



CITY OF ATWATER

CITY COUNCIL

ACTION MINUTES

April 9, 2018

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 Price presiding.

ROLL CALL:

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

Absent: *None*

Staff Present: *Interim City Manager Waterman, Interim City Attorney White, 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 5:08 PM. Closed Session was called to order at 5:10 PM.

Conference with Labor Negotiator – Government Code Section 54957.6. Agency Negotiators: Interim City Attorney White and Human Resources Director Del Real; Bargaining Units: Atwater Police Officers Association and AFSCME Local 2703 – Miscellaneous Unit, Clerical Unit, and Mid-Management Unit, Unrepresented

Pursuant to Government Code Section 54957(b)(1), Public Employee Appointment:
Title: Interim City Manager

Pursuant to Government Code Section 54957(b)(1), Public Employee Appointment:
Title: Interim Police Chief

Closed Session adjourned at 5:58 PM.

REGULAR SESSION: (Council Chambers)

The City Council of the City of Atwater met in Regular Session this date at 6:07 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: Interim City Manager Waterman, Interim City Attorney White, CAL FIRE Battalion Chief Wight, Human Resources Director Del Real, Deputy City Manager/Finance Director Deol, Interim Police Chief Echevarria, Interim Public Works Director Shaw, Recreation Supervisor Rahn, Chief Building Official Pereida, City Clerk Hyler III, Recording Secretary Rasmussen

MAYOR OR CITY ATTORNEY REPORT OUT FROM CLOSED SESSION:

Interim City Attorney White reported that item number one as it relates to Conference with Labor Negotiator, by a vote of five to zero the City Council voted to add the Interim City Attorney to the labor negotiation team.

As to the second item relating to Public Employee Appointment: Interim City Manager, the City Council voted, by a vote of five to zero, to waive the educational requirements in the job description.

As to the third item relating to Public Employee Appointment: Interim Police Chief, the City Council voted, by a vote of four to one with Mayor Price in the

negative, to ratify the appointment and waive the educational requirements in the job description.

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.*

PRESENTATIONS:

Monthly verbal report by Merced County District 3 Supervisor McDaniel

Merced County District 3 Supervisor McDaniel reported that a new position has been created in the office of the Merced County CEO dealing with the issues of housing and homelessness; the Board of Supervisors recently voted five to zero to partner with Continuum of Care to address homelessness in Merced County through Housing and Urban Development funding. The former Veterans Service Officer, John Ceccoli, was appointed to fill the position. He also reported that work continues finalizing the honorees for Volunteer of the Year awards. He announced that the Commercial Truck Driving training program is highly successful and graduates of the program are becoming employed almost immediately.

Power Point presentation and introduction of eight new Firefighter Reservists (CAL FIRE Battalion Chief Wight)

CAL FIRE Battalion Chief Wight introduced the eight new Firefighter Reservists, provided a brief video, and described the various training scenarios in the video. He also reported on the full scope of educational requirements needed to be a Firefighter, citing also the many hours of volunteer time spent in the fire stations gaining experience. At the conclusion of the Power Point presentation Firefighter Reservists Mel Sandoval, Thomas King, Alexander Harrington, Irving Gonzales, Guillermo Alvarez, Nicholas Miscione, and Nicholas Estrada presented CAL FIRE Captain Lopes and the CAL FIRE staff with a thank you plaque from the class.

COMMENTS FROM THE PUBLIC:

Notice to the public was read.

City Clerk Hyler III read the following statement from Frederick Freeman, The Freeman Group, regarding the post level investigation of former Interim City Manager de Werk:

“This message confirms that our firm was engaged by the Atwater City Attorney, to conduct a California POST level background investigation of the applicant for the position of Interim City Manager. Our firm has over eighteen years of experience in such investigations, for municipalities throughout California, and has conducted hundreds of similar investigations. Our investigations are confidential, and we do not comment publicly or off the record on the status of any investigation nor information received out of the course of our investigations.

We have been authorized by the Interim Atwater City Attorney, Douglas White, to confirm that we did not complete our investigation on the Interim Atwater City Manager; as he resigned prior to the completion of our due diligence, nor had we made any findings or conclusions.

The direction to cease the investigation was provided by Churchwell White LLP. We can confirm that no draft or final report was provided to Mr. White or Churchwell White LLP, nor any other party or individual prior to, or after the resignation of the Interim City Manager. All investigative efforts were ceased and the matter was closed. All questions should be directed to Mr. White.”

DON MARTIN, Atwater, stated that Police Chief Joseph was relieved from his job and posed questions regarding any counseling that occurred prior to his dismissal. He also commented on his positive experiences with Police Chief Joseph.

RICHARD JOHNSON, Atwater, stated his personal experiences with Police Chief Joseph were not positive. He further reiterated his displeasure with the issues surrounding his water bill.

LORI JOHNSON, Atwater, expressed her frustration with City government related to her water bill issue and what she characterized as hostile treatment. She also questioned City Council meeting recordings being turned off.

TED TORRES, Atwater, requested that Mayor Price resign his office.

EDUARDO PEREZ, Atwater, requested that Mayor Price resign his office.

JEFF RIVERO, Merced, thanked former Interim City Manager de Werk for getting the Police Cadet program up and running. He also suggested some form of recognition for the cadets.

MARK YANDAU, Atwater, asked for help with code enforcement of a homeless squatter on his property.

GREG McDANIEL, Atwater, announced the 4th of July Celebration plans and activities. He also reported that the Bloss House fencing project has received their permits and construction will begin soon. He further stated that they are still accepting contributions to help with fence construction.

