



CITY OF ATWATER

CITY COUNCIL

ACTION MINUTES

July 23, 2018

OPEN SESSION: (Council Chambers)

The City Council of the City of Atwater met in Open Session this date at 5:01 PM in the City Council Chambers located at the Atwater Civic Center, 750 Bellevue Road, Atwater, California; Mayor Pro Tem Vineyard presiding.

ROLL CALL:

Present: City Council Members Creighton, Raymond, Mayor Pro Tem Vineyard
Absent: City Council Member Vierra, Mayor Price
Staff Present: Interim City Manager Waterman, City Attorney White, Deputy City Clerk Bengtson-Jennings

CLOSED SESSION: (Conference Room A)

Mayor Pro Tem Vineyard invited public comments on Closed Session items.

No one came forward to speak.

Mayor Pro Tem Vineyard adjourned the meeting to Conference Room A for Closed Session at 5:02 PM. Closed Session was called to order at 5:07 PM.

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

Closed Session adjourned at 5:15 PM.

REGULAR SESSION: (Council Chambers)

The City Council of the City of Atwater met in Regular Session this date at 6:05 PM in the City Council Chambers located at the Atwater Civic Center, 750 Bellevue Road, Atwater, California; Mayor Pro Tem Vineyard presiding.

PLEDGE OF ALLEGIANCE TO THE FLAG:

The Pledge of Allegiance was led by Mayor Pro Tem Vineyard.

INVOCATION:

The Invocation was led by Police Chaplain McClellan.

ROLL CALL:

Present: City Council Members Creighton, Raymond, Mayor Pro Tem Vineyard
Absent: City Council Member Vierra, Mayor Price
Staff Present: Interim City Manager Waterman, City Attorney White, CAL FIRE Battalion Chief Wight, Finance Director Deol, Human Resources Director Del Real, Interim Police Chief Bessinger, General Services Manager/Chief Building Official Pereida, City Clerk Hyler III, City Treasurer Heller, Recording Secretary Rasmussen

MAYOR OR CITY ATTORNEY REPORT OUT FROM CLOSED SESSION:

City Attorney White reported that by a three to zero vote, the City Council authorized the settlement of a workers' compensation claim. The City Council rejected the claim of Alejandro Sandoval. No other action was taken. The Closed Session agenda was completed.

SUBSEQUENT NEED ITEMS: *None.*

City Council Member Raymond provided an Option 3 for agenda item #10 under City Council Matters, "Discussion regarding proposed draft Argument in Favor of Ballot Measure relating to a Business License Tax on Cannabis Businesses," and requested that it be incorporated pursuant to SB 343, stating that copies of Option 3 are available at the back table.

MOTION: *Mayor Pro Tem Vineyard moved to have Option 3 regarding the proposed argument in favor of a ballot measure relating to a business license tax on cannabis businesses considered under agenda item #10 on the agenda. The motion was seconded by City Council Member Creighton and the vote was: Ayes: Creighton, Raymond, Vineyard; Noes: None; Absent: Vierra, Price. The motion passed.*

APPROVAL OF AGENDA AS POSTED OR AS AMENDED:

Mayor Pro Tem Vineyard announced that under Ceremonial Matters, "4th of July Activities" and "4th of July Committee Member Retirement" will be moved to the August 13, 2018 regular City Council meeting.

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

CEREMONIAL MATTERS:

Police Volunteer of the Year

Mayor Pro Tem Vineyard presented Gordon Wilkinson with a Certificate of Recognition as Police Volunteer of the Year.

Police Volunteer Retirement

Mayor Pro Tem Vineyard presented retiring Police Volunteer Don Martin with a Certification of Appreciation and a plaque recognizing his service to the City of Atwater, the Atwater Police Department, and the Atwater Volunteers in Police Service (AVIPS).

COMMENTS FROM THE PUBLIC:

Notice to the public was read.

Interim Police Chief Bessinger reported on the July 2, 2018 murder incident in Atwater. He offered his personal commendation to the three police officers and the District Attorney's office for their extraordinary work on the case. He requested that the police officers and District Attorney personnel receive official commendations at the August 13, 2018 regular City Council meeting. He further clarified his background and lack of affiliation with any special interest groups in the community.

