



# CITY OF ATWATER

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## CITY COUNCIL

### ACTION MINUTES

**March 9, 2020**

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 Members Ambriz, Cale, Vierra, Mayor Pro Tem Raymond, Mayor Creighton

**Absent:** None

**Staff Present:** City Manager Waterman, Deputy City Clerk Martin

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 5:06 PM. Closed Session was called to order at 5:08 PM.*

Pursuant to Government Code Section 54957(b)(1), Public Employee Appointment – City Attorney

Conference with Legal Counsel – Existing Litigation – Government Code Section 54956.9: Name of case: Union Pacific v. Bhatti; Case No. 19CV-4468

Conference with Legal Counsel – Existing Litigation – Government Code Section 54956.9: Name of case: Alberto Mondragon Gomez, Jr. et al. v City of Atwater; Case No. 20CV-00636

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

Property Location: Northwest of Maple Street between  
Olive Avenue and Atwater Boulevard

***Closed Session adjourned at 5:21 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 Dr. Edward Vanek.***

INVOCATION:

***The Invocation was led by Police Chaplain Steve Mead, followed by a moment of silence in honor of the Porterville, CA firefighters, Raymond Figueroa and Patrick Jones, who died in the line of duty on February 19, 2020.***

ROLL CALL:

***Present: City Council Members Ambriz, Cale, Mayor Pro Tem Raymond, Mayor Creighton***  
***Absent: City Council Member Vierra***  
***Staff Present: City Manager Waterman, Interim City Attorney Splendorio, Police Chief Salvador, CAL FIRE Battalion Chief Slate, Finance Director Jacobs-Hunter, Interim Community Development Director Thompson, General Services Manager Pereida, Public Works Director Haddix, Deputy City Clerk Martin***

MAYOR OR INTERIM CITY ATTORNEY REPORT OUT FROM CLOSED SESSION:

***Mayor Creighton reported that no reportable action was taken. The Closed Session agenda was completed.***

SUBSEQUENT NEED ITEMS:

*Mayor Creighton announced a request for a subsequent need item requiring immediate action subsequent to the agenda being posted, a resolution declaring the growing COVID-19 virus an emergency in the City of Atwater and appointing a volunteer medical adviser to advise the City on the development and status of the virus.*

***MOTION:*** *City Council Member Cale moved to add the subsequent need item to the agenda as item #7b. The motion was seconded by City Council Member Ambriz and the vote was: Ayes: Ambriz, Raymond, Cale, Creighton; Noes: None; Absent: Vierra. The motion passed.*

APPROVAL OF AGENDA AS POSTED OR AS AMENDED:

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

CEREMONIAL MATTERS:

Resolution recognizing Dora Anderson

*Mayor Creighton reported that Community Service representative Dora Anderson was unable to attend the meeting and the recognition will be added to a future agenda.*

PRESENTATIONS:

Monthly verbal report by Merced County District 3 Supervisor McDaniel

***Merced County District 3 Supervisor McDaniel reported the following:***

- *He urged the City of Atwater to work with the Merced County Health Department related to the COVID-19 coronavirus.*
- *He announced the April meeting of the RCRC will be held in Merced bringing 37 representatives from rural counties to our area.*
- *Merced County will begin their budget review process next week, and the public is encouraged to participate.*

CONSENT CALENDAR:

***Agenda item #6 under Agreements, "Approving a Contract Change Order to General Services Agreement with Joe's Landscaping and Concrete, Inc. for the***

***Landscape Maintenance Districts,” was removed from the consent calendar for separate discussion and possible action.***

***Agenda item #7 under Call for Bids, “Approving specifications and authorizing advertising and call for bids for Heating and Ventilation and Air Conditioning (HVAC) Repair and Maintenance Services,” was removed from the consent calendar for separate discussion and possible action.***

***One person spoke requesting information on agenda item #5, “Resolution approving the sale of property located northwest of Maple Street between Olive Avenue and Atwater Boulevard and ratifying the execution of a Purchase and Sale Agreement.”***

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

**WARRANTS:**

1. March 9, 2020

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

**MINUTES: (City Council)**

2. February 24, 2020 – Regular meeting

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

**MINUTES: (Planning Commission)**

3. January 15, 2020 – Regular meeting

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

**MINUTES: (Audit and Finance Committee)**

4. January 27, 2020 – Regular meeting

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

**RESOLUTIONS:**

5. Resolution approving the sale of property located northwest of Maple Street between Olive Avenue and Atwater Boulevard and ratifying the execution of a Purchase and Sale Agreement (Interim Community Development Director

Thompson)

***ACTION: Makes the environmental finding that the sale is categorically exempt under the California Environmental Quality Act (“CEQA”) as in the Guidelines, Section 15061 (b)(3) “General Rule” exemption, and adopts Resolution No. 3134-20 approving the sale of property located northwest of Maple Street between Olive Avenue and Atwater Boulevard to Mohan S. and Juginder K. Sodhi in the amount of \$19,602; ratifies the execution of a Purchase and Sale Agreement; and authorizes and directs the City Manager to execute the Agreement on behalf of the City.***

