



CITY OF ATWATER

ACTION MINUTES

August 26, 2019

OPEN SESSION: (Council Chambers)

The City Council of the City of Atwater met in Open Session this date at 5:03 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 (5:08), Mayor Creighton

Absent: None

Staff Present: City Manager Waterman, Interim City Attorney Sanchez, Deputy City Clerk Martin

CLOSED SESSION: (General Services Conference Room)

Mayor Creighton invited public comment on Closed Session items.

No one came forward to speak.

Mayor Creighton adjourned the meeting to the General Services Conference Room for Closed Session at 5:05 PM. Closed Session was called to order at 5:11 PM.

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

Conference with Legal Counsel – Existing Litigation – Government Code Section 54956.9: Name of case: Samuel Joseph vs. City of Atwater, Case No. 18CV-04981

Conference with Legal Counsel – Existing Litigation – Government Code Section 54956.9: Name of case: Thomas E. Niederreuther vs. City of Atwater, Case No. 1:19-CV-00779-DAD-BAM

Conference with Legal Counsel – Existing Litigation – Government Code Section 54956.9: Name of case: City of Atwater vs. Shell Oil Company et al., Case No. SCVSS120627

Conference with Legal Counsel – Anticipated Litigation – Significant exposure to litigation pursuant to Government Code Section 54956.9(d)(2): Number of cases: (3)

Pursuant to Government Code Section 54957, Public Employee Annual Performance Evaluation; Title: City Manager

Pursuant to Government Code Section 54957.6, Conference with Labor Negotiators: Mayor Creighton and Interim City Attorney Sanchez; Unrepresented employee: City Manager

Closed Session adjourned at 6:00 PM.

REGULAR SESSION: (Council Chambers)

The City Council of the City of Atwater met in Regular Session this date at 6:04 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 Police Chief Salvador.

INVOCATION:

The Invocation was led by Pastor Tyson Tolbert.

ROLL CALL:

Present: City Council Members Ambriz, Cale, Vierra, Mayor Pro Tem Raymond, Mayor Creighton

Absent: None

Staff Present: City Manager Waterman, Interim City Attorney Sanchez, Public Works Director Haddix, Human Resources Director Del Real, General Services Manager/Chief Building Official Pereida, Police Chief Salvador, Interim Finance Operations Manager Tejeda, CAL FIRE Battalion Chief Slate, Deputy City Clerk Martin

MAYOR OR INTERIM CITY ATTORNEY REPORT OUT FROM CLOSED SESSION:

Interim City Attorney Sanchez reported that no reportable action was taken, the Closed Session agenda was not completed, and Closed Session will resume following the Regular Session.

SUBSEQUENT NEED ITEMS: *None.*

APPROVAL OF AGENDA AS POSTED OR AS AMENDED:

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

CEREMONIAL MATTERS:

Oath of Office – Reserve Police Officer Charles Lord-Huff

Mayor Creighton administered the oath of office to the newly appointed Reserve Police Officer, Charles Lord-Huff. Officer Huff received his official pin from his brother and fellow Police Officer, Sam Huff.

Mayor Creighton called a recess at 6:14 PM.

The City Council returned to the dais, and Mayor Creighton resumed the meeting at 6:23 PM.

PRESENTATIONS:

Monthly verbal report by Merced County District 3 Supervisor McDaniel

Merced County District 3 Supervisor McDaniel reported the following:

- ***At a recent meeting in Washington D.C. he was the designated speaker by the National Association of Counties, Rural County Representatives of California (RCRC), and the County of Merced regarding the Valley's drought situation. He emphasized to the members two priorities: forest management and more water storage capacity.***
- ***He also reported that the County's final budget will be approved at the September 20, 2019 Board of Supervisors meeting.***
- ***Current activities at Castle Aviation and Development Center is operating an urban grid testing program with autonomous vehicles.***

CONSENT CALENDAR:

Agenda item #7 under Public Improvements, "Accepting Juniper Avenue Pedestrian and Bike Path Infill Project Improvements," was removed from the consent calendar for separate discussion and possible action.

Agenda item #8 under Public Improvements, "Accepting Buhach Road Sidewalk Infill Project Improvements," was removed from the consent calendar for separate discussion and possible action.

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

WARRANTS:

1. August 26, 2019

ACTION: Approval of warrants as listed.

MINUTES: (City Council)

2. a) July 8, 2019 – Regular meeting
b) July 22, 2019 – Special meeting

ACTION: Approval of minutes as listed.

MINUTES: (Planning Commission)

3. July 17, 2019 – Special meeting

ACTION: Acceptance of minutes as listed.

TREASURER'S REPORT:

4. July 31, 2019

ACTION: Acceptance of report as listed.