MIKE AKERS, Atwater, requested that the investigation of Police Chief Joseph be finalized and closed. He questioned the quality of work performed by City Attorney Churchwell White. He further asked that a policy of no visible body art for police officers be reinstated for the Atwater Police Department.

LINDA DASH, Atwater, reported that she had received a text message from Dave Honey, Atwater, asking that she share his appreciation and thank the firefighters for their great work protecting his home during a recent fire. She questioned the loss of Unicorn Holistic, a local business. She also asked whether the business or their attorney, Arthur Hodge, will reimburse the City for expenses.

GABRIEL SANTOS, Atwater, commented on the lack of landscape attention at Manuel Barrios Park. He stated that broken sprinklers, lack of lighting, and untrimmed trees present a liability for the City and a danger to residents who use the park. He further cited that the park benches are not ADA (Americans with Disabilities Act) compliant and that the park is home to vagrants and others engaged in inappropriate activities.

ERIC LEE, Atwater, took issue with the deterioration of downtown Atwater and urged that tax dollars be spent on improving the quality of life for Atwater citizens. He also asked that more attention be given to the Determine and Secretariat areas of Atwater. He stated that there are bigger issues in Atwater than spending more money on investigations.

RICHARD JOHNSON, Atwater, questioned the way the investigation of Police Chief Joseph is being handled and that no investigators have spoken with him or his wife, as they are the victims involved in the investigation. He also asked that a stop sign be placed at Drakeley Avenue and Sierra Vista Street as it is a dangerous intersection.

FRANK JOHNSON, Modesto, made disparaging comments about the Atwater Police Department and several police officers without mentioning their names. He described several alleged incidents that reflect illegal and inappropriate behavior from City police officers. He stated that returning Police Chief Joseph to his position would be a big mistake.

KEITH PELOWSKI, Atwater, asked City Attorney White to discuss the payments made to Police Chief Joseph to date. He questioned the number of cities that City Attorney White has worked for and asked why he left those cities. He also asked how many marijuana ordinances City Attorney White has written. Further, he asked where the Measure H funds are being spent.

Mayor Pro Tem Vineyard called a recess at 7:04 PM.

The City Council returned to the dais and Mayor Pro Tem Vineyard resumed the meeting at 7:11 PM.

JIM BALLESTRA, Atwater, asked if the investigation of Police Chief Joseph is ongoing or if it has been concluded. He urged that the investigation be brought to a conclusion.

DANNY HERNANDEZ, Atwater, reported that students and others are frequenting a vacant building on Winton Way and that it presents a public danger. He further stated that the public deserves an answer as to why Police Chief Joseph was removed. He also complained about Atwater Police Department vehicles speeding on the streets of Atwater.

LORI JOHNSON, Atwater, stated that Atwater has a poor public image, and she complained that City leadership is failing the citizens in changing the negative image.

No one else came forward to speak.

CONSENT CALENDAR:

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

WARRANTS:

1. July 23, 2018

ACTION: Approval of warrants as listed.

MINUTES: (City Council)

2.
 - a) Regular meeting, June 11, 2018
 - b) Regular meeting, June 25, 2018
 - c) Adjourned meeting, June 27, 2018

ACTION: Approval of minutes as listed.

AGREEMENTS:

3. Resolution approving Program Supplement Agreement and authorizing the Interim City Manager to execute all documents relating to Aileen Colburn Pedestrian Safety IMP Phase II Project (Chief Building Official Pereida)

ACTION: Adoption of Resolution No. 3050-18 approving Program Supplement Agreement No. F022 to Administering Agency-State Agreement for Federal-Aid Projects No. 10-5254F15, and authorizing and directing the Interim City Manager to execute any agreements or documents relating to Aileen Colburn Pedestrian Safety IMP Phase II Project CML-5254(028) on behalf of the City.

CLAIMS AGAINST THE CITY:

4. Claim No. 2018-6

ACTION: After consideration and investigation, it is staff's recommendation that Claim No. 2018-6 be rejected.

