



# CITY OF ATWATER

## SPECIAL MEETING CITY COUNCIL

### ACTION MINUTES

August 31, 2020

#### CALL TO ORDER:

*The City Council of the City of Atwater met in Special Session this date at 5:07 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 (via teleconference), Vierra, Mayor Pro Tem Raymond (via teleconference), Mayor Creighton  
**Absent:** None  
**Staff Present:** City Manager Waterman, City Attorney Splendorio, Police Chief Salvador, Public Works/Community Development Director Thompson, Deputy Director of Public Works/Community Development Holsinger, Finance Director Jacobs-Hunter(via teleconference) City Engineer Hayes, Information Technology Manager Lamerson, Deputy City Clerk Martin

#### PLEDGE OF ALLEGIANCE:

*The pledge of allegiance was led by members of the Atwater Police Department.*

#### INVOCATION:

*The invocation was led by Garret Creighton.*

CONSENT CALENDAR:

***MOTION:*** Mayor Pro Tem Raymond moved to approve the Consent Calendar as listed. The motion was seconded by City Council Member Vierra and the vote was: Ayes: Raymond, Vierra, Ambriz, Creighton; Noes: None; Absent: None; No Votes: Cale (due to technical issues). The motion passed.

RESOLUTIONS:

1. Approving and authorizing the annual Local Transportation Fund (LTF) Claim to be filed with Merced County Association of Governments (MCAG) for Fiscal Year 2020-21 and approving Budget Amendment No. 5 regarding FY 2020-21 Local Transportation Fund (Public Works/Community Development Director Thompson)

***ACTION:*** Adoption of Resolution No. 3174-20 approving the annual Local Transportation Fund (LTF) Claim to be filed with the Merced County Association of Governments (MCAG) for Fiscal Year 2020-21; and authorize and direct the City Manager to execute the claim form on behalf of the City; and adoption of Resolution No. 3175-20 approving Budget Amendment No. 5 regarding FY 2020-21 Local Transportation Fund.

CALL FOR BIDS:

2. Approving Plans and Specifications and authorizing advertising and calling for bids for the Mitchell Schools Area Pedestrian Improvements Project (Public Works/Community Development Director Thompson)

***ACTION:*** Approval of the plans and specifications and authorize the advertising and calling for bids for Bid Call No. 692-20, the Mitchell Schools Area Pedestrian Improvements Project, City Project No.19-1.

3. Approving Plans and Specifications and authorizing advertising and calling for bids for the Aileen Colburn Pedestrian Improvements Phase 2 Project (Public Works/Community Development Director Thompson)

***ACTION:*** Approval of the plans and specifications and authorize the advertising and calling for bids for Bid Call No. 691-20, the Aileen Colburn Pedestrian Improvements Phase 2 Project, City Project No. 17-1.

PUBLIC IMPROVEMENTS:

4. Accepting Wastewater Treatment Plant (WWTP) Drying Bed Expansion Project as complete (Public Works/Community Development Director Thompson)

***ACTION:*** *Accepts work done under the contract for WWTP Drying Bed Expansion, Project No. 19-3 as complete; authorizes and directs the City Manager to sign a Notice of Completion and have it recorded on behalf of the City; and authorizes a final payment in the amount of \$32,494.71.*

PUBLIC COMMENT:

***Notice to the public was read.***

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

PUBLIC HEARINGS:

Adopting the Initial Study/Negative Declaration for the 1,2,3–TCP Remediation Project (Public Works/Community Development Director Thompson)

***Public Works/Community Development Director Thompson provided background information regarding the Initial Study/Negative Declaration for the 1,2,3–TCP Remediation Project.***

***Mayor Creighton commented on how the City of Atwater entered into a lawsuit with Sacramento Law Firm Miller Axline and Sawyer and won \$64 million last year against Shell Oil Company to remediate the City’s water supply.***

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

***One person spoke regarding his concern of his increased water prices.***

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

***City Council Member Vierra commended Mayor Creighton on his persistent effort to lead this issue from the beginning of the contamination to the commencement of the remediation project.***

