



# CITY OF ATWATER

## CITY COUNCIL

### ACTION MINUTES

**September 24, 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: City Manager Waterman, City Attorney White, Deputy City Clerk Bengtson-Jennings***

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 5:02 PM. Closed Session was called to order at 5:06 PM.***

Conference with Legal Counsel – Anticipated Litigation – Significant exposure to litigation pursuant to Government Code Section 54956.9(2)(d): Number of cases: (6)

Conference with Legal Counsel – Existing Litigation – Government Code Section 54956.9(a): Name of case: Frank Johnson v. City of Atwater, Case No. 18CV-03533

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

Pursuant to Government Code Section 54956.8, Conference with Real Property Negotiator regarding Property Disposition. Agency Negotiator: City Manager Waterman

Property Location: 001-134-015

***Closed Session recessed to Regular Session at 6:02 PM.***

REGULAR SESSION: (Council Chambers)

***The City Council of the City of Atwater met in Regular Session this date at 6:09 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 McClellan.***

ROLL CALL:

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

***Absent: None***

***Staff Present: City Manager Waterman, City Attorney White, City Treasurer Heller, CAL FIRE Battalion Chief Wight, Finance Director Deol, Interim Police Chief Bessinger, General Services Manager/Chief Building Official Pereida, Recreation Supervisor Rahn, Executive to the City Manager Martin, Deputy City Clerk Bengtson-Jennings, Recording Secretary Rasmussen***

MAYOR OR CITY ATTORNEY REPORT OUT FROM CLOSED SESSION:

***City Manager Waterman stepped down from the dais and left the City Council Chambers at 6:11 PM.***

Joint Special Meeting of September 10, 2018

**City Attorney White reported: "Mayor and City Council, by a vote of three with two abstaining, being the Mayor and the Vice Mayor, the City Council has directed me to release to the public certain email and text communications between Chief Joseph, the Mayor, and the Vice Mayor. Those will be made available, I believe, later this week."**

**City Manager Waterman returned to the dais at 6:14 PM.**

Regular Meeting of September 24, 2018

**City Attorney White reported that the Closed Session agenda was not completed and that Closed Session will resume following the Regular Session to consider approximately 80% of the remaining items.**

**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 Creighton and the vote was: Ayes: Creighton, Raymond, Vierra, Vineyard, 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 the following:**

- **He is seeking the office of 2<sup>nd</sup> Vice Chair in the statewide organization Rural County Representatives of California to bring representation to the Board from the Central Valley.**
- **The Merced County Board of Supervisors passed their final budget of \$625.8 million dollars with a \$1 million dollar set aside to reserves.**
- **County building permits in excess of 30 days are at zero and only two applications are currently at 20 days.**
- **Castle Development Center has seen interest from a national uniform company and two other sites are also being considered, one in Arizona and one in Nevada.**
- **He attended a cannabis meeting to review conformance with the new Farm Bill, and he is ready to respond if the federal Farm Bill is passed.**
- **County staff met with the Denmark Ministry of Foreign Affairs to discuss**

*the SGMA (Sustainable Groundwater Management Act) program and find ways to work together on mutual groundwater issues.*

- *He also attended the UC Merced Bay Area Council meeting to discuss the possibility of forming a mega region to promote investment.*
- *September is National Library Card Sign Up Month. He urged everyone to get a library card and announced that there is currently a craft program in progress at the Atwater Library.*
- *Work is under way to pipe methane gas to UC Merced for use to generate electricity.*
- *The fourth Thursday of each month representatives from local and state government are available at Atwater City Hall in the City Council Chambers to meet with members of the public between the hours of 1:30 PM and 3:30 PM.*

COMMENTS FROM THE PUBLIC:

*Notice to the public was read.*

*One person introduced himself as a candidate for the office of State Senate representing the 12<sup>th</sup> Senate District which encompasses the City of Atwater.*

*One speaker raised allegations about a current candidate for City Council and spoke about alleged corruption in Atwater politics.*

*One speaker responded to allegations made about his candidacy and denied all statements made by the previous speaker.*

*One person requested assistance from staff to hold an event in Ralston Park, and staff was directed to assist.*

