



# CITY OF ATWATER

## CITY COUNCIL

### ACTION MINUTES

**October 12, 2020**

OPEN SESSION: (Council Chambers)

*The City Council of the City of Atwater met in Open Session this date at 5:30 PM in the City Council Chambers located at the Atwater Civic Center, 750 Bellevue Road, Atwater, California; Mayor Creighton presiding.*

ROLL CALL: (City Council)

**Present:** *City Council Members Ambriz, Cale, Vierra, Mayor Creighton*

**Absent:** *Mayor Pro Tem Raymond*

**Staff Present:** *Deputy City Manager Del Real, City Attorney Splendorio, Project Manager Lamerson, 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 5:33 PM. Closed Session was called to order at 5:37 PM.*

Conference with Legal Counsel – Initiating Litigation – Significant exposure to litigation pursuant to Government Code Section 54956.9(d)(2): Number of cases: (1)

*Closed Session adjourned at 5:49 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 Naomi Miller.***

INVOCATION:

***The Invocation was led by Pastor Rich Miller.***

ROLL CALL:

***Present: City Council Members Ambriz, Cale, Vierra (via teleconference), Mayor Pro Tem Raymond (via teleconference), Mayor Creighton***

***Absent: None***

***Staff Present: Deputy City Manager Del Real, City Attorney Splendorio (via teleconference), Police Chief Salvador, CAL FIRE Battalion Chief Slate, Public Works/Community Development Director Thompson, Deputy Public Works/Community Development Director Holsinger, Finance Director Jacobs-Hunter, Information Technology Manager Lamerson, Administrative Assistant Billings, Deputy City Clerk Vang, Deputy City Clerk Martin***

MAYOR OR CITY ATTORNEY REPORT OUT FROM CLOSED SESSION:

***City Attorney Splendorio reported that the City Council considered one item of anticipated litigation and no reportable action was taken. The Closed Session agenda was completed.***

SUBSEQUENT NEED ITEMS: ***None.***

APPROVAL OF AGENDA AS POSTED OR AS AMENDED:

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

CONSENT CALENDAR:

***Agenda item number two (2) under Resolutions was removed from the Consent Calendar for separate discussion and possible action.***

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

WARRANTS:

1. October 12, 2020

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

RESOLUTIONS:

2. Authorizing the Sale of the Promissory Note related to 550 Commerce Avenue, APN: 056-241-005 to Terry Rolfe and Delores Rolfe and authorizing the City Manager, or designee, to take related actions (Deputy City Manager Del Real and Public Works/Community Development Director Thompson)

***This item was removed from the Consent Calendar for separate discussion and possible action.***

3. Rescind the awarding of the General Services Agreement to Modern Air Mechanical of Merced, California for the Removal and Replacement of Heating and Ventilation and Air Conditioning (HVAC) Units at Various City-Owned Facilities and adopting a resolution approving a budget amendment to allocate additional funding for Internal Service Fund, Government Buildings, Improvements Other Than Bldgs (Deputy Director of Public Works/Community Development Holsinger)

***ACTION: Rescinds the award of a General Services Agreement to Modern Air Mechanical of Merced, California 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 adopts Resolution No. 3185-20 approving Budget Amendment No. 8 amending Fiscal Year 2020-21 Budget to increase allocations in the amount of \$76,000 for Internal Services Fund, Government Buildings, Improvements Other Than Bldgs; and awards a General Services Agreement, in a form approved by the City Attorney, to Modern Air Mechanical of Merced, California for the Base Bid and 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 \$175,520; and authorizes and directs the City Manager, or designee, to execute the Agreement on behalf of the City.***

AGREEMENTS:

4. Accepting Fiscal Year 2020-21 Office of Traffic Safety grant award regarding Regional Collision Response and Extrication Improvement Program and declaring Genesis Extrication Equipment a sole source item (CAL FIRE Battalion Chief Slate)