RESOLUTIONS:

5. Amending Fiscal Year 2018-19 Appropriations Limitation (City Manager Waterman)

ACTION: Adoption of Resolution No. 3108-19 amending Fiscal Year 2018-19 Appropriations Limitation.

6. Approving City of Atwater's Title VI Program (General Services Manager Pereida)

ACTION: Adoption of Resolution No. 3099-19 approving the City of Atwater's Title VI Program.

PUBLIC IMPROVEMENTS:

7. Accepting Juniper Avenue Pedestrian and Bike Path Infill Project Improvements (General Services Manager Pereida)

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

8. Accepting Buhach Road Sidewalk Infill Project Improvements (General Services Manager Pereida)

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

ORDINANCES (WAIVING SECOND READING AND ADOPTION):

9. Waiving second reading and adopting ordinance approving WB Pharms, LLC Development Agreement regarding Cannabis Business Pilot Program for cannabis cultivation, distribution, and dispensary on property located on Sycamore Avenue, west of Winton Way, Atwater (General Services Manager Pereida)

ACTION: Waives the second reading and adopts Ordinance No. CS 1011 approving WB Pharms, LLC Development Agreement, in a form approved by the Interim City Attorney, regarding Cannabis Business Pilot Program for cannabis cultivation, distribution, and dispensary on property located on Sycamore Avenue, west of Winton Way, Atwater; and authorizes and directs the City Manager to execute the Agreement on behalf of the City.

CLAIMS AGAINST THE CITY

10. Claim No. 2019-4

ACTION: After consideration and investigation, it is staff's recommendation that Claim No. 2019-4 be rejected.

ANNUAL PETITIONS AND COMMUNICATIONS:

11. Request from Atwater High School Leadership Class for assistance with annual Football Homecoming Parade (Alyssa Carrillo, ASB President)

ACTION: *Approval of request from Atwater High School Leadership Class for assistance with their annual Football Homecoming Parade, contingent upon receipt of current liability certificate, on Friday, September 20, 2019 at 3:30 PM beginning on Mitchell Avenue, left onto Winton Way, and continue to Atwater High School located at 2201 W. Fruitland Avenue.*

12. Request from Saint Anthony/Immaculate Conception Church for assistance with annual "Our Lady of Guadalupe" procession (Baudelio Valencia)

ACTION: *Approval of request from Saint Anthony/Immaculate Conception Church for assistance with their annual "Our Lady of Guadalupe" procession on Thursday, December 12, 2019 starting at 3:00 PM beginning at Ralston Park, to Juniper Avenue, and on to Saint Anthony Church; to assist with road closure on Third Street between Fir and Juniper Avenues and Juniper Avenue between Third Street and Winton Way from 3:00 – 5:30 PM.*

PUBLIC IMPROVEMENTS:

Accepting Juniper Avenue Pedestrian and Bike Path Infill Project Improvements (General Services Manager Pereida)

General Services Manager Pereida confirmed that staff has inspected the final work on the Juniper Avenue Pedestrian and Bike Path Infill Project Improvements.

MOTION: *Mayor Creighton moved to accept work done under contract for Juniper Avenue Pedestrian and Bike Path Infill Project, City Project No. 14-3; to authorize and direct the City Manager to sign a Notice of Completion and have it recorded on behalf of the City; and to authorize a final payment in the amount of \$7,595.39. 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.*

Accepting Buhach Road Sidewalk Infill Project Improvements (General Services Manager Pereida)

General Services Manager Pereida confirmed that staff has inspected the final work on the Buhach Road Sidewalk Infill Project Improvements.

MOTION: *Mayor Creighton moved to accept work done under contract for Buhach Road Sidewalk Infill Project, City Project No. 14-4; to authorize and direct the City Manager to sign a Notice of Completion and have it recorded on behalf of the City; and to authorize a final payment in the amount of \$7,187.78. 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.*

PUBLIC HEARINGS:

Ordinance approving Cannable, LLC Development Agreement regarding Cannabis Business Pilot Program for cannabis dispensary on property located at 741 Enterprise Court, Atwater (General Services Manager Pereida)

General Services Manager Pereida requested the public hearing be continued to allow the Interim City Attorney time to review the Agreement for possible changes.

Mayor Creighton re-opened the public hearing for this item.

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

MOTION: Mayor Pro Tem Raymond moved to continue the public hearing to the regular City Council meeting of September 9, 2019. The motion was seconded by City Council Member Ambriz and the vote was: Ayes: Cale, Raymond, Vierra, Ambriz, Creighton; Noes: None; Absent: None. The motion passed.

Ordinance approving zone change for property located north of Bell Lane and east of Truckee Drive to Business Park (B-P) (Senior Planner Thompson, VVH)

General Services Manager Pereida requested the public hearing be continued to allow the Interim City Attorney time to review the proposed ordinance.

