

*In-person participation by the public will be permitted. In addition, remote public participation is available in the following ways:*

- 1. Livestream online at [www.atwater.org](http://www.atwater.org) (Please be advised that there is a broadcasting delay. If you would like to participate in public comment, please use the option below).*
- 2. Submit a written public comment prior to the meeting: Public comments submitted to [cityinfo@atwater.org](mailto:cityinfo@atwater.org) by 4:00 p.m. on the day of the meeting will be distributed to the City Council, and made part of the official minutes but will not be read out loud during the meeting.*

*Assistance will be provided to those requiring accommodations for disabilities in compliance with the Americans with Disabilities Act of 1990. Persons requesting accommodation should contact the City in advance of the meeting, and as soon as possible, at (209) 357-6241.*

# **CITY OF ATWATER**

## **CITY COUNCIL AND SUCCESSOR AGENCY TO THE ATWATER REDEVELOPMENT AGENCY**

### **AGENDA**

Council Chambers  
750 Bellevue Road  
Atwater, California

**December 12, 2022**

REGULAR SESSION: (Council Chambers)

CALL TO ORDER:

**6:00 PM**

PLEDGE OF ALLEGIANCE TO THE FLAG

INVOCATION

Invocation by Police Chaplain Jim McClellan

ROLL CALL:

Ambriz \_\_\_\_, Button \_\_\_\_, Cale \_\_\_\_, Raymond \_\_\_\_, Creighton \_\_\_\_

MINUTES: (City Council)

1. a) **September 26, 2022**  
b) **October 10, 2022**  
c) **October 24, 2022**

**Staff's Recommendation:** Approval of minutes as listed.

NOVEMBER 8, 2022 ELECTION RESULTS:

2. **Certifying the Canvassing of Votes in the November 8, 2022, General Municipal Election; authorizing execution of agreements with the State of California Department of Tax and Fee Administration for the implementation of a Local Transactions and Use Tax; and authorizing CDTFA examination of Sales or Transactions and Use Taxes Records**  
(City Manager Waterman)

**Staff's Recommendation:** Motion to Adopt Resolution No. 3357-22 Certifying the canvassing of votes in the November 8, 2022, General Municipal Election;

Adopt Resolution No. 3359-22 authorizing and directing the Mayor to execute a Preparatory Agreement and Administrative Agreement with the State of California Department of Tax and Fee Administration for the implementation of a Local Transactions and Use Tax; and

Adopt Resolution No. 3360-22 Authorizing Examination of Sales or Transactions and Use Taxes Records; or

Motion to approve staff's recommendation as presented.

OUTGOING MAYOR COMMENTS:

- **Mayor Paul Creighton**

CEREMONIAL MATTERS:

- **Presentation of plaque to Paul Creighton for his years of service as Mayor and City Council Member to the City of Atwater.**

**Staff's Recommendation:** That Mayor Pro Tem Cale make the presentation to Paul Creighton.

PRAYER FOR EXITING MAYOR:

**Prayer by Pastor Rich Miller**

OATH OF OFFICE:

- **City Council Member Danny Ambriz**
- **City Council Member Brian Raymond**
- **Mayor Mike Nelson**

**Staff's Recommendation:** That City Clerk Billings administer the oath of office to newly elected City Council Members Danny Ambriz and Brian Raymond, and to the newly elected Mayor Mike Nelson.

RECESS TO BRIEF RECEPTION:

RESUME REGULAR SESSION:

ROLL CALL:

**Ambriz \_\_\_\_\_, Button \_\_\_\_\_, Cale \_\_\_\_\_, Raymond \_\_\_\_\_, Nelson \_\_\_\_\_**

OPENING STATEMENTS FROM NEWLY ELECTED CITY COUNCIL MEMBERS AND MAYOR:

- **City Council Member Danny Ambriz**
- **City Council Member Brian Raymond**
- **Mayor Mike Nelson**

**SUBSEQUENT NEED ITEMS:** (The City Clerk shall announce any requests for items requiring immediate action subsequent to the posting of the agenda. Subsequent need items require a two-thirds vote of the members of the City Council present at the meeting.)

**APPROVAL OF AGENDA AS POSTED OR AS AMENDED:** (This is the time for the City Council to remove items from the agenda or to change the order of the agenda.)