***MOTION:*** *City Council Member Vierra moved to adopt Resolution No. 3176-20 adopting the Initial Study/Negative Declaration for the City of Atwater 1,2,3–TCP Remediation Project and making the required environmental findings pursuant to the California Environmental Quality Act (CEQA). The motion was seconded by Mayor Pro Tem Raymond and the vote was: Ayes: Cale, Ambriz, Vierra, Raymond, Creighton; Noes: None; Absent: None. The motion passed.*

RESOLUTION:

Authorizing the City Manager to enter into a design-build contract for Phase 1 Services for the City of Atwater 1,2,3–TCP Remediation Project (Public Works/Community Development Director Thompson)

**City Manager Waterman clarified staff's recommendation was to award a contract in an amount not to exceed \$10 million.**

**Public Works/Community Development Director Thompson provided background information on the awarding of the 1,2,3-TCP Remediation Project to Provost and Pritchard Engineering Group, Inc. and W.M. Lyles Co.**

**Mayor Creighton thanked the law firm Miller Axline & Sawyers for pushing through the lawsuit instead of taking the low settlement offer.**

**Deputy City Clerk Martin stated for clarification staff's recommendation for this item was to adopt Resolution No. 3177-20 authorizing and directing the City Manager to enter into a progressive design-build contract for Phase 1 Services, with W.M. Lyles Co. and Provost and Pritchard Engineering Group, Inc., in an amount not to exceed ten million dollars (\$10,000,000), to include vessel procurement for the City of Atwater 1,2,3-TCP Remediation Project; and authorizes and directs the City Manager to execute the contract on behalf of the City.**

**MOTION: City Council Member Vierra moved to adopt Resolution No. 3177-20 awarding a Progressive Design-Build Contract for Phase 1 Services, with W.M. Lyles Co. and Provost and Pritchard Engineering Group, in an amount not to exceed ten million dollars (\$10,000,000), to include vessel procurement for the City of Atwater 1,2,3-TCP Remediation Project; and authorizes and directs the City Manager to execute the contract on behalf of the City. The motion was seconded by City Council Member Ambriz and the vote was: Ayes: Vierra, Raymond, Cale, Ambriz, Creighton; Noes: None; Absent: None. The motion passed.**

Ratifying an Order of the Director of Emergency Services to allow Retail and Service Establishments to temporarily expand service capacity into public and private common areas (City Manager Waterman)

**City Manager Waterman provided background information regarding the Order of Emergency Services and its intent to ensure the viability of local businesses in the future of the community.**

**Mayor Creighton clarified that the ratification of this order was to protect our local businesses due to the ambiguity of the future as to which way the state or county will go regarding reopening California.**

**City Council Member Vierra asked for an example regarding what constitutes as "common area."**

**Public Works/Community Development Director Thompson clarified that the Order is designed to evaluate each application on a case by case basis and explained that "common area" could be the outside area of a business or the public's path in a shopping plaza.**

**MOTION:** Mayor Pro Tem Raymond moved to adopt Resolution No. 3178-20 ratifying the Order of the Director of Emergency Services of the City of Atwater to allow approved Retail and Services Establishments severely impacted by the COVID-19 pandemic the option to temporarily expand service capacity into public and private common areas under specified regulations. The motion was seconded by City Council Member Ambriz and the vote was: Ayes: Vierra, Cale, Raymond, Ambriz, Creighton; Noes: None; Absent: None. The motion passed.

**AGREEMENTS:**

Awarding a General Services Agreement to Phase 1 Construction for Broadway Avenue Seal & Stripe Project (Deputy Public Works/Community Development Director Holsinger)

*Deputy Public Works/Community Development Director Holsinger provided background information on this item.*

**MOTION:** City Council Member Cale moved to award a General Services Agreement, in a form approved by the City Attorney, to Phase 1 Construction for the Broadway Avenue Seal and Stripe Project, Project No. 20-4; Bid Call No. 696-20, in an amount not to exceed \$89,850.30; and to authorize and direct the City Manager to execute the Agreement on behalf of the City. The motion was seconded by Mayor Pro Tem Raymond and the vote was: Ayes: Ambriz, Cale, Raymond, Vierra, Creighton; Noes: None; Absent: None. The motion passed.

