



CITY OF ATWATER

CITY COUNCIL

ACTION MINUTES

October 26, 2020

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 CAL FIRE Battalion Chief Slate.

INVOCATION:

The Invocation was led by Pastor John Motz.

ROLL CALL:

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

Absent: *None*

Staff Present: *Deputy City Manager Del Real, City Attorney Splendorio, 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*

SUBSEQUENT NEED ITEMS: *None.*

APPROVAL OF AGENDA AS POSTED OR AS AMENDED:

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

PRESENTATIONS:

Monthly verbal report by Merced County District 3 Supervisor McDaniel

Merced County District 3 Supervisor McDaniel provided the following updates:

- ***The Voting Assistance Centers for the November Election will be open starting Saturday, October 31, 2020 until November 3, 2020.***
- ***Merced County is implementing a new program to assist non-profit organizations called Ready2Open Community and Veterans Halls Assistance Program.***
- ***His office hours for the months of November and December are cancelled due to falling on the Thanksgiving and Christmas holidays. He can still be reached by phone and email.***

CONSENT CALENDAR:

Agenda items number five (5) under Call for Bids; numbers six (6) and seven (7) under Resolutions; and numbers eight (8), ten (10), and eleven (11) under Agreements were removed from the Consent Calendar for separate discussion and possible action.

Agenda item number four (4) under Minutes (Audit and Finance Committee) was removed from the agenda and postponed until the next regular City Council meeting on November 9, 2020.

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 26, 2020

ACTION: Approval of warrants as listed.

TREASURER'S REPORT:

2. September 30, 2020

ACTION: Approval of report as listed.

MINUTES: (City Council)

3. a) September 28, 2020 – Regular meeting
b) October 12, 2020 – Regular meeting

ACTION: Approval of minutes as listed.

MINUTES: (Audit and Finance Committee)

4. September 28, 2020 – Regular meeting

This item was not approved by the Audit and Finance Committee prior to the City Council meeting, and therefore was removed from the agenda and postponed until approved by the Audit and Finance Committee.

CALL FOR BIDS

5. Rejecting all bids for Unleaded and Diesel Fuel Delivery Services and a Card Lock System for the Corporation Yard, and approving specifications and authorizing re-advertising and calling for bids for Bulk Unleaded and Diesel Fuel Delivery Services for the Corporation Yard (Deputy Director of Public Works/Community Development Holsinger)

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

RESOLUTIONS:

6. Declaring the appointment of Tyler Button to the Office of the District Two City Councilmember, and to serve the term beginning December 2020 and ending December 2024 on the City Council as if elected at the District Election on Tuesday, November 3, 2020 (City Clerk Armstrong)

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

7. Approving a General Services Agreement with EcoGreen Solutions for LED Retrofit Project (Deputy Director of Public Works/Community Development Holsinger)

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

AGREEMENTS:

8. Awarding a General Services Agreement to Pac Machine Company, Inc. of Sacramento, California for the Purchase and Installation of Temporary Portable Wastewater Pumps for Castle Interceptor Project (Deputy Director of Public Works/Community Development Holsinger)

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

9. Awarding a General Construction Contract to F. Loduca Co. of Stockton, California, for the Mitchell Schools Area Pedestrian Improvements Project (Public Works/Community Development Director Thompson)

ACTION: Awards a General Construction Contract, in a form approved by the City Attorney, to F. Loduca Co. of Stockton, California, for the Mitchell Schools Area Pedestrian Improvements Project, Federal Project No. CML-5254(029), City Project No. 19-1, Bid Call No. 692-20, in an amount not to exceed \$347,929.80; authorizes and directs the City Manager, or her designee, to sign and affirm construction contract change orders up to an aggregate of \$34,792.98 (10%); and authorizes and directs the City Manager, or her designee, to execute the contract on behalf of the City.

