cultivation, manufacturing and retail sales activities. He summarized the revenue to be realized by the City, and he confirmed that a Conditional Use Permit will be required governing operations of the business.

Mayor Creighton opened the Public Hearing.

No one came forward to speak and Mayor Creighton closed the Public Hearing.

MOTION: Mayor Pro Tem Raymond moved to waive the first reading and introduce Ordinance No. CS 1005 approving a Development Agreement, in a form approved by the City Attorney, by and between the City of Atwater and Medallion Wellness, Inc. regarding Cannabis Business Pilot Program, Tracking No. 08-262-18, property location: 341 Business Parkway, 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 Vierra and the vote was; Ayes: Raymond, Vierra, Ambriz, Cale, Creighton; Noes: None; Absent: None. The motion passed.

Ordinance approving a Development Agreement by and between the City of Atwater and Top Management Distribution, Inc. regarding Cannabis Business Pilot Program; property location: 231 Business Parkway, Atwater (City Attorney White)

City Attorney White provided an overview of the project which includes manufacturing and distribution services. He summarized the revenue to be realized by the City and he confirmed that a Conditional Use Permit will be required governing operations of the business.

Mayor Creighton opened the Public Hearing.

No one came forward to speak and Mayor Creighton closed the Public Hearing.

MOTION: City Council Member Vierra moved to waive the first reading and introduce Ordinance No. CS 1006 approving a Development Agreement, in a form approved by the City Attorney, with Top Management Distribution, Inc., Cannabis Business Pilot Program, Tracking No. 13-262-18, property location: 231 Business Parkway, Atwater; 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, Raymond, Vierra, Ambriz, Creighton; Noes: None; Absent: None. The motion passed.

Ordinance approving a Development Agreement by and between the City of Atwater and Sycamore Manufacturing, Inc. regarding Cannabis Business Pilot Program; property location: 1715 Sycamore Avenue, Atwater (City Attorney White)

City Attorney White announced that the applicants have requested a change to the type of license for operations. He suggested that the City Council return this item to the Community Development and Resources Commission for consideration of the revised license types.

Mayor Creighton opened the Public Hearing.

No one came forward to speak and Mayor Creighton closed the Public Hearing.

MOTION: City Council Member Cale moved to return the item to the Community Development and Resources Commission for consideration of the revised license types in the application. The motion was seconded by City Council Member Vierra and the vote was; Ayes: Ambriz, Vierra, Cale, Raymond, Creighton; Noes: None; Absent: None. The motion passed.

CITY ATTORNEY REPORTS:

Resolution imposing a business license tax of fifteen percent (15%) of the gross receipts of any cannabis-related business that has not entered into a development agreement with the City

City Attorney White summarized the request as enacting the conditions of Measure A, which was recently passed by the citizens of Atwater in the 2018 General Election. It will provide additional civil and criminal remedies to pursue those who may wish to conduct businesses illegally within the city. He also summarized the pending litigation of the City of Atwater against the State of California Bureau of Cannabis Control.

Chief of Police Salvador commented that currently the Bureau of Cannabis Control has no enforcement capabilities. He further stated that enforcement is the jurisdiction of the California Department of Consumer Affairs which is grossly understaffed to pursue those operating outside the law. He also commented that there is no political will in Sacramento to help protect the local control of cities.

MOTION: City Council Member Ambriz moved to adopt Resolution No. 3069-19 imposing a business license tax of fifteen percent (15%) of the gross receipts of any cannabis-related business that has not entered into a development agreement with the City. The motion was seconded by Mayor Pro Tem Raymond and the vote was: Ayes: Raymond, Ambriz, Cale, Vierra, Creighton; Noes: None; Absent: None. The motion passed.

CITY COUNCIL MATTERS:

Discussion and possible action regarding the Community Development and Resources Commission

James Murphy III, Chairman of the Community Development and Resources Commission offered a recommendation for reforming the Commission into a Planning Commission with jurisdiction over Parks and Recreation and Traffic duties while retaining the current CDRC members on the new commission. He also suggested that more training be offered to the new commission.

Mary McWatters, Community Development and Resources Commission member expressed her concern for changing the meeting time from evening to daytime. She stated that daytime meetings may alienate members of the public from participation since many work during the day.

One person spoke in favor of combining the Commission as described by Chairman Murphy III.

City Attorney White suggested that if the Commission is revised that the number of the commissioners be reduced from seven to five. He also advised that any change will require changing the City's Municipal Code by ordinance amendment, and that would require two meetings and thirty days following approval of amending the Municipal Code before the amendment would take effect.

MOTION: *Mayor Creighton moved to dissolve the Community Development and Resources Commission and revert back to a Planning Commission, a Parks and Recreation Committee, and a Traffic Committee combined into one five member Planning Commission, utilizing an application process for appointment to the Planning Commission, and changing the meeting dates and times to be determined. The motion was seconded by City Council Member Vierra and the vote was: Ayes: Vierra, Cale, Creighton; Noes: Raymond, Ambriz; Absent: None. The motion passed.*

City Manager Waterman invited the public to a Chamber Coffee and refreshments to be held on Tuesday, February 26, 2019 in City Council Chambers at 750 Bellevue Road beginning at 8:30 AM to meet new Police Chief Salvador.

Police Chief Salvador announced that the first "Breakfast with the Chief" will be held on the first Tuesday in March, March 5th at 9:00 AM at Jantz Bakery. Subsequent breakfasts will be held in other locations once a month.

CITY COUNCIL MATTERS:

City Council comments

City Council Member Cale welcomed Police Chief Salvador to the City of Atwater. He expressed that researching cannabis has allowed him to have a better understanding of what the City can and can't do involving local cannabis businesses.

City Council Member Ambriz also welcomed Police Chief Salvador. He also congratulated all three Atwater High School teams for winning their conference championships.

City Council Member Vierra also welcomed Police Chief Salvador and thanked City Manager Waterman for her excellent choice in selecting Chief Salvador. She expressed her gratitude for the strong showing of area and local police agencies at tonight's meeting in support of Chief Salvador and the community of Atwater.

Mayor Creighton welcomed new Police Chief Salvador. He also praised the multiple law enforcement agencies that came to support the new chief and to support the community of Atwater.

Mayor Pro Tem Raymond announced that former Mayor of Atwater, Ken DeVoe, passed away yesterday. Mr. DeVoe served on the City Council and was Mayor from 1994 to 1998. He requested that the meeting be adjourned in the name of former Mayor Kenneth DeVoe.

CLOSED SESSION:

Continuation of closed session was not necessary.

ADJOURNMENT:

Mayor Creighton adjourned the meeting in memory of former Mayor Kenneth DeVoe.

The meeting adjourned at 7:56 PM.



Janell Martin, Deputy City Clerk

By: Lesa Rasmussen
P-M Transcription Services