Awarding a General Services Agreement to Modern Air Mechanical of Merced, CA for Bid Call No. 693-20; "Removal and Replacement of Heating Ventilation and Air Conditioning (HVAC) Units at Various City-Owned Facilities" (Deputy Public Works/Community Development Director Holsinger)

*Deputy Public Works/Community Development Director Holsinger provided background information on this item. She also clarified that the Alternate Bid item No. 1 being awarded will only replace the two units at Fire Station 41, and that temporary solutions for air conditioning at the Police Department are currently being considered until additional funding permits the replacement of the HVAC unit at the Police Department.*

**MOTION:** City Council Member Ambriz moved to award a General Services Agreement, in a form approved by the City Attorney, to Modern Air Mechanical of Merced, CA for the Alternate Bid item No. 1 of Bid Call No. 693-20, "Removal and Replacement of Heating Ventilation and Air Conditioning (HVAC) Units at Various City-owned Facilities," in an amount not to exceed \$50,000; and to authorize and direct the City Manager to execute the Agreement on behalf of the City. The motion was seconded by City Council Member Vierra and the vote was: Ayes: Cale, Vierra, Ambriz, Raymond, Creighton; Noes: None; Absent: None. The motion passed.

Declaring Axon Taser body camera system a sole source item and a unique cost savings opportunity, and approving an Equipment/Software Lease-Purchase Agreement with Axon Taser for the lease-purchase of a Law Enforcement Body Worn Camera System (Police Chief Salvador)

***Police Chief Salvador provided background information regarding this item. He explained the importance of having body cameras on all of the Police Officers, especially during the present social conditions.***

***City Council Member Vierra questioned if the City will own the equipment and software after the five years is up on the lease-purchase agreement.***

***Police Chief Salvador explained that after the five-year lease-purchase agreement, the City will have the right to either renew the agreement or pursue a different contractor, if there is a better alternative at that time.***

***City Council Member Ambriz questioned if all police officers will have a body camera, or if the cameras will be made available to the police officers on a rotation basis.***

***Police Chief Salvador responded that there will be enough body cameras for all Police Officers.***

***MOTION: City Council Member Vierra moved to declare Axon Taser Body Camera system to be a sole source purchase item and find it to also be a unique cost savings opportunity for the City, exempting the purchase from centralized purchasing pursuant to Atwater Municipal Code section 3.04.110; and to approve a Five-Year Lease-Purchase Agreement, in a form approved by the City Attorney, with Axon Taser of Arizona, in the amount not to exceed \$105,015 over a 5-year period for the lease purchase of Body Worn Camera System; and to authorize and direct the City Manager to execute the Agreement on behalf of the City. The motion was seconded by Mayor Creighton and the vote was: Ayes: Cale, Raymond, Vierra, Ambriz, Creighton; Noes: None; Absent: None. The motion passed.***

**CLOSED SESSION:**

***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 5:55 PM. Closed Session was called to order at 6:04 PM.***

Pursuant to Government Code Section 54956.8, Conference with Real Property Negotiator regarding property price and terms of payment. Agency Negotiator: City Manager Waterman. Negotiating Parties: Shawn Slate.

Property Location: APN 001-134-012

Pursuant to Government Code Section 54956.8, Conference with Real Property Negotiator regarding property price and terms of payment. Agency Negotiator: City Manager Waterman. Negotiating Parties: Shawn Slate.

Property Location: APN 001-134-015

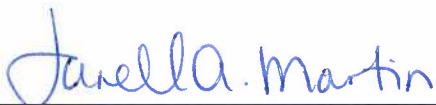
***Closed Session adjourned to Regular Session at 6:17 PM.***

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

***City Attorney Splendorio reported that the City Council considered two real property negotiations and no reportable action was taken. The Closed Session agenda was completed.***

**ADJOURNMENT:**

***The Special Meeting adjourned at 6:20 PM.***



**JANELL MARTIN, DEPUTY CITY CLERK**

By: Richard Vang  
Deputy City Clerk