***ACTION: Accepts Fiscal Year 2020-21 Office of Traffic Safety grant for the Regional Collision Response and Extrication Improvement Program, and authorizes and directs the City Manager or designee to execute any and all documents related to the grant on behalf of the City; and declares Genesis Extrication Equipment a sole source item, exempting the purchase from centralized purchasing pursuant to Atwater Municipal Code section 3.04.110; and approves a purchase agreement (purchase order) with Municipal Emergency Services of San Diego, California for the purchase of extrication equipment, in an amount not to exceed \$37,909.44; and authorizes and directs the City Manager, or designee, to execute the Agreement on behalf of the City.***

5. Awarding a Professional Services Agreement to Mid Valley IT of Merced, California for augmented managed information technology (IT) support services (Information Technology Manager Lamerson)

***ACTION: Awards a Professional Services Agreement, in a form approved by the City Attorney, to Mid Valley IT of Merced, California, for Augmented Managed Information Technology ("IT") Support Services, in an amount not to exceed \$72,000 annually; and authorizes and directs the City Manager, or designee, to execute the Agreement on behalf of the City.***

RESOLUTIONS:

Authorizing the Sale of the Promissory Note related to 550 Commerce Avenue, APN: 056-241-005 to Terry Rolfe and Delores Rolfe and authorizing the City Manager, or designee, to take related actions (Deputy City Manager Del Real and Public Works/Community Development Director Thompson)

***Mayor Creighton asked for clarification if notice has been sent to all parties involved regarding the sale of the Promissory Note to 550 Commerce Avenue.***

***Public Works/Community Development Director Thompson provided background information on the item and clarified that staff is seeking Council's authorization to proceed with and complete the sale of the note before sending out a notice to the borrower.***

***City Council Member Vierra confirmed that it is common practice when purchasing and selling notes to send notices after the transaction has been completed, as long as it was stated in the original Loan Agreement.***

**Mayor Pro Tem Raymond stated that although he agrees with selling the note for 550 Commerce Avenue, he wants to have something in place, prior to approval of the item, which states how the funds obtained from the sale will be spent.**

**Finance Director Jacobs-Hunter clarified that the recommended action to Council was to only approve the sale of the note and to place the funds obtained from the sale into the General Fund reserve for safekeeping until Council provides further approval or authorization on the use of these funds.**

**One person spoke stating their agreement with the Council's concern of needing to ensure the appropriate disposition of the funds.**

**No one else came forward to speak on this item.**

**MOTION: City Council Member Vierra moved to adopt Resolution No. 3186-20 authorizing the sale of the promissory note related to 550 Commerce Avenue, APN: 056-241-005 to Terry Rolfe and Delores Rolfe for \$1,500,000 and authorize and direct the City Manager, or designee, to take related actions along with executing any and all documents related to the sale. The motion was seconded by City Council Member Cale and the vote was: Ayes: Cale, Ambriz, Vierra; Noes: Raymond, Creighton; Absent: None. The motion passed.**

**PUBLIC HEARINGS:**

Waiving the first reading and introducing an ordinance approving Element 7 Atwater, LLC Development Agreement regarding Cannabis Business Pilot Program for cannabis dispensary, distribution, and cultivation business located at 230 Commerce Avenue (Public Works/Community Development Director Thompson)

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

**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 make a finding that Element 7 Atwater, LLC cannabis business project is categorically exempt under the California Environmental Quality Act ("CEQA") Guidelines, section 15301, "Existing Facilities" exemption; and to waive the first reading and introduce Ordinance No. CS 1033 approving Element 7 Atwater, LLC Development Agreement, in a form approved by the City Attorney, regarding Cannabis Business Pilot Program for cannabis dispensary, distribution, and cultivation business located at 230 Commerce Avenue (APN 056-390-006). The motion was seconded by City Council Member Ambriz and the vote was: Ayes: Vierra, Raymond, Ambriz, Cale, Creighton; Noes: None; Absent: None. The motion passed.**