*One person questioned the decision making of a City Council member and also raised questions regarding the background check on former Interim City Manager de Werk.*

*One person raised concerns about the cost of attorney's fees and asked if the City will be reimbursed for fees associated with Unicorn Holistic.*

*One person requested information regarding the State Audit of the City of Atwater.*

*One speaker raised a dispute over a water bill she received from the City, and staff was directed to work directly with that person to resolve the issue.*

***One speaker questioned the accuracy of statistics previously presented by a City Council member regarding the number of 3-2 votes that have occurred since taking office. He also asked the City Manager to report on how much money will be reimbursed to the City from Churchwell-White law firm. He questioned whether the City's budget is really balanced at this point. He announced a pancake fundraiser for the Buhach Colony Band to be held at Atwater Applebee's on Saturday the 29<sup>th</sup> of September between the hours of 8:00 AM and 10:00 AM for a cost of \$10 per meal.***

***One person spoke regarding the lack of confidence in the City Council and asked about an alleged letter of intent being signed by the City Attorney and the City Manager to turn Atwater Police Department activities over to the Merced County Sheriff's office.***

***One person challenged the wording on the agenda related to Closed Session citing that the term "anticipated litigation" requires a definition of who is involved in the litigation and that the more accurate term should be "potential litigation." He also encouraged more openness from the City Council.***

***One person spoke about the current shortage of police manpower and stated that any consideration of having the Sheriff's office take over policing in Atwater is a very bad idea due to the lack of response times from the Sheriff's Department. He further cited that at a recent candidates' forum there was no response or attendance from two City Council members currently seeking office. He reported that another forum is scheduled for October 2, 2018 for the City Council Member seats open and for the Mayoral candidates. He urged participation from the City Council.***

***Two persons relayed information about two different areas of the City where traffic speeding is endangering the lives and property of citizens. Both persons asked for help in calming the traffic in those areas, and staff was directed to work with both parties.***

***No one else came forward to speak.***

***Mayor Pro Tem Vineyard left the dais at 7:15 PM and returned to the dais at 7:16 PM.***

***Mayor Price called a recess at 7:23 PM.***

***The City Council returned to the dais and Mayor Price resumed the meeting at 7:43 PM.***

**CONSENT CALENDAR:**

***Mayor Pro Tem Vineyard requested that Agenda item #13 under Public Hearings, "Resolution approving Rate Study and adopting new rates for water and***

*wastewater services," be moved to immediately follow the Treasurer's Report for the month of August, 2018.*

*Agenda item #5 under Agreements, "Approving Amendment No. 1 to Refuse Services Agreement with Allied Waste Services of North America, LLC to expand scope of services to include Locking Bin Services," was removed from the consent calendar for separate discussion and possible action.*

*Agenda item #6 under Petitions and Communications, "Request from Atwater Elementary School District and Atwater Caring About Kids Community Council for assistance with annual Red Ribbon Walk and Drug Store Project," was removed from the consent calendar for separate discussion and possible action.*

*Agenda item #7 under Petitions and Communications, "Request from Atwater High School Leadership Class for assistance with annual Homecoming Parade," was removed from the consent calendar for separate discussion and possible action.*

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

**WARRANTS:**

1. September 24, 2018

***ACTION:*** *Approval of warrants as listed.*

**MINUTES:** (City Council)

2. August 27, 2018 Regular meeting

***ACTION:*** *Approval of minutes as listed.*

**MINUTES:** (Community Development and Resources Commission)

3.
  - a) June 20, 2018
  - b) July 18, 2018
  - c) August 15, 2018

***ACTION:*** *Acceptance of minutes as listed.*

**CALL FOR BIDS/RFPS:**

4. Juniper Avenue Pedestrian and Bike Path Project (General Services Manager/Chief Building Official Pereida)

***ACTION:*** Approval of plans and specifications and authorizes advertising and call for bids for Juniper Avenue Pedestrian and Bike Path Project, City Project No. 14-3; Bid Call No. 666-14.