DANNY HERNANDEZ, Atwater, expressed his displeasure that Police Chief Joseph is not back at his position. He stated that Interim City Manager Waterman has his support, although he favors returning former Interim City Manager de Werk to the position.

FRANK JOHNSON, Modesto, commented on his displeasure with the leadership of Mayor Price.

LINDA DASH, Atwater, addressed past comments made by a sitting City Council Member; she further expressed concern for decisions being made by the City Council and a lack of transparency. She asked that a Request for Proposals be prepared to secure a full time/permanent City Manager. She also asked when Police Chief Joseph will be returned to his position.

ERIC LEE, Atwater, commented that coming to City Council meetings to bully others is inappropriate. He also requested a copy of the investigation report about former Interim City Manager de Werk, and encouraged the Interim City Attorney to release the report and get the abstract done.

JIM BALESTRA, Atwater, offered his congratulations to Interim City Manager Waterman. He expressed that the “no confidence” vote by the Police Department should negate any return of Police Chief Joseph.

JEANIE KNIGHT, Atwater, asked a question about the City’s ability to go bankrupt. She also asked if Atwater would be unincorporated. She asked that former Interim City Manager de Werk be returned to his position, and expressed disappointment in Mayor Price regarding a text message.

LARRY BERGMAN, Atwater, congratulated Interim City Manager Waterman. He expressed concern for the resignation of former Interim City Manager de Werk, and chastised the Mayor for his treatment of former Interim City Manager de Werk. He urged the City Council to come together and work together.

KORY BILLINGS, Atwater, commented on the bickering that permeates City Council meetings by the City Council. He suggested that a public apology be issued to former Interim City Manager de Werk and to the people of the community.

MANUEL PINTO, Atwater, congratulated Interim City Manager Waterman. He offered his support to Mayor Price and urged him to continue serving as Mayor.

No one else came forward to speak.

CONSENT CALENDAR:

Agenda item #2 under Ordinances (Waiving Second Reading and Adoption), "Waiving the second reading and adopting Ordinance No. CS 994 amending Title 13 "Public Services" Chapter 13.13 "Water Conservation Program" Section 13.13.030, Subsection 11, of the Atwater Municipal Code," was removed from the consent calendar for separate discussion and possible action.

Agenda item #6 under Informational Items Only (No Action Required), "Water Well Levels for the month of March 2018 and Water Well Levels for calendar year 2017," was removed from the consent calendar for separate discussion.

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: Creighton, Raymond, Vierra, Vineyard, Price; Noes: None; Absent: None. The motion passed.

WARRANTS:

1. April 9, 2018

ACTION: Approval of warrants as listed.

ORDINANCES (WAIVING SECOND READING AND ADOPTION):

2. Waiving the second reading and adopting Ordinance No. CS 994 amending Title 13 "Public Services" Chapter 13.13 "Water Conservation Program" Section 13.13.030, Subsection 11, of the Atwater Municipal Code (Interim City Manager Waterman)

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

INFORMATIONAL ITEMS ONLY (NO ACTION REQUIRED):

3. Police Department activities and projects for the month of March 2018 (Interim Police Chief Echevarria)
4. Police Volunteer activities for the month of March 2018 (Police Volunteer Vineyard)
5. Fire Department activities and projects for the month of March 2018 (CAL FIRE Battalion Chief Wight)
6. Water Well Levels for the month of March 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.

ORDINANCES (WAIVING SECOND READING AND ADOPTION):

Waiving the second reading and adopting Ordinance No. CS 994 amending Title 13 "Public Services" Chapter 13.13 "Water Conservation Program" Section 13.13.030, Subsection 11, of the Atwater Municipal Code (Interim City Manager Waterman)

MOTION: Mayor Pro Tem Vineyard moved to waive the second reading and adopt Ordinance No. CS 994 amending Title 13 "Public Services" Chapter 13.13 "Water Conservation Program" Section 13.13.030, Subsection 11, of the Atwater Municipal Code. The motion was seconded by City Council Member Creighton and the vote was: Ayes: Vineyard, Vierra, Creighton, Raymond, Price; Noes: None; Absent: None. The motion passed.

INFORMATIONAL ITEMS ONLY (NO ACTION REQUIRED):

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

LARRY BERGMAN, Atwater, asked where the water levels are being pulled from and thanked Interim Public Works Director Shaw for providing the printed information.

Interim Public Works Director Shaw responded that the levels are shown in the report.

CITY COUNCIL MATTERS:

City Council comments

City Council Member Raymond announced that Elmer Wood School has been recognized as a Distinguished School by the State of California. He praised and congratulated parents, students and staff. He also suggested that savings from the Sewer Bond Refinance be passed on to the rate payers.

City Council Member Vierra congratulated Interim City Manager Waterman.

City Council Member Creighton again congratulated the new Firefighter Reservists and asked staff to work with Mr. Yandau regarding his homeless squatter issue.

Mayor Pro Tem Vineyard announced that Former Mayor, Joan Faul, is in ill health and asked for thoughts for her quick healing. He commented that the Spring Clean Up location has been changed to Buhach Colony High School in the back parking lot (off Avenue 2) between the hours of 8 AM and 2 PM on the 19th of May.

Mayor Price expressed gratitude to Merced County District 3 Supervisor McDaniel for his work on the Atwater 4th of July Celebration. He also thanked all who spoke during the public comment portion of the meeting.

CLOSED SESSION:

Continuation of Closed Session was not necessary.

ADJOURNMENT:

The meeting adjourned at 7:33 PM.



Don Hyler III, City Clerk

By: Lesa Rasmussen,
Recording Secretary