



# CITY OF ATWATER

## CITY COUNCIL

### ACTION MINUTES

**April 26, 2021**

OPEN SESSION: (Council Chambers)

***The City Council of the City of Atwater met in Open Session this date at 5:33 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, Button, Raymond (via teleconference), Mayor Pro Tem Cale, Mayor Creighton***

***Absent: None***

***Staff Present: City Manager Waterman, City Attorney Splendorio, Information Technology 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 5:39 PM.***

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

Public Employee Appointment (pursuant to Government Code Section 54957): Title: City Attorney

***Closed Session adjourned at 5:48 PM.***

REGULAR SESSION: (Council Chambers)

***The City Council of the City of Atwater met in Regular Session this date at 6:03 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 Police Chief Salvador.***

INVOCATION:

***The Invocation was led by Pastor John Motz.***

***Pastor John Motz invited everyone to attend an event at City Hall on May 6, 2021 at 12:00 PM for National Prayer Day.***

ROLL CALL:

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

***Absent: None***

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

MAYOR OR CITY ATTORNEY REPORT OUT FROM CLOSED SESSION:

***City Manager Waterman reported that the City Council considered two cases of anticipated litigation and one item involving public employee appointment of the City Attorney. The City Council provided staff with direction and no reportable action was taken. The Closed Session agenda was completed.***

SUBSEQUENT NEED ITEMS: None

APPROVAL OF AGENDA AS POSTED OR AS AMENDED:

***City Manager Waterman requested to remove agenda item number 16, "Resolution approving a street name change request to change Peace Court to Victory Court; located south of Bell Drive and East of Patriotic Drive," due to the applicant withdrawing their application.***

**MOTION: City Council Member Raymond moved to approve the agenda as amended. The motion was seconded by City Council Member Ambriz and the vote was: Ayes: Raymond, Ambriz, Button, 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 reported the following:**

- **Transportation Research Center (TRC) will begin their automotive testing on July 1<sup>st</sup>, 2021 at Castle Air Force Base.**
- **A Uniform Manufacturer will be relocating from the Bay Area and will be constructing a new building at Castle Air Force Base.**
- **Merced County has begun negotiations with the City of Merced for a Wastewater Agreement.**
- **Board of Supervisors passed an ordinance to authorize efforts to track down individuals responsible for dumping trash outside of City limits.**
- **District Three Town Hall meeting will be on May 5, 2021 via Zoom.**

Quarterly update regarding construction of 1,2,3-TCP Remediation Project (Michael Beerends, GHD Engineer)

**Michael Beerends, GHD Engineer, spoke regarding the progress of the project and how it is on schedule for all wells to be online by June 2021 and for substantial completion of the project in August 2021.**

**CONSENT CALENDAR:**

**Mayor Pro Tem Cale recused himself from voting on the Consent Calendar due to being an officer with Old Town Atwater and there being a Consent Calendar item involving Old Town Atwater. Mayor Pro Tem Cale stepped away from the dais.**

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

**Mayor Pro Tem Cale returned to the dais.**

**WARRANTS:**

1. a) April 12, 2021  
b) April 26, 2021

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

TREASURER'S REPORT:

2. March 31, 2021

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

MINUTES: (City Council)

3. March 22, 2021 – Regular meeting

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

MINUTES: (Planning Commission)

4. a) January 20, 2021 – Regular meeting  
b) February 17, 2021 – Regular meeting  
c) March 17, 2021 – Regular meeting

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

MINUTES: (Audit and Finance Committee)

5. November 23, 2020 – Regular meeting

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

RESOLUTIONS:

6. Resolution approving a budget amendment amending Fiscal Year 2020-21 Budget regarding appropriation of funds obtained by the sale of unclaimed property (Police Chief Salvador)

**ACTION: Adopts Resolution No. 3219-21 approving Budget Amendment No.16 amending Fiscal Year 2020-21 Budget regarding appropriation of funds obtained by the sale of unclaimed property.**

AGREEMENTS:

7. Approving License Agreement between the City of Atwater and Old Town Atwater regarding use of Real Property Parking Lot located at Fourth Street and Cedar Avenue (City Manager Waterman)

**ACTION: Approves a License Agreement, in a form approved by the City Attorney, with Old Town Atwater for the use of Real Property Parking Lot located at the corner of Fourth Street and Cedar; and authorizes and directs the City Manager, or her designee, to execute the License Agreement on behalf of the City.**

8. Awarding a Professional Services Agreement to Badawi & Associates, Certified Public Accountants, for Professional Audit Services for the City of Atwater for fiscal years ending June 30, 2021 through 2023 (Finance Director Jacobs-Hunter)

***ACTION: Awards a Professional Services Agreement, in a form approved by the City Attorney, to Badawi & Associates, Certified Public Accountants, for Professional Auditing Services for fiscal years ending June 30, 2021 through 2023, with the option to extend the contract for two (2) additional one-year periods, in an amount not to exceed \$102,475; and authorizes and directs the City Manager, or her designee, to execute the Agreement on behalf of the City.***

9. Awarding a Professional Services Agreement to Willdan Financial Services of Temecula, California for a Sanitation Service Rate Study (Public Works/Community Development Director Thompson)

***ACTION: Awards a Professional Services Agreement, in a form approved by the City Attorney, to Willdan Financial Services of Temecula, California for a Sanitation Service Rate Study in an amount not to exceed \$28,390.00; and authorize and direct the City Manager, or her designee, to execute the agreement on behalf of the City.***

***CLAIMS AGAINST THE CITY:*** (Note to the Public: Portions of this claim have been redacted because they do not affect the City Council's ability to make a decision on the claim. The claim, however, is a public document and can be made available upon request by members of the public. If you have any questions or would like to request this document, please contact the City Clerk's office at (209) 357-6205.)

10. Claim No. 2021-6

***ACTION: After consideration and investigation, it is staff's recommendation that Claim No. 2021-6 be rejected.***

11. Claim No. 2021-9

***ACTION: After consideration and investigation, it is staff's recommendation that Claim No. 2021-9 be rejected.***

***OTHER ACTIONABLE ITEMS:***

12. Approving Housing Element Annual Progress Report for calendar year 2019 (Public Works/Community Development Director Thompson)

***ACTION: Approves and files the Housing Element Annual Progress Report ("APR") for calendar year 2019; and authorizes and directs the City Manager or his/her designee to submit the APR to the California Department of Housing and Community Development ("HCD") and the Governor's Office of Planning and Research ("OPR").***

13. Approving Housing Element Annual Progress Report for calendar year 2020 (Public Works/Community Development Director Thompson)

***ACTION:*** Approves and files the Housing Element Annual Progress Report (“APR”) for calendar year 2020; and authorizes and directs the City Manager or his/her designee to submit the APR to the California Department of Housing and Community Development (“HCD”) and the Governor’s Office of Planning and Research (“OPR”).

**PUBLIC HEARINGS:**

Waiving the first reading and introducing an ordinance amending Chapter 13.08, "Sewer Service", of Title 13, "Public Services," of the Atwater Municipal Code (Public Works/Community Development Director Thompson)

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

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

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

***MOTION:*** City Council Member Ambriz moved to waive the first reading and introduce Ordinance No. CS 1038 amending Chapter 13.08, “Sewer Services,” of Title 13, “Public Services,” of the Atwater Municipal Code. The motion was seconded by Mayor Pro Tem Cale and the vote was: Ayes: Cale, Button, Ambriz, Raymond, Creighton; Noes: None; Absent: None. The motion passed.