AGREEMENTS:

5. Approving Amendment No. 1 to Refuse Services Agreement with Allied Waste Services of North America, LLC to expand scope of services to include Locking Bin Services (Finance Director Deol)

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

PETITIONS AND COMMUNICATIONS:

6. Request from Atwater Elementary School District and Atwater Caring About Kids Community Council for assistance with annual Red Ribbon Walk and Drug Store Project (Christy Lobao, Director of Special Programs)

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

7. Request from Atwater High School Leadership Class for assistance with annual Homecoming Parade (Lexi Valencia, ASB Vice President)

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

INFORMATIONAL ITEMS ONLY (NO ACTION REQUIRED):

8. Police Department activities and projects for the month of August, 2018 (Interim Police Chief Bessinger)
9. Fire Department activities and projects for the month of August, 2018 (CAL FIRE Battalion Chief Wight)

AGREEMENTS:

Approving Amendment No. 1 to Refuse Services Agreement with Allied Waste Services of North America, LLC to expand scope of services to include Locking Bin Services (Finance Director Deol)

***MOTION:*** City Council Member Creighton moved to approve Amendment No. 1 to Refuse Services Agreement, in a form approved by the City Attorney, with Allied Waste Services of North America, LLC (Republic Services, Inc.) to expand scope of services to include Locking Bin Services; and to authorize and direct the City Manager to execute the Amendment on behalf of the City. The motion was

***seconded by Mayor Pro Tem Vineyard and the vote was: Ayes: Creighton, Raymond, Vineyard, Vierra, Price; Noes: None; Absent: None. The motion passed.***

PETITIONS AND COMMUNICATIONS:

Request from Atwater Elementary School District and Atwater Caring About Kids Community Council for assistance with annual Red Ribbon Walk and Drug Store Project (Christy Lobao, Director of Special Programs)

***MOTION: Mayor Pro Tem Vineyard moved to approve the request from Atwater Elementary School District and Atwater Caring About Kids Community Council for assistance with annual Red Ribbon Walk on Friday, October 19, 2018; to assist in escorting approximately 600 students and community members to walk in support of a Drug-Free Atwater at 11:30 AM beginning at Ralston Park, down Third Street to Broadway Avenue, right on Broadway Avenue to Fifth Street, right on Fifth Street to Grove Avenue, right on Grove Avenue and back to Ralston Park; to approve road closure on Third Street between Fir and Grove Avenues from 11:15 AM to 1:00 PM; and to provide extra trash cans at Ralston Park; and to approve the request from Atwater Elementary School District and Atwater Caring About Kids Community Council for assistance with annual Drug Store Project (an all-day drug prevention event) on Friday, October 26, 2018 at Mitchell K6 School with the use of School Resource Officers. 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.***

Request from Atwater High School Leadership Class for assistance with annual Homecoming Parade (Lexi Valencia, ASB Vice President)

***MOTION: Mayor Pro Tem Vineyard moved to approve the request from Atwater High School Leadership Class for assistance with annual Homecoming Parade on Friday, October 5, 2018 at 3:30 PM beginning on Mitchell Avenue, left onto Winton Way, and continue to Atwater High School on Fruitland Avenue. The motion was seconded by City Council Member Raymond and the vote was: Ayes: Vierra, Vineyard, Creighton, Raymond, Price; Noes: None; Absent: None. The motion passed.***

FUNDING AND BUDGET MATTERS:

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

***One person spoke asking if an external audit was performed.***

***Finance Director Deol responded that there was no external audit and that it was an internal project to identify issues.***

***MOTION: Mayor Pro Tem Vineyard moved to approve the Treasurer's Report for the month of August, 2018. The motion was seconded by Mayor Price and the***



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

**PUBLIC HEARINGS:**

Resolution approving Rate Study and adopting new rates for water and wastewater services (Finance Director Deol)

**Habib Isaac of Raftellis Corporation reviewed the details of the Cost of Service Report for Proposed Rates with a PowerPoint presentation.**

**Albert Peché of Peché and Associates summarized the refinancing of the bonds and how it made reductions in rates possible. He urged the City to move forward with installing water meters.**

**Mayor Price opened the public hearing for this item.**

**Four people spoke regarding the quality of water being provided and spoke against increases in the water rates. They also cited receiving information too late about the quality issues.**