Mayor Creighton re-opened the public hearing for this item.

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

MOTION: Mayor Pro Tem Raymond moved to continue the public hearing to the regular City Council meeting of September 9, 2019. City Council Member Cale seconded the motion and the vote was: Ayes: Raymond, Cale, Ambriz, Vierra, Creighton; Noes: None; Absent: None. The motion passed.

Ordinance approving zone ordinance text amendment to provide for supportive housing and transitional housing uses within Residential Zone Districts (Senior Planner Thompson, VVH)

General Services Manager Pereida requested the public hearing be continued to the regular City Council meeting of September 9, 2019.

Mayor Creighton re-opened the public hearing for this item.

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

MOTION: Mayor Pro Tem Raymond moved to continue the public hearing to the regular City Council meeting of September 9, 2019. The motion was seconded by

City Council Member Cale and the vote was; Ayes: Vierra, Cale, Raymond, Ambriz, Creighton; Noes; None; Absent: None. The motion passed.

CITY MANAGER'S REPORTS/UPDATES:

Discussion and possible action regarding City Clerk logistics and operations

City Manager Waterman provided a summary of previous direction from City Council for options regarding moving the City Clerk position from the Human Resources Department.

Mayor Creighton called a recess at 6:37 PM.

The City Council returned to the dais, and Mayor Creighton resumed the meeting at 6:38 PM.

City Manager Waterman offered three possible options for consideration to the City Council:

- 1. Hire a full time City Clerk.*
- 2. Hire a full time Deputy City Clerk.*
- 3. Utilize existing Deputy City Clerks and remove the responsibility from the Human Resources Director.*

City Manager Waterman advised that an analysis indicated that a full time City Clerk salary would be approximately \$125,000 annually, and a Deputy City Clerk salary would be approximately \$80,000 annually.

Interim City Attorney Sanchez advised that using existing Deputy City Clerks is preferable and that the Human Resources Department should focus only on Human Resources and Risk Management duties. He also suggested that more training is needed for Department Heads and Deputy City Clerks.

By consensus the City Council provided staff with direction to proceed with further investigation and preferred options regarding City Clerk logistics and operations.

COMMENTS FROM THE PUBLIC:

Notice to the public was read.

One person spoke regarding individual rights to express political views on private property.

One person spoke about the caring sense of community in Atwater. She also expressed her support for the Atwater Police Activities League.

One person spoke encouraging everyone to leave the past and continue moving forward as a community. He invited the public to a celebration ceremony at Victory Baptist Church on September 8, 2019.

One person spoke regarding entryways to Silva Ranch as being in a state of disrepair and affecting home values in the development.

One person spoke questioning the recent rise in water fees and the condition of water quality.

No one else came forward to speak.

CITY COUNCIL MATTERS:

City Council comments

City Council Member Cale asked for thoughts and prayers for a special friend who is suffering a health issue. He also reported that Merced County Sheriff Warnke is doing much better.

City Council Member Ambriz reported that the Movies in the Park at Veterans Park was a huge success and another movie is planned for September 28, 2019 at which time (6:00 PM at Ralston Park) the City Council will be serving hot dogs, chips, and cold water.

City Council Member Vierra commented that the City Council is pleased to have received the award to cure the water well issues, and that the City Council is working diligently to move forward quickly with remedies. She also praised local organizations for creating a positive sense of community through multiple programs throughout the year. She requested that the City Manager provide City Council with a list of all open staff positions and an updated list of cannabis facilities.

Mayor Pro Tem Raymond commented that the City parks are looking much better. He stated that he is pleased that landscape districts are also seeing more attention and improvement. He also wished his wife a happy birthday.

City Manager Waterman announced that RFP's have been issued for landscape services and that all districts will be seeing improvements.

Public Works Director Haddix also reported that bids will be received by August 29th and that awards are planned for approval by City Council on September 9, 2019.

Mayor Creighton congratulated Mr. Krotik on his 30th anniversary as a local realtor. He also expressed his support for the Movies in the Park activities.

CLOSED SESSION:

Mayor Creighton adjourned the meeting to the General Services Conference Room to resume Closed Session items at 7:15 PM. Closed Session resumed at 7:20 PM.

Closed Session adjourned at 9:20 PM.

MAYOR OR INTERIM CITY ATTORNEY REPORT OUT FROM CLOSED SESSION:

Interim City Attorney Sanchez reported that the City Council considered several matters and that the City Council completed the annual evaluation of the City Manager. The Closed Session agenda was completed.

ADJOURNMENT:

Mayor Creighton adjourned the meeting at 9:22 PM.



JANELL MARTIN,
DEPUTY CITY CLERK

By: Lesa Rasmussen
P-M Transcription Services