INFORMATIONAL ITEMS ONLY (NO ACTION REQUIRED):

5. Police Department activities and projects for the month of June, 2018 (Interim Police Chief Bessinger)
6. Police Volunteer activities for the month of June, 2018 (Police Volunteer Vineyard)

FUNDING AND BUDGET MATTERS:

Treasurer's Report for the month of June, 2018 (City Treasurer Heller)

MOTION: City Council Member Raymond moved to approve the Treasurer's Report for the month of June, 2018. The motion was seconded by City Council Member Creighton and the vote was: Ayes: Raymond, Creighton, Vineyard; Noes: None; Absent: Vierra, Price. The motion passed.

PUBLIC HEARINGS:

Confirming the Engineer's Reports and ordering the annual levy for the Lighting and Drainage and Landscape Assessment Maintenance Districts for Fiscal Year 2018-19 (Finance Director Deol)

Mickey Ashley, representing Willdan Financial Services, summarized the collection of levies related to the individual districts and confirmed that the Engineer's Reports include a breakout of costs and fees.

Mayor Pro Tem Vineyard opened the public hearing for this item.

No one came forward to speak and Mayor Pro Tem Vineyard closed the public hearing.

For the record, no majority protests occurred.

MOTION: City Council Member Creighton moved to adopt Resolution No. 3049-18 confirming the Engineer's Reports and ordering the continued maintenance of the City of Atwater Lighting and Drainage and Landscape Assessment Maintenance Districts and levy of assessments for Fiscal Year 2018-19. The motion was seconded by City Council Member Raymond and the vote was: Ayes: Raymond, Creighton, Vineyard; Noes: None; Absent: Vierra, Price. The motion passed.

INTERIM CITY MANAGER REPORTS/UPDATES:

Verbal update regarding Fiscal Solvency Efforts

Interim City Manager Waterman reported that the City met the deadline to submit responses to the State Audit Committee's findings regarding fiscal issues. She stated that new guidelines regarding setting fiscal policies will come to the City Council at a future meeting and that departmental reviews are also pending. She announced that August 8, 2018 is the next meeting with the State Audit Committee.

CITY COUNCIL MATTERS:

Discussion regarding proposed draft Argument in Favor of Ballot Measure relating to a Business License Tax on Cannabis Businesses (Ballot Measure Subcommittee Members: Mayor Pro Tem Vineyard and City Council Member Raymond)

Mayor Pro Tem Vineyard introduced the three options and requested input from City Council members and the public.

MARK YANDAU, Atwater, asked if the tax would apply to medical and recreational marijuana and any on-site consumption.

City Attorney White clarified that the tax will only apply in the absence of a development agreement and that the City of Atwater currently does not allow on-site consumption.

MOTION: *Mayor Pro Tem Vineyard moved to approve Option 3 as amended, modifying number 2 to read "Measure ___ guarantees the tax will only be paid by marijuana businesses, marijuana users and no one else" for the Argument in Favor of Ballot Measure: Establishing a Business License Tax on the gross receipts of Cannabis Businesses in an amount not to exceed 15%. The motion was seconded by City Council Member Raymond and the vote was: Ayes: Creighton, Raymond, Vineyard; Noes: None; Absent: Vierra, Price. The motion passed.*

City Council comments

City Council Member Creighton thanked Interim Police Chief Bessinger for his efforts in drafting a collaborative plan for addressing problems in the Determine and Secretariat areas of Atwater.

City Council Member Raymond expressed condolences to the family of fallen firefighter Brandon Varney.

Mayor Pro Tem Vineyard thanked the firefighters, police officers, and volunteers for their work in a recent fire incident. He also thanked General Services Manager/Chief Building Official Pereida for his extra efforts to assist the homeowner during the fire. He reported that he has received several phone calls requesting that copies of the voting district maps be placed in each department

and on the City website. He also suggested that the name of the City Council member representing each district be indicated as well.

CLOSED SESSION:

Continuation of Closed Session was not necessary.

ADJOURNMENT:

Mayor Pro Tem Vineyard adjourned the meeting in memory of Brandon Varney.

The meeting adjourned at 7:59 PM.



Don Hyler III, City Clerk

By: Lesa Rasmussen,
Recording Secretary