**One person questioned the rationale for raising water rates on citizens while a local farmer is afforded 3.25 million gallons of non-potable water a day for his farming operation and asked that staff pursue an agreement to receive revenue from that farmer before raising rates on citizens.**

**One person spoke about rate increases in 2012 and reiterated that even though sewer rates are now decreasing, the water rates are increasing. He questioned how the money is being spent and spoke against raising water rates.**

**One person spoke about the misleading percent of rise in the water rate and cited that the sewer decrease will bottom out at 4% in five years while the increase to water will be 42% in five years and urged the City Council to find other options beyond raising rates on citizens.**

**City Council Member Vierra left the dais at 9:18 PM and returned to the dais at 9:19 PM.**

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

**Deputy City Clerk Bengtson-Jennings reported that twelve (12) written protests were received, and therefore, a majority protest of property owners has not been received.**

**MOTION: Mayor Pro Tem Vineyard moved to table the item for six months or settlement of the lawsuit regarding groundwater contamination whichever comes first. The motion was seconded by City Council Member Raymond and the vote**

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

CITY ATTORNEY REPORTS/UPDATES:

Possible amendment to Chapter 5.60 of Atwater Municipal Code, Section 5.60.040 "Cannabis Dispensaries"

**Mayor Pro Tem Vineyard left the dais at 10:03 PM and returned to the dais at 10:06 PM.**

**City Attorney White asked the City Council to provide staff with direction regarding potentially expanding the number of cannabis dispensaries to be allowed in the City or whether to maintain the limit of dispensaries at two (2).**

**Three people spoke in favor of letting the market drive the number of dispensaries allowed in the City of Atwater without limitations.**

**By majority consensus, the City Council provided staff with direction regarding cannabis dispensaries, to allow the market to dictate the number of dispensaries in the City of Atwater.**

Resolution adopting City Officials' Handbook

**One person spoke against approving the Handbook citing several concerns with its content.**

**MOTION: City Council Member Vierra moved to adopt Resolution No. 3060-18 adopting the City Officials' Handbook establishing rules, procedures, and guidelines for City Officials in conducting City-related business as amended, to change Item B.1 on page 68 of the Handbook limiting public comment for non-agendized items to three (3) minutes. The motion failed for lack of a second.**

**MOTION: City Council Member Vierra moved to adopt Resolution No. 3060-18 adopting the City Officials' Handbook establishing rules, procedures, and guidelines for City Officials in conducting City-related business as presented. The motion was seconded by City Council Member Raymond and the vote was: Ayes: Creighton, Raymond, Vierra; Noes: Vineyard, Price; Absent: None. The motion passed.**

CITY COUNCIL MATTERS:

City Council comments

**City Council Member Raymond commented that he has received phone calls related to traffic issues on Green Sands Avenue and requested that speed calming ideas be brought to the City Council as an agendized item.**

**City Council Member Vierra had no comments.**

**City Council Member Creighton had no comments.**

**Mayor Pro Tem Vineyard asked for the status of the Towing Agreement. He also cited that Linden Avenue is a high speed area in the City. He noted that October is Breast and Liver Cancer Awareness Month.**

**Mayor Price reported that at the Merced County Association of Governments' recent meeting he learned that the landfill is making money and that there should be no landfill fee increases for the next year. He also recognized the Bloss Historical Society for the Installation Dinner event.**

**City Manager Waterman announced the "Coffee with a Cop" event set in City Council Chambers on October 3, 2018 at 8:00 AM and encouraged the public to attend.**

**CLOSED SESSION: (Conference Room A)**

**Continuation of Closed Session was necessary. Mayor Price resumed Closed Session at 11:08 PM.**

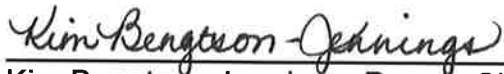
**Closed Session adjourned at 11:43 PM.**

**MAYOR OR CITY ATTORNEY REPORT OUT FROM CLOSED SESSION:**

**Mayor Price reported that no action was taken and staff was given direction. The Closed Session agenda was completed.**

**ADJOURNMENT:**

**Mayor Price adjourned the meeting at 11:45 PM.**



Kim Bengtson-Jennings, Deputy City Clerk

By: Lesa Rasmussen,  
Recording Secretary