



CITY OF ATWATER

CITY COUNCIL AND SUCCESSOR AGENCY TO THE ATWATER REDEVELOPMENT AGENCY

ACTION MINUTES

January 9, 2023

OPEN SESSION: (Council Chambers)

The City Council of the City of Atwater and the Governing Board 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 Nelson presiding.

ROLL CALL:

Present: *City Council Members/Board Members Ambriz, Button, Cale, Mayor Pro Tem/Board Vice Chair Raymond, Mayor/Board Chair Nelson*

Absent: *None*

Staff Present: *City Manager Waterman/Executive Director, City Attorney Splendorio, Community Development Director Thompson, Deputy City Clerk/Deputy Board Secretary Martin*

CLOSED SESSION: (Conference Room A)

Mayor/Chair Nelson invited public comment on Closed Session items.

No one came forward to speak.

Mayor/Chair Nelson Adjourned the meeting Conference Room A for Closed

Session at 5:32 PM. Closed Session was called to order at 5:35 PM.

Pursuant to Government Code Section 54956.8, Conference with Real Property Negotiator regarding property acquisition. Agency Negotiator: City Manager Waterman. Property Owner Negotiator: Global International

Property Locations: APN 156-060-013
APN 156-060-014

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

Pursuant to Government Code Section 54957, Public Employee Annual Performance Evaluation; Title: City Manager

Closed Session adjourned at 5:57 PM.

REGULAR SESSION: (Council Chambers)

The City Council of the City of Atwater and the Governing Board of the Successor Agency to the Atwater Redevelopment Agency 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 Nelson presiding.

INVOCATION:

The Invocation was led by Pastor Rich Miller.

PLEDGE OF ALLEGIANCE TO THE FLAG:

The pledge of allegiance to the flag was led by City Council Member Button.

ROLL CALL: (City Council/Governing Board)

Present: City Council Members/Board Members Ambriz, Button, Cale, Mayor Pro Tem/Board Vice Chair Raymond, Mayor/Board Chair Nelson

Absent: None

Staff Present: City Manager/Executive Director Waterman, City Attorney Splendorio, Police Chief Salvador, Battalion Chief Ayuso, Public Works Director Vinson, Community Development Director Thompson, Public Works Director Vinson, City Clerk/Board Secretary Billings, Finance Director Youmara, Deputy City Clerk/Deputy Board Secretary Martin

SUBSEQUENT NEED ITEMS: ***None***

APPROVAL OF AGENDA AS POSTED OR AS AMENDED:

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

CEREMONIAL MATTERS:

Presentation of trophy to City Department for winning the City Christmas tree decorating contest

Pastor Rich Miller made a short presentation regarding Christmas in Atwater and to the City of Atwater Fire Department for winning the tree decorating contest.

Presentation of certificate of appreciation to Peggy Heller Elementary School for "Pennies for Presents."

Chief Salvador provided background information regarding the funds raised and received by Peggy Heller Elementary, for the City of Atwater Fire and Police Holiday Toy Drive.

City Council Member/Board Member Button presented the certificate on behalf of the City Council to Peggy Heller Elementary School.

National Law Enforcement Appreciation Day January 9, 2023

Mayor/Chair Nelson read and presented a proclamation to Police Chief Salvador, on behalf of the Police Department, recognizing Monday, January 9, 2023 as National Law Enforcement Appreciation Day.

CONSENT CALENDAR:

Mayor/Board Chair Nelson opened public comment regarding items on the Consent Calendar.

No one came forward to speak.

Public Comment regarding items on the Consent Calendar was closed.

Agenda item #7 under Ordinances (Waiving Second and Adoption), "Adoption of 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," was removed from the Consent Calendar for separate discussion and possible action.

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

WARRANTS:

1. a) December 27, 2022
b) January 9, 2023

ACTION: Approval of warrants as listed.

MINUTES: (Citizens' Oversight Committee)

2. June 14, 2022

ACTION: Approval of minutes as listed.

MINUTES: (City Council)

3. a) November 1, 2022 – Special Meeting
b) November 14, 2022 – Special Meeting

ACTION: Approval of minutes as listed.

AGREEMENTS:

4. Approving a Purchase Order with Calgon Carbon Corporation for GAC Exchange at Well 19 (Public Works Director Vinson)

ACTION: Approves a Purchase Agreement (Purchase Order), in a form approved by the City Attorney, to Calgon Carbon Corporation of Moon Township, Pennsylvania for GAC Exchange in Well 19, in an amount not to exceed \$90,599; and authorizes and directs the City Manager to execute the Agreement (Purchase Order) on behalf of the City (Class 1 and Class 3 Categorical Exemptions -- Sections 15301 and 15303 of the State CEQA Guidelines).