10. Awarding a General Construction Contract to Phase 1 Construction of Atwater, California, for the Aileen Colburn Pedestrian Improvements Phase 2 Project (Public Works/Community Development Director Thompson)

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

11. Awarding a General Services Agreement to Pacific Polymers, Inc. of Galt, California, doing business as American Foam Experts, for the Fire Station 41 Roof Repair Project (Deputy Director of Public Works/Community Development Holsinger)

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

ORDINANCES:

12. Waiving the second reading and adopting 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)

ACTION: Waives the second reading and adopts 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).

13. Waiving the second reading and adopting an ordinance approving Pacific Agricultural Holdings, 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)

ACTION: Waives the second reading and adopts 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 (APNs: 001-146-010 and 001-146-011).

CALL FOR BIDS:

Rejecting all bids for Unleaded and Diesel Fuel Delivery Services and a Card Lock System for the Corporation Yard, and approving specifications and authorizing re-advertising and calling for bids for Bulk Unleaded and Diesel Fuel Delivery Services for the Corporation Yard (Deputy Director of Public Works/Community Development Holsinger)

Mayor Creighton commented that previous direction given to staff was to phase out bulk fuel delivery to the Corporation Yard and instead be supplied by an outside vendor through a Card Fueling System, or a system similarly used by the Merced County Sheriff's Office.

Deputy Director of Public Works/Community Development Holsinger provided background information regarding this item and commented that staff will only need Council's action of rejecting all bids received before staff can begin exploring ways to implement a system similar to the Merced County Sheriff's Office.

City Council Member Ambriz asked how long the process will take to phase out the pumps and fuel tanks currently at the Corporation Yard before being able to transition into a new system of fueling.

Deputy Director of Public Works/Community Development Holsinger responded that if staff is able to piggyback off of another public agency's similar project, then staff should be able to present this item to Council by November 9, 2020, as per City Council's direction.

MOTION: Mayor Creighton moved to only reject all bids for Bid Call No. 689-20, "Unleaded and Diesel Fuel Delivery Services and a Card Lock System for the Corporation Yard"; and rejects the plans and specifications and does not authorize the re-advertising and calling for bids for Bid Call No. 701-20, "Bulk Unleaded and Diesel Fuel Delivery Services for the Corporation Yard". The motion was seconded by Mayor Pro Tem Raymond and the vote was: Ayes: Raymond, Cale, Ambriz, Creighton; Noes: Vierra; Absent: None. The motion passed.

RESOLUTIONS:

Declaring the appointment of Tyler Button to the Office of the District Two City Councilmember, and to serve the term beginning December 2020 and ending December 2024 on the City Council as if elected at the District Election on Tuesday, November 3, 2020 (City Clerk Armstrong)

City Council Member Ambriz congratulated and welcomed Mr. Tyler Button as the new District Two Councilmember.

Deputy City Clerk Vang provided an explanation regarding the required appointment of Mr. Button due to the County Registrar's Office inadvertently excluding the District Election for the District Two Atwater City Councilmember seat.

Mayor Pro Tem Raymond congratulated and welcomed Mr. Tyler Button. He also questioned if Mr. Tyler Button will serve as if elected and Deputy City Manager Del Real clarified and confirmed that Mr. Button will serve as if elected and will have to wait until all votes have been canvassed and certified before assuming office.

MOTION: City Council Member Cale moved to adopt Resolution No. 3187-20 declaring the appointment of Tyler Button to the Office of the District Two City Councilmember, and to serve the term beginning December 2020 and ending December 2024 on the City Council as if elected at the District Election on Tuesday, November 3, 2020. The motion was seconded by Mayor Pro Tem Raymond and the vote was: Ayes: Vierra, Cale, Raymond, Ambriz, Creighton; Noes: None; Absent: None. The motion passed.

Tyler Button thanked the City Council for the opportunity to serve as the District Two City Council Member.