**Staff's Recommendation:** Motion to approve agenda as posted or as amended.

CONSENT CALENDARNOTICE TO THE PUBLIC

Background information has been provided on all matters listed under the Consent Calendar, and these items are considered to be routine. All items under the Consent Calendar are normally approved by one motion. If discussion is requested on any item, that item will be removed from the Consent Calendar for separate action.

TREASURER'S REPORT**3. October 31, 2022**

**Staff's Recommendation:** Approval of warrants as listed.

WARRANTS**4. a) November 28, 2022  
b) December 12, 2022**

**Staff's Recommendation:** Approval of warrants as listed.

MINUTES: (Planning Commission)**5. August 17, 2022**

**Staff's Recommendation:** Approval of minutes as listed.

RESOLUTIONS:**6. Adopting Salary Schedule C-23, effective December 22, 2022 conforming to minimum wage increase for the state of California (City Manager Waterman and Human Resources Manager Joyner)**

**Staff's Recommendation:** Adoption of Resolution No. 3358-22 adopting City of Atwater Salary Schedule C-23, effective December 22, 2022.

AGREEMENTS:**7. Adopt a resolution approving the Professional Services Agreement with RSG, Inc. for Successor Agency consulting services for Fiscal Year 2023-24 through Fiscal Year 2025-26 (Finance Director Youmara)**

**Staff's Recommendation:** Adoption of Resolution No. SA 2022-6 approving the Professional Services Agreement, in a form approved by the City Attorney, with RSG, Inc., in the amount not to exceed \$75,000 for Successor Agency consulting services for FY 2023-24 through FY 2025-26; and authorizes and directs the City Manager, or her designee, to execute the Agreement on behalf of the City

OTHER ACTIONABLE ITEMS:

8. **Accepting the 2023 Regular Meeting Schedule which cancels the second City Council meeting of the month in July, November and December**  
(Deputy City Clerk Martin)

**Staff's Recommendation:** Accepts the 2023 Regular Meeting Schedule which cancels the second meeting of the month in November and December 2023; and authorizes and directs the Mayor and/or the City Manager to sign any documents required to maintain essential City services. Said documents shall be reviewed by the City Attorney and be scheduled for ratification of the entire City Council at the next regularly scheduled City Council meeting.

**\*\*\*END OF CONSENT CALENDAR\*\*\***

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PUBLIC HEARINGS

9. **Waiving the first reading, by title only, and introducing an ordinance Amending Chapter 5.60, Cannabis Business Pilot Program, of Title 5, Business taxes, Licenses and Regulation of the Atwater Municipal Code and adding Chapter 5.70, Cannabis Regulatory Program; Adopting a Resolution setting a Cannabis Business Tax as previously approved by the voters** (Community Development Director Thompson and Finance Director Youmara)

**Staff's Recommendation:** Open the public hearing and receive any testimony given;

Close the public hearing;

Motion to waive the first reading and introduce Ordinance No. CS 1055 amending Chapter 5.60, Cannabis Business Pilot Program, of Title 5, Business taxes, Licenses and Regulation of the Atwater Municipal Code and adding Chapter 5.70, Cannabis Regulatory Program; and

Motion to adopt Resolution No. 3356-22 setting a Cannabis Business Tax within the amount previously approved by the voters, at various rates of gross receipts depending on business type, establishing the tax due date, and adopting the related penalties and interest charges;  
or

Motion to approve staff's recommendation as presented.

10. **Waiving the first reading, by title only, and introducing an ordinance Approving Zoning Text Amendment No. 22-18-0100 Repealing and Replacing Chapter 17.28 of the Atwater Municipal Code regarding Accessory and Junior Accessory Dwelling Units, and Determining the Ordinance to be Exempt from CEQA** (Community Development Director Thompson)

**Staff's Recommendation:** Open the public hearing and take any testimony;

Close the public hearing;

Motion to waive the first reading and introduce Ordinance No. CS 1052 repealing and replacing Chapter 17.28 of the Atwater Municipal Code regarding Accessory Dwelling Units (ADUs) and Junior Accessory Dwelling Units (JADUs). This Ordinance will impose new City regulations on the permitting, development, and construction of ADUs and JADUs in compliance with the provisions of Government Code sections 65852.2 and 65852.22, as amended by recently approved legislation that takes effect January 1, 2023.

Motion to approve staff's recommendation as presented.