RESOLUTIONS:

5. Declaring the property located at 998 Atwater Boulevard (APN 003-170-034) as Exempt Surplus Land pursuant to the Surplus Land Act (Community Development Director Thompson)

ACTION: Adopts Resolution No. SA 2023-1 declaring the property located at 998 Atwater Boulevard (APN 003-170-034), as Exempt Surplus Land pursuant to the Surplus Lands Act; authorizing the City Manager to take action(s) necessary to effectuate the purposes of the Resolution; and adopts Resolution No. 3362-23

approving Budget Amendment No. 7 Amending Fiscal Year Budget 2022-23 Regarding Acquisition of Property of 998 Atwater Boulevard.

6. Declaring the property located at 980 Cedar Avenue (APN 003-071-001) as Exempt Surplus Land pursuant to the Surplus Land Act (Community Development Director Thompson)

ACTION: Adopts Resolution No. HSA 2023-1 declaring the property located at 980 Cedar Avenue (APN 003-071-001), as Exempt Surplus Land pursuant to the Surplus Lands Act; authorizes the City Manager to take action(s) necessary to effectuate the purposes of the Resolution, including conveyance of the property to the City to be used for public infrastructure purposes; and adopts Resolution No. 3363-23 approving Budget Amendment No. 8 Amending Fiscal Year 2022-23 Budget Regarding Acquisition of Property of 980 Cedar Avenue.

ORDINANCES (WAIVING SECOND READING AND ADOPTION):

7. Adoption of 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 (Community Development Director Thompson and Finance Director Youmara)

This item was removed from the consent calendar for separate discussion and possible action.

8. Adoption of 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)

ACTION: Adopts 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.

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) 357-6241.)

9. Claim No. 2022-13

ACTION: After consideration and investigation, it is staff's recommendation that Claim No. 2022-13 be rejected.

10. Claim No. 2022-14

ACTION: After consideration and investigation, it is staff's recommendation that Claim No. 2022-14 be rejected.

ORDINANCES (WAIVING SECOND READING AND ADOPTION):

Adoption of 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 (Community Development Director Thompson and Finance Director Youmara)

Mayor Pro Tem/Vice Chair Raymond spoke regarding the item and that he would like to make sure that he is able to vote against the ordinance and tax rate.

City Council Member/Board Member Cale asked for clarification regarding Mayor Pro Tem/Vice Chair Raymond request.

City Attorney Splendorio clarified this item was for the second reading of the ordinance.

MOTION: City Council Member/Board Chair Cale moved to adopt 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. The motion was seconded by City Council Member/Board Member Ambriz and the vote was: Ayes: Button, Ambriz, Cale, Nelson; Noes: Raymond; Absent: None. The motion passed.

PUBLIC HEARINGS:

Adopting resolution amending Fiscal Year 2022-23 Miscellaneous Fee Schedule (Finance Director Youmara)

Finance Director Youmara provided background information on this item.

Mayor/Board Chair Nelson opened the public hearing.

One person spoke regarding the impacts of Cannabis businesses and the amounts that are owed by the businesses.

Mayor/Board Chair Nelson closed the public hearing.

MOTION: City Council Member/Board Member Button moved to adopt Resolution No. 3347-22 amending the City of Atwater's Miscellaneous Fee Schedule for Fiscal Year 2022-2023. The motion was seconded by City Council Member/Board Member Cale and the vote was: Ayes: Cale, Ambriz Button, Nelson; Noes: Raymond; Absent: None. The motion passed.

Waiving the first reading, by title only, and introducing an ordinance Amending certain sections of Title 17 "Zoning" of the Atwater Municipal Code relating to Building Height Regulations (Community Development Director Thompson)

Mayor/Board Chair Nelson opened the public hearing.

Community Development Director Thompson provided background information on this item.

No one came forward to speak.

Mayor/Board Chair Nelson closed the public hearing.

MOTION: City Council Member/Board Member Cale moved to waive first reading and introduce Ordinance No. CS 1056 Amending certain sections of Title 17 "Zoning" of the Atwater Municipal Code relating to Building Height Regulations. The motion was seconded by Mayor Pro Tem/Vice Chair Raymond and the vote was: Ayes: Button, Ambriz, Cale, Raymond, Nelson; Noes: None; Absent: None. The motion passed.