**AGREEMENTS:**

6. Approving a Contract Change Order to General Services Agreement with Joe’s Landscaping and Concrete, Inc. for the Landscape Maintenance Districts (Public Works Director Haddix)

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

**CALL FOR BIDS:**

7. Approving specifications and authorizing advertising and call for bids for Heating and Ventilation and Air Conditioning (HVAC) Repair and Maintenance Services (Public Works Director Haddix)

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

**AGREEMENTS:**

Approving a Contract Change Order to General Services Agreement with Joe’s Landscaping and Concrete, Inc. for the Landscape Maintenance Districts (Public Works Director Haddix)

***Public Works Director Haddix reported the new total project cost of \$305,000 for Landscape Maintenance Districts. The \$97,000 increase to the contract is a result of additional work. Mayor Pro Tem Raymond questioned the original contract price as reflecting the full scope of work and that the change order came to the City Council after the work had already been completed and an invoice presented to the City for payment.***

***Jaime Alvarado, Project Manager for Joe’s Landscaping and Concrete, Inc., clarified that the cleanup involved all the Maintenance Districts; it did not include the cost of initial cleanup in the base bid. The additional work for cleanup was agreed upon between himself and representatives of the City which necessitated the change order to the contract.***

*City Manager Waterman clarified that the process for submittal of the additional work invoice was reviewed by the Interim City Attorney.*

*One person spoke regarding the bid process and questioned the fairness to the lower bid related to the scope of work contained in the bid.*

*One person spoke questioning the timing of how the invoice came to the City Council.*

*One person spoke questioning the number of change orders that appear on the agenda for this meeting. He also questioned the Interim City Attorney as to the City's liability in this issue.*

*Mayor Creighton questioned staff regarding plans going forward to address weed maintenance and the irrigation plans.*

*Jaime Alvarado, Project Manager for Joe's Landscaping and Concrete, Inc., reported that a summary of the irrigation systems and any needed repairs were submitted to City staff in November 2019. He also confirmed that any additional work that may arise in the future will be pre-approved by the City Council before any work is initiated.*

**MOTION:** *City Council Member Ambriz moved to approve Contract Change Order No. 1 to General Services Agreement with Joe's Landscaping and Concrete, Inc. in the amount of \$97,400 for a total project cost of \$305,522 for Landscape Maintenance Services in Landscape Maintenance Districts, Project No. 2019-09, and to authorize and direct the City Manager to execute the Change Order on behalf of the City. The motion was seconded by Mayor Pro Tem Raymond and the vote was: Ayes: Ambriz; Noes: Raymond, Cale, Creighton; Absent: Vierra. The motion failed.*

**CALL FOR BIDS:**

Approving specifications and authorizing advertising and call for bids for Heating and Ventilation and Air Conditioning (HVAC) Repair and Maintenance Services (Public Works Director Haddix)

*Public Works Director Haddix provided a summary of the project and the need to seek new bids that will include the requirement for prevailing wage in the scope of work contained in the bid.*

**MOTION:** *Mayor Pro Tem Raymond moved to approve specifications and authorize advertising and call for bids for Heating Ventilation and Air Conditioning (HVAC) Repair and Preventive Maintenance Services, Bid Call No. 688-20. The motion was seconded by City Council Member Ambriz and the vote was: Ayes: Ambriz, Raymond, Cale, Creighton; Noes: None; Absent: Vierra. The motion passed.*

SUBSEQUENT NEED ITEM:

A resolution declaring COVID-19 to be an emergency situation and selecting Dr. Vanek to serve as a voluntary medical adviser for the City.

***MOTION:*** *City Council Member Cale moved to adopt Resolution No. 3131-20 declaring COVID-19 to be an emergency situation and selecting Dr. Vanek to serve as a volunteer medical adviser for the City. The motion was seconded by Mayor Pro Tem Raymond and the vote was: Ayes: Cale, Ambriz, Raymond, Creighton; Noes: None; Absent: Vierra. The motion passed.*

REPORTS AND PRESENTATIONS FROM STAFF:

Approving a Contract Change Order to General Construction Contract with Taylor Backhoe Service, Inc. for Fruitland Avenue Reconstruction Project – Phase I Project (Interim Community Development Director Thompson)

***Interim Community Development Director Thompson summarized the amendments to the contract in response to requests for a traffic calming measure on Fruitland Avenue. He clarified that no work has been initiated pending approval by the City Council of this request. He also confirmed that the project remains under budget even with the addition of the new change order.***

***One person spoke in favor of approving the change order.***

***MOTION:*** *City Council Member Cale moved to approve Contract Change Order No. 1 to General Construction Contract with Taylor Backhoe Service, Inc. for Project No. 16-2-1, Fruitland Avenue Reconstruction Project – Phase I in the amount of \$29,064.85, for a total project cost of \$174,809.46; and to authorize and direct the City Manager to execute the Change Order on behalf of the City. The motion was seconded by City Council Member Ambriz and the vote was: Ayes: Raymond, Ambriz, Cale; Noes: None; Abstain: Creighton; Absent: Vierra. The motion passed.*