Approving a General Services Agreement with EcoGreen Solutions for LED Retrofit Project (Deputy Director of Public Works/Community Development Holsinger)

MOTION: City Council Member Vierra moved to adopt Resolution No. 3189-20 approving a General Services Agreement, in a form approved by the City Attorney, with EcoGreen Solutions to convert City-owned lights to energy efficient Light Emitting Diodes (LED), LED Retrofit Project, City Project No. 20-14; and authorizes and directs the City Manager, or her designee, to execute the Agreement on behalf of the City. The motion was seconded by City Council Member Ambriz and the vote was: Ayes: Ambriz, Cale, Vierra, Raymond, Creighton; Noes: None; Absent: None. The motion passed.

AGREEMENTS:

Awarding a General Services Agreement to Pac Machine Company, Inc. of Sacramento, California for the Purchase and Installation of Temporary Portable Wastewater Pumps for Castle Interceptor Project (Deputy Director of Public Works/Community Development Holsinger)

MOTION: *City Council Member Vierra moved to award a General Services Agreement, in a form approved by the City Attorney, to Pac Machine Company, Inc. of Sacramento, California for the Purchase and Installation of Temporary Portable Wastewater Pumps for Castle Interceptor Project, Project No. 20-11; Bid Call No. 699-20, in an amount not to exceed \$122,573.00; and authorizes and directs the City Manager, or her designee, to execute the Agreement on behalf of the City. The motion was seconded by City Council Member Ambriz and the vote was: Ayes: Raymond, Vierra, Cale, Ambriz, Creighton; Noes: None; Absent: None.*

Awarding a General Construction Contract to Phase 1 Construction of Atwater, California, for the Aileen Colburn Pedestrian Improvements Phase 2 Project (Public Works/Community Development Director Thompson)

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

Two people spoke regarding their concerns of this project commencing as it will interfere with their driveway.

The City Council provided staff with direction to work with the residents on coming up with a compromise to satisfy everyone's needs, and to bring this item back to Council on the November 9, 2020 meeting along with pictures and maps to help provide visuals for the explanations of the project's plans and specifications.

MOTION: *Mayor Creighton moved to continue this item to the next regular City Council meeting of November 9, 2020. The motion was seconded by City Council Member Cale and the vote was: Ayes: Vierra, Raymond, Ambriz, Cale, Creighton; Noes: None; Absent: None. The motion passed.*

Awarding a General Services Agreement to Pacific Polymers, Inc. of Galt, California, doing business as American Foam Experts, for the Fire Station 41 Roof Repair Project (Deputy Director of Public Works/Community Development Holsinger)

Deputy Director of Public Works/Community Development Holsinger provided additional information on this item and explained its connection to the Heating Ventilation and Air Conditioning Removal and Replacement Project which is also occurring at Fire Station 41.

MOTION: *City Council Member Vierra moved to award a General Services Agreement, in a form approved by the City Attorney, to Pacific Polymers, Inc. of Galt, California, doing business as (DBA) American Foam Experts, City Project No. 20-10, Bid Call No. 698-20, in an amount not to exceed \$77,810.00; and authorizes and directs the City Manager, or her designee, to execute the agreement on behalf of the City. The motion was seconded by City Council Member Ambriz and the vote was: Ayes: Cale, Ambriz, Raymond, Vierra, Creighton; Noes: None; Absent: None. The motion passed.*

REPORTS AND PRESENTATIONS FROM STAFF:

Verbal Quarterly Update regarding City's Recreation and Community Events (Administrative Assistant Billings)

Administrative Assistant Billings provided the following verbal updates regarding the City's Recreation and Community Events:

- ***COVID-19 has closed and/or cancelled all private and public sporting events in the City, but despite the cancellations, it caused the City to be creative with its holidays by hosting porch parades and virtual events.***
- ***Atwater Rotary Club is willing to sponsor a December Kids Craft Class if conditions improve by then.***
- ***Congratulated Benedicto "Benny" Cardenas for 15 years of service in the City of Atwater Recreation Department.***

City Council Member Cale thanked Administrative Assistant Billings for his work on keeping the Recreation Department active in the community.