REPORTS AND PRESENTATIONS FROM STAFF:

Awarding a General Construction Contract for Downtown Pedestrian Improvement Project-Phase 1 (Categorically Exempt under CEQA - Existing Facilities) (Community Development Director Thompson)

Community Development Director Thompson provided background information on this item.

Mayor/Chair Nelson asked if any members of the public would like to speak regarding this item.

No one came forward regarding this item.

MOTION: City Council Member/Board Member Ambriz moved to award a General Construction Contract, in a form approved by the City Attorney, to Seal Rite Paving of Fresno, California, for the Downtown Pedestrian Improvements Project-Phase 1, City Project No. 20-7, Federal Project No. CML-5254(030), in an amount not to exceed 811,821.35, and authorize construction contract change orders up to an aggregate of \$81,182.13 (10%); and authorize and direct the City Manager, to execute all contract documents on behalf of the City. The motion was seconded by Mayor Pro Tem/Vice Chair Raymond and the vote was: Ayes: Button, Ambriz, Cale, Raymond, Nelson; Noes: None; Absent: None. The motion passed.

Presentation regarding re-tasking of Broadway Avenue including discussion and possible direction regarding re-tasking (Community Development Director Thompson)

Community Development Director Thompson provided background information on this item.

Michael Beerends of GHD provided background information regarding the retasking of Broadway Avenue.

Mayor Pro Tem/Vice Chair Raymond asked for clarification regarding the best option for Broadway Avenue.

City Council Member/Board Member Cale asked for clarification regarding the concept for Broadway Avenue.

Mayor/Chair asked regarding the design and the concept for Broadway Avenue.

Community Development Director Thompson provided clarification.

Mayor/Chair Nelson asked if any members of the public would like to speak regarding this item.

One person spoke regarding various celebrations downtown.

One person spoke regarding the cost of the project.

Mayor/Chair Nelson spoke regarding the project and waiting regarding the circulation element of the General Plan.

MOTION: City Council Member/Board Member Ambriz moved to give direction to move forward with Broadway Avenue preferred option of the Planning Commission; Sidewalk, Northside alignment, and diagonal parking, Southside. The motion was seconded by City Council Member/Board Member Button and the vote was: Ayes: Button, Ambriz, Cale, Raymond; Noes: Nelson; Absent: None. The motion passed.

CITY MANAGER REPORTS/UPDATES:

City Manager Waterman recognized Deputy City Manager Del Real for her 34 years of service with the City of Atwater.

COMMENTS FROM THE PUBLIC:

Notice to the public was read.

Merced County District 3 Supervisor Daron McDaniel spoke regarding the flooding in Merced County and the various programs available to residents if needed.

One person spoke regarding the floods in their neighborhood.

One person spoke regarding the care of the Public Works department and the filling of pot holes.

Nick Gomes, District Representative, Congressman John Duarte office, spoke regarding being the new representative and where and how to contact the office.

No one else came forward to speak.

CITY COUNCIL REPORTS/UPDATES:

City Council Member Cale, District 1 thanked the Public Works department for their hard work during this season as they have worked long hours. He spoke regarding a meeting that he attended for the Office of Emergency Services. He thanked Pastor Miller, his family and Church for Christmas in Atwater.

City Council Member Button, District 2 congratulated Deputy City Manager for her years of service with the City of Atwater. He reminded the residents to be safe and not to travel unless they must. He is currently coaching girls' basketball and hoping they won their game this evening as he couldn't attend.

City Council Member Ambriz, District 3 spoke regarding E. Broadway and some possible issues that need to be addressed.

Mayor Pro Tem Raymond, District 4 congratulated Nicole Silveira on her swearing in for Merced County District Attorney. He also recognized his mom for her years of service with the Planning Commission.

Mayor Nelson spoke regarding transportation funds. He thanked the City Manager and the Finance Director regarding transparency and the warrant runs. He announced the appointments for Merced County Mosquito Abatement (George Ronald Pirtle) and Planning Commission (Mayra Sanchez-Garcia). He thanked Public Works for their hard work during the current weather conditions. He also thanked all the staff that support Public Works.

ADJOURNMENT:

Mayor/Chair Nelson adjourned the meeting at 7:06 PM.



**JANELL MARTIN
DEPUTY CITY CLERK**