***Mayor Creighton called a recess at 7:06 PM.***

***The City Council returned to the dais and Mayor Creighton resumed the meeting at 7:17 PM. City Council Member Vierra joined the City Council at the dais at 7:17 PM.***

Approving Contract Change Order No. 2 to General Construction Contract with Rolfe Construction and Additional Work Authorization No. 3 to Professional Services Agreement with MVE, Inc. for the Winton Way Reconstruction Project (Interim Community Development Director Thompson)

***Interim Community Development Director Thompson provided a summary of the change order.***

*One person spoke expressing pleasure that the contract was awarded to a local business.*

**MOTION:** *City Council Member Cale moved to approve Contract Change Order No. 2 in the amount of \$331,311.70 to Rolfe Construction General Construction Contract for a total contract amount of \$2,668,342.10; to approve Additional Work Authorization No. 3 to MVE, Inc. Professional Services Agreement in the amount of \$15,200 for a total contract amount of \$142,255; and to authorize and direct the City Manager to sign the Change Order and Additional Work Authorization. The motion was seconded by City Council Member Vierra and the vote was: Ayes: Ambriz, Vierra, Raymond, Cale, Creighton; Noes: None; Absent: None. The motion passed.*

Verbal annual report regarding City Fire services for calendar year 2019 (CAL FIRE Battalion Chief Slate)

*CAL FIRE Battalion Chief Slate provided a presentation detailing the services and activities for the year 2019. He also reported on the status of the fleet vehicles. He provided an update regarding the Reserve Firefighter Program.*

Verbal annual report regarding City Police services for calendar year 2019 (Police Chief Salvador)

*Police Chief Salvador provided a PowerPoint presentation detailing activities, fleet status, budget performance, animal control, code enforcement and the Police Reserve Program.*

REPORT FROM CITY MANAGER:

Verbal update regarding the City's water system

*City Manager Waterman provided an update regarding TCP remediation efforts in the City of Atwater. A formal request for a single source approach to the remediation project will be brought to the City Council at the next regular City Council meeting on March 23, 2020.*

COMMENTS FROM THE PUBLIC:

*Notice to the public was read.*

*One person spoke requesting a policy change regarding the operation of Airbnb businesses in the City of Atwater.*

*One person spoke regarding the issue of TCP remediation and that the project is not progressing as fast as the citizens deserve.*



*One person thanked the City Council and staff for the cleanup of the homeless area near the freeway.*

*One person spoke asking how the cost of cleanup of the homeless area is to be recouped.*

*Interim City Attorney Splendorio advised that regarding the TCP remediation an engineering plan is in place, efforts are underway, and the delivery methods and options will come to the City Council at their next regular meeting on March 23, 2020.*

*City Manager Waterman responded regarding the billing for costs of cleanup at the homeless encampment advising that the property owner will be invoiced for cleanup where the encampment was located on private property.*

*No one else came forward to speak.*

CITY COUNCIL MATTERS:

Verbal update regarding City Attorney appointment and possible direction

*Interim City Attorney Splendorio left the dais at 8:16 PM.*

*City Manager Waterman reviewed the process for selection and appointment of a permanent City Attorney.*

*Mayor Creighton reported that the firm of Meyers Nave received the highest score in the selection process. The City Council directed the City Manager to move forward with offering a contract to the firm of Meyers Nave.*

City Council comments

*City Council Member Vierra reported that the funding for the Splash Pad at Veteran's Park is coming from the Park Impact Fund and is not a General Fund expense.*

*City Council Member Ambriz had no comment.*

*City Council Member Cale reported that students from Merced and Atwater attended a great conference regarding alcohol, vaping, and tobacco use.*

*Mayor Pro Tem Raymond responded to the Airbnb issue raised earlier under Public Comment. He asked staff to bring information and direction back to the City Council at a future meeting once the Planning Commission has reviewed the proposal. He also praised Joe's Landscaping and Concrete, Inc. for their good work throughout the City.*

*Mayor Creighton reinforced his dedication to moving the TCP remediation*

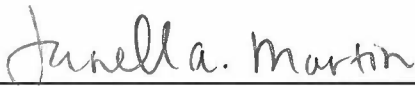
*program along as fast as possible. He also praised the work of the Atwater Police Department and the progress the Police Chief has made to upgrade the department. He thanked the members of the City Council for their hard work on the issues facing the City.*

CLOSED SESSION:

*Continuation of Closed Session was not necessary.*

ADJOURNMENT:

*Mayor Creighton adjourned the meeting at 8:23 PM.*



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JANELL MARTIN,  
DEPUTY CITY CLERK

By: Lesa Rasmussen  
PM Transcription Services