11. **Appeal of Planning Commission non-approval on November 30, 2022 regarding Bk Industries, Inc.'s application for Conditional Use Permit, Site Plan, Architectural Review and Zone Variance; Project Description: Electronic Message Board located at the corner of First Street and Shaffer Road, Atwater north of (APN: 003-211-002)** (Community Development Director Thompson)

**Staff's Recommendation:** Open the public hearing and take any testimony given; and

Adopt the resolution approving the appeal of the Planning Commission's non-approval of BK Industries, Inc.'s Site Plan No. 22-22-100, Conditional Use Permit No. 22-22-0200, Architectural Review 22-22-0300 and Zone Variance No. 22-22-0400 for the Electronic Message Board located at the corner of First Street and Shaffer Road, Atwater north of (APN: 003-211-002);or

Motion to approve staff's recommendation as presented.

#### REPORTS AND PRESENTATIONS FROM STAFF:

12. **Awarding a General Construction Contract for the Pedestrian and Roadway Improvements on Laurel Avenue and Sixth Street Project** (Community Development Director Thompson)

**Staff's Recommendation:** Award a General Construction Contract, in a form approved by the City Attorney, to Terra West Construction Inc. of Clovis, California, for the Pedestrian and Roadway Improvements on Laurel Avenue and Sixth Street Project, City Project No. 19-5, in an amount not to exceed 163,965.00, and authorize and direct the City Manager, and her designee, to sign and affirm construction contract change orders up to an aggregate of \$16,369.50 (10%); and authorize and direct the City Manager, or her designee, to execute the contract on behalf of the City.

13. **Adopting the Recognized Obligation Payment Scheduled FY 23-24 for the July 1, 2023 through June 30, 2024 period and adopting the Administrative Budget for Fiscal Year 2023-24** (Finance Director Youmara)

**Staff's Recommendation:** Adoption of SA No. 2022-5 adopting the Recognized Obligation Payment Schedule 23-24 for the July 1, 2023 through June 30, 2024 period and adopting the Administrative Budget for Fiscal Year 2023-24.

## COMMENTS FROM THE PUBLIC

### NOTICE TO THE PUBLIC

At this time any person may comment on any item which is not on the agenda. You may state your name and address for the record; however, it is not required. Action will not be taken on an item that is not on the agenda. If it requires action, it will be referred to staff and/or placed on a future agenda. Please limit comments to a maximum of three (3) minutes.

## CITY COUNCIL MATTERS

### **14. 2023 City Council Reorganization/Mayor's Committee Assignments**

- **Mayor Pro Tem**
- **Merced County Association of Governments** (1 representative and 1 alternate)
- **League of California Cities Central Valley Division** (1 representative and 2 alternates)
- **City Audit and Finance Committee** (2 representatives)
- **LAFCO** (1 representative)
- **USP/Atwater Community Liaison Group** (1 representative and 1 alternate)
- **Atwater Community Services/Neighborhood Watch** (1 representative)
- **4th of July Committee** (1 representative)
- **San Joaquin Valley Air Pollution Control District** (1 representative and 1 alternate)
- **SGMA** (1 Staff representative and 1 alternate)
- **IRWIN** (1 Staff representative and 1 alternate)
- **ACE Train** (1 Representative and 1 alternate)
- **One Voice** (1 representative and 1 alternate)
- **Bloss Mansion** (2 representatives)
- **Christmas Parade** (2 representatives)
- **General Plan Technical Advisory Committee** (2 representatives)

**Staff's Recommendation:** Motion to ratify the Mayor's Committee Assignments.

### **City Council comments**

CLOSED SESSION:

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

MAYOR OR CITY ATTORNEY REPORT OUT FROM CLOSED SESSION

ADJOURNMENT

CERTIFICATION:

I, Kory J. Billings, City Clerk of the City of Atwater, do hereby certify that a copy of the foregoing agenda was posted at City Hall a minimum of 72 hours prior to the meeting.



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KORY J. BILLINGS  
CITY CLERK

SB 343 NOTICE

*In accordance with California Government Code Section 54957.5, any writing or document that is a public record, relates to an open session agenda item and is distributed less than 72 hours prior to a regular meeting will be made available for public inspection in the office of the City Clerk at City Hall during normal business hours at 750 Bellevue Road.*

*If, however, the document or writing is not distributed until the regular meeting to which it relates, then the document or writing will be made available to the public at the location of the meeting, as listed on this agenda at 750 Bellevue Road.*



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