Waiving the first reading and introducing an ordinance approving Pacific Ag, LLC Development Agreement regarding Cannabis Business Pilot Program for cannabis cultivation, distribution, and manufacturing business located at 1779 and 1883 Sycamore Avenue (Public Works/Community Development Director Thompson)

***Public Works/Community Development Director Thompson provided background information on this item and clarified the applicant's name, Pacific Agricultural Holdings, LLC.***

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

***Camrom Kaapana, Owner and CEO of Pacific Agricultural Holdings, LLC, spoke thanking the Council for the opportunity to open their business in Atwater to invest in the growth of the City.***

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

***MOTION: City Council Member Cale moved to make a finding that Pacific Agricultural Holdings, LLC cannabis business project is categorically exempt under the California Environmental Quality Act ("CEQA") Guidelines, sections 15301 "Existing Facilities" and 15332 "Infill Exemption"; and to waive the first reading and introduce Ordinance No. CS 1034 approving Pacific Agricultural Holdings, LLC Development Agreement, in a form approved by the City Attorney, regarding Cannabis Business Pilot Program for cannabis cultivation, distribution, and manufacturing business located at 1779 and 1883 Sycamore Avenue (APN's 001-146-010 and 001-146-011). The motion was seconded by City Council Member Vierra and the vote was: Ayes: Cale, Ambriz, Raymond, Vierra, Creighton; Noes: None; Absent: None. The motion passed.***

**REPORTS AND PRESENTATIONS FROM STAFF:**

Verbal update regarding City of Atwater's Election and Appointment of Candidate (Deputy City Clerk Vang)

***Deputy City Clerk Vang updated the Council regarding the necessary appointment of Candidate Tyler Button to the Councilmember District Two seat at the October 26, 2020 City Council meeting due to the Councilmember District Two election being left off of the 2020 Election Ballot.***

Resolution authorizing the recordation of municipal utility liens against real property for unpaid water, wastewater, and sanitation fees and charges (Finance Director Jacobs-Hunter)

***Finance Director Jacobs-Hunter provided background information on this item.***

*One person spoke asking for an explanation on the process and time frame any person is given before a lien is placed on their property.*

*Finance Director Jacobs-Hunter confirmed that placing a lien on real property will be the last step the City takes only after the City has exhausted its efforts and have seen no attempt from a resident to pay their utility bills. She also stated that the City will work with its residents to find a solution regarding the payment of utility bills and will normally be a twelve month process before a lien is finally placed on the real property.*

***MOTION: City Council Member Ambriz moved to adopt Resolution No. 3183-20 authorizing the recordation of municipal utility liens against real property for unpaid water, wastewater, and sanitation fees and charges. The motion was seconded by City Council Member Cale and the vote was : Ayes: Vierra, Ambriz, Raymond, Cale, Creighton; Noes: None; Absent: None. The motion passed.***

Resolution authorizing the purchase of the following real property for the TCP Remediation Project: 1. APN 156-131-053 (portion) for \$150,000 from Moe Jawad; 2. APN 056-241-007 (portion) from Chris Briscoe for \$47,000; 3. APN 150-160-026 from the City's General Fund for \$233,000; 4. APN 004-010-025 (portion of Joan Faul Park) from the City of Atwater's General Fund for \$221,5000; and either 5. APN 156-070-030 (portion) from Parkash K. Bassi for up to \$150,000; or 6. APN 004-010-010 (portion) from the Atwater Elementary School District for up to \$150,000; and Approving the expenditure of an additional \$30,000 for closing costs and related expenses and authorizing the City Manager, or designee, to execute related documents for such purchases (Public Works/Community Development Director Thompson)