Resolution adopting the Initial Study/Mitigated Negative Declaration and approving the Site Plan and General Plan Amendment for the David Arakelian Project; and waiving the first reading and introducing an ordinance approving a Zone Change for property located at 1901 Avenue One, Atwater (APN 005-410-003) (Public Works/Community Development Director Thompson)

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

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

***One person spoke regarding her concerns of potentially losing portions of her yard and trees.***

***One person spoke regarding her opposition of rezoning the property for commercial uses.***

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

***MOTION: Mayor Pro Tem Cale moved to adopt Resolution No. 3220-21 adopting an Initial Study and Mitigated Negative Declaration for the David Arakelian Project and making the required environmental findings pursuant to the California Environmental Quality Act (CEQA), and approving Site Plan No. 21-06-0200, and approving a General Plan Amendment to the General Plan Land Use Map; and to waive the first reading and introduce Ordinance No. CS 1037 approving General Plan Amendment No. 21-05-0100 and Zone Change No. 21-06-0100 for property located at 1901 Avenue One, Atwater (APN 005-410-003). The motion was seconded by City Council Member Raymond and the vote was: Ayes: Cale, Ambriz, Raymond, Creighton; Noes: Button; Absent: None. The motion passed.***

Resolution approving a street name change request to change Peace Court to Victory Court; located south of Bell Drive and East of Patriotic Drive (Public Works/Community Development Director Thompson)

***This item was removed from the agenda due to the applicant withdrawing their application.***

COMMENTS FROM THE PUBLIC:

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

***Deputy City Clerk Martin read into the record one comment received by email regarding an incident which occurred on Saturday, April 24, 2021 involving a street vendor. Mayor Creighton called a recess at 6:58 PM. The City Council returned to the dais, Mayor Creighton resumed the meeting at 7:06 PM, and Deputy City Clerk Martin completed the reading of the emailed comment.***

***Six people spoke regarding the incident on Saturday, April 24, 2021 involving a street vendor and accusations against the Mayor.***

***Mayor Creighton called a recess at 7:38 PM to maintain order and decorum in the Council Chambers. The City Council returned to the dais, and Mayor Creighton resumed the meeting at 7:41 PM.***

***One person spoke thanking the City Council for designating Atwater as a Sanctuary City for businesses and commented on the Mayor and his character.***

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

***Four people spoke regarding the incident on Saturday, April 24, 2021 involving a street vendor and accusations against the Mayor.***

***Two people spoke positively regarding Mayor Creighton.***

***One person spoke about racism.***

***One person spoke regarding the City Council's achievements over the past two years.***

***Mayor Creighton called a recess at 8:11 PM to maintain order and decorum. The City Council returned to the dais, and Mayor Creighton resumed the meeting at 8:17 PM.***

***The speaker resumed his comments and invited the public to an event at Victory Baptist Church on May 16, 2021 at 10 AM to honor the local law enforcement.***

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

**CITY COUNCIL MATTERS:**

City Council comments

***Mayor Creighton explained that on Saturday, April 26, 2021, he stopped to ask a street vendor if they had a business license to operate on the sidewalk. Mayor Creighton then asked for the street vendor to either leave the area because they were on City property unpermitted or relocate to a safer location if they had a City business license. Mayor Creighton commented that he is unsure why the incident turned out the way it did with accusations of racism.***

***Mayor Pro Tem Cale commented that he appreciates all of the hardworking people in the community. He stated that he was not there to witness the incident on April 24, 2021 and cannot speak on it. He also mentioned that the City of Atwater is a City of law and order and everything has to be done in accordance with the law.***

***City Council Member Ambriz commented that he was also not there to witness the incident on April 24, 2021 and cannot speak on it.***

***City Council Member Raymond commented that he was also not there to witness the incident on April 24, 2021 and cannot speak on it. He commented on how the video circulating the internet does not show the Mayor engaging in the discriminatory acts that he was accused of doing.***

***City Council Member Button thanked the graffiti abatement contractor for their hard work. He also commented that he was also not there to witness the incident on April 24, 2021 and cannot speak on it but thanked everyone who attended the meeting to speak. He also spoke about Autism Awareness Month.***

**ADJOURNMENT:**

***Mayor Creighton adjourned the meeting at 8:32 PM.***



A handwritten signature in blue ink that reads "Janell A. Martin". The signature is written in a cursive style with a vertical line extending upwards from the start of the name.

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JANELL MARTIN  
DEPUTY CITY CLERK

By: Richard Vang  
Recording Secretary