Authorization to remit mandatory minimum penalties to Central Valley Regional Water Quality Control Board for the Atwater Regional Wastewater Treatment Facility for the period of June 2012 through April 2013 (Public Works/Community Development Director Thompson)

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

MOTION: *City Council Member Vierra moved to authorize remittance of mandatory minimum penalties, in the amount of \$27,000, to the Central Valley Regional Water Quality Control Board for Record of Violations of effluent limitations during the period of June 27, 2012 through April 30, 2013. 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.*

COMMENTS FROM THE PUBLIC:

Notice to the public was read.

Deputy City Clerk Martin read into the record two comments received by email; one person commented regarding the possibility to pull a number of items off of the Consent Calendar to hear Council's discussion, and the other person commented stating their support for the program, Students With Aspiring Goals ("SWAG").

Two people spoke regarding their discontent with the City.

One person spoke requesting for the City Council to provide comments on the matters brought up during public comment.

One person spoke regarding their concerns on the recent rally that occurred within the City.

One person spoke congratulating Mr. Tyler Button on becoming the new District Two City Council Member.

Six people spoke regarding their support for SWAG to provide services to the students of Atwater.

No one else came forward to speak.

CITY COUNCIL MATTERS:

Adopting a Resolution authorizing the early retirement of the loan from the Wastewater Enterprise Fund to the General Fund (City Manager Waterman and Finance Director Jacobs-Hunter)

Mayor Creighton commended Mayor Pro Tem Raymond on his continuous efforts towards paying down and retiring the City's debt during his time on the Council.

Finance Director Jacobs-Hunter provided background information on this item and stated that with the debt paid off, it will free up funds moving forward to be spent on the City's activities.

The City Council expressed their excitement on the City retiring its debt.

Merced County District 3 Supervisor McDaniel also commended Mayor Pro Tem Raymond on his continuous efforts towards the retirement of the City's debt.

MOTION: *Mayor Pro Tem Raymond moved to adopt Resolution No. 3190-20, authorizing the early retirement of the loan from the Wastewater Enterprise Fund to the General Fund, in the amount of \$1,723,910.65. The motion was seconded by Mayor Creighton and the vote was: Ayes: Ambriz, Vierra, Cale, Raymond, Creighton; Noes: None; Absent: None. The motion passed.*

Discussion and possible action regarding a City event celebrating the early retirement of the General Fund debt

Administrative Assistant Billings stated that the City has already begun receiving requests from organizations offering to assist in the celebration of the City becoming debt free. However, he advised that as conditions improve, staff will work on coordinating and scheduling this celebration.

City Council comments

Mayor Pro Tem Raymond thanked the City of Atwater community, thanked SWAG for attending and speaking at the meeting, and reminded everyone to vote by November 3, 2020.

City Council Member Cale spoke regarding his excitement to see the City transition to LED lights, reminded the community to stay safe during Halloween, and reminded everyone to vote by November 3, 2020.

City Council Member Vierra spoke explaining the meeting process during Public Comment, and informed the public of their right to request public records to do their own research into matters that are discussed.

City Council Member Ambriz spoke regarding his exposure to discrimination, his sympathy to those who experience it, and stated that no one life matters more than the other. He wishes his brothers a Happy Birthday, and asks for the community to watch over the children during Halloween.

Mayor Creighton asked for Police Chief Salvador and Administrative Assistant Billings to provide a brief update on the City's plans for Halloween.

Police Chief Salvador informed the City Council and the public of the Atwater Police Department handing out Halloween bags for the children at City Hall during Halloween.

Administrative Assistant Billings provided an update on the Fall Porch Parade and described how homes will be judged.

Mayor Creighton thanked staff for their hardwork on improving the City of Atwater and reminded everyone to go vote by November 3, 2020.

ADJOURNMENT:

Mayor Creighton adjourned the meeting at 8:09 PM.