***Public Works/Community Development Director Thompson provided background information on the item.***

***MOTION: City Council Member Cale moved to adopt Resolution No. 3188-20 authorizing the purchase of the following real property for the TCP Remediation Project: 1. APN 056-241-007 (portion) from Jim Brisco Enterprises, Inc. for \$47,000; 2. APN 150-160-026 from the City's General Fund for \$233,000; 3. APN 004-010-025 (portion of Joan Faul Park) from the City of Atwater's General Fund for \$221,5000; and either 4; APN 156-070-030 (portion) from Parkash K. Bassi for up to \$150,000; or 5. APN 004-010-010 (portion) from the Atwater Elementary School District for up to \$150,000, Approving the expenditure of an additional \$30,000 for closing costs and related expenses and authorizing the City Manager or designee to execute related documents for such purchases; and to authorize and direct the City Manager or designee to execute the Agreements and all documents related to the purchase of the Properties on behalf of the City. The motion was seconded by City Council Member Ambriz and the vote was: Ayes: Raymond, Ambriz, Vierra, Cale, Creighton; Noes: None; Absent: None. The motion passed.***

**Mayor Creighton thanked City staff for their hardwork at maintaining their normal workload along with keeping the 1,2,3-TCP Remediation Project a top priority.**

Verbal Quarterly Public Works Update regarding City's Streets and Parks (Deputy Director of Public Works/Community Development Holsinger)

**Deputy Director of Public Works/Community Development Director Holsinger provided the following updates on the 1,2,3-TCP Remediation Project:**

- **The City's parks are being revitalized with the regrowth of green grass.**
- **Staff is becoming creative with exploring new ways to do more with less resources, and also exploring any new grant opportunities.**
- **Challenges facing the Parks Division are old and aging equipment with an increase in park maintenance.**
- **The Streets Division's usage of cold mix asphalt is about ten tons per month for street maintenance.**

DEPUTY CITY MANAGER UPDATES:

Monthly verbal update regarding City of Atwater 1,2,3-TCP Remediation Project

**Deputy City Manager Del Real provided the following updates:**

- **A purchase order has been issued for the vessel procurement.**
- **A Kick-off meeting was held on September 22, 2020, proposed Treatment Sites were inspected, and surveying has commenced.**
- **Design criteria is thirty percent complete.**
- **Purchase of real properties for Treatment Sites were approved at this meeting.**
- **The 1,2,3-TCP Remediation Project is on schedule.**

COMMENTS FROM THE PUBLIC:

**Notice to the public was read.**

**Two people spoke regarding their discontent with the City.**

**One person spoke stating his appreciation for the City on revitalizing the parks.**

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

CITY COUNCIL MATTERS:

City Council comments



**City Council Member Ambriz welcomed the new businesses to Atwater, thanked CAL FIRE Battalion Chief Slate and his firefighters for their work fighting the fires, and thanked City Staff for their work.**

**Mayor Pro Tem Raymond spoke requesting for the next agenda to have an item discussing the appropriation of the funds received through the sale of the note for 550 Commerce Avenue.**

**City Council Member Vierra spoke agreeing with Mayor Pro Tem's request regarding the next agenda, sent her thoughts and prayers to City Manager Waterman, and commended Deputy City Manager Del Real for her hard work.**

**City Council Member Cale welcomed back CAL FIRE Battalion Chief Slate and his firefighters, commented on the City's homelessness matter, and sent his thoughts and prayers to City Manager Waterman.**

**Mayor Creighton spoke on the matter regarding the Johnson's, congratulated and welcomed back CAL FIRE Battalion Chief Slate and his firefighters for a job well done fighting the fires, thanked the Atwater Police Department for doing a great job, and sent his thoughts and prayers to City Manager Waterman.**

CLOSED SESSION:

Continuation of Closed Session was not necessary.

ADJOURNMENT:

**Mayor Creighton adjourned the meeting at 7:31 PM.**



JANELL MARTIN  
DEPUTY CITY CLERK

By: Richard Vang  
Deputy City Clerk