

**CITY OF LOS BANOS
CITY COUNCIL / REDEVELOPMENT AGENCY MEETING MINUTES
JUNE 16, 2010**

ACTION MINUTES – These minutes are prepared to depict action taken for agenda items presented to the City Council. For greater detail of this meeting refer to the electronic media (CD and/or audio) kept as a permanent record.

The following closed session item was held prior to the City Council/Redevelopment Agency Meeting:

CONFERENCE WITH LABOR NEGOTIATORS, PURSUANT TO GOVERNMENT CODE SECTION 54957.6, AGENCY DESIGNATED REPRESENTATIVES: CITY MANAGER, CITY ATTORNEY, HUMAN RESOURCES DIRECTOR, LEGAL COUSEL TUFFO, POLICE CHIEF BRIZZEE, CITY TREASURER BRAZIL, BRENT KUHN, VAVRINEK, TRINE, DAY & CO. LLP; EMPLOYEE ORGANIZATION: LOS BANOS POLICE OFFICERS ASSOCIATION (LBPOA), LOS BANOS POLICE SERGEANTS ASSOCIATION (LBPSA), LOS BANOS POLICE DISPATCHERS/COMMUNITY SERVICES OFFICERS ASSOCIATION (LBPDCSOA). Direction to staff only regarding the LBPOA and LBPDCSOA, no action taken. Action to be taken on item 8 – City Council Resolution No. 5246 – Approving a Memorandum of Understanding by and between the City of Los Banos and the Los Banos Police Sergeants Association (LBPSA).

CALL TO ORDER: Mayor Pro Tem Sousa called the City Council/Redevelopment Agency Meeting to order at the hour of 7:00 p.m.

PLEDGE OF ALLEGIANCE. Police Chief Brizzee led the pledge of allegiance.

ROLL CALL – MEMBERS OF THE CITY COUNCIL / REDEVELOPMENT AGENCY PRESENT: Tom Faria, Joe Sousa, Elizabeth Stone, Mike Villalta; **ABSENT:** Tommy Jones.

STAFF MEMBERS PRESENT: City Attorney Vaughn, City Clerk/Human Resources Director Mallonee, City Treasurer/Accountant II Brazil, City Manager Rath, Assistant Fire Chief Marrison, Police Chief Brizzee, Public Works Director/City Engineer Fachin, Planning Director Fitzgerald, Redevelopment Agency Director Post, and Information Technology Director Spalding.

CONSIDERATION OF APPROVAL OF AGENDA: Motion by Stone, seconded by Villalta to approve the agenda as submitted. The motion carried by the affirmative action of all City Council/Redevelopment Agency Members present, Mayor Jones absent.

PUBLIC FORUM: MEMBERS OF THE PUBLIC MAY ADDRESS THE COUNCIL ON ANY ITEM OF PUBLIC INTEREST THAT IS WITHIN THE JURISDICTION OF THE CITY; INCLUDES AGENDA AND NON-AGENDA ITEMS. NO ACTION WILL BE TAKEN ON NON-AGENDA ITEMS. SPEAKERS ARE LIMITED TO A FIVE (5) MINUTE PRESENTATION. DETAILED GUIDELINES ARE POSTED ON THE COUNCIL CHAMBER INFORMATIONAL TABLE.

DAVE ANDERSON, Los Banos, spoke regarding the Los Banos Amateur Radio Club and the Annual Field Day activities being held on June 26, 2010 at Big Page Park; JOE COX, Los Banos, spoke as Commander of Veterans of Foreign Wars and announced that this month marks the anniversary of the Korean War, spoke of 8,027 GIs still missing from this war, and thanked all the Korean War veterans for their service; ANN MCCAULEY, Los Banos, spoke of her excitement about the upcoming movie night event being held at the Henry Miller Plaza at 9:00 p.m. on Saturday, June 19, 2010 with events taking place before the movie Monsters vs. Aliens is shown, the movie being sponsored by Comcast and Merced County Parks & Recreation, spoke to how funds were raised, no taxpayer funds paying for the event, another movie night will take place on August 28, 2010 sponsored by PG&E, and encouraged all to come and have a good time; KEITH SNOW, Los Banos, spoke regarding the meeting he had with the City Manager last week, budget meeting, how he wants to be a volunteer, Measure P, wanting more time to speak to the City Manager, his attempt to write an article about freedom of speech, things being made difficult, the City being in the red, and the embezzlement; GENEVA BRETT, Los Banos, thanked Dr. Cox for speaking about the Korean War veterans, spoke regarding the end of her term as Los Banos Chamber of Commerce President, the installation dinner, confusion regarding the 4th of July events which will be held at the fairgrounds instead of at the plaza as originally stated, Mr. & Miss Firecracker event, and encouraged everyone to attend; Assistant Fire Chief Marrison, Los Banos, spoke regarding the new fireworks ordinance regulations, an English/Spanish flyer was put in the utility bills, generated letters to be put in every bag when fireworks are sold, the Fire Department and City's website has been updated to reflect the most current information, slide on channel 96 that explains the information, two articles that have been published in the Los Banos Enterprise so far with another one hopefully to come, has spoken before the City Council numerous times, spoke regarding illegal and "safe & sane" fireworks, zero tolerance for illegal fireworks, and spoke regarding the dangers caused by the use of illegal fireworks; PASQUAL MENDIVL, Los Banos, spoke at length in Spanish, spoke regarding a blood drive, the new community center having been named Los Banos Community Center, his feelings regarding the naming of the community center, comments made about Martin Luther King and Cesar Chavez, and read a statement by Cesar Chavez in English and in Spanish. No one else came forward to speak and the public forum was closed.

CONSIDERATION OF APPROVAL OF CONSENT AGENDA. Council Member Villalta requested the removal of item 7H – Redevelopment Agency Resolution No. 2010-05 – Awarding a Bid for Furnishings for the Los Banos Community Center to Mighty-Lite, Inc. for discussion.

Council Member Faria requested the removal of item 7I – Redevelopment Agency Resolution No. 2010-06 – Approving and Authorizing the Execution of a Professional Services Agreement with the Merced County Economic Development Corporation for discussion and vote.

Motion by Faria, seconded by Stone to approve the consent agenda with the removal of item 7H – Redevelopment Agency Resolution No. 2010-05 – Awarding a Bid for Furnishings for the Los Banos Community Center to Mighty-Lite, Inc. and item 7I – Redevelopment Agency Resolution No. 2010-06 – Approving and Authorizing the Execution of a Professional Services Agreement with the Merced County Economic Development Corporation for discussion as follows: Check Register for #122349 - #122605 in the Amount of \$612,494.01; City Council / Redevelopment Agency Minutes for the June 1, 2010 Special Meeting; City Council / Redevelopment Agency Minutes for the June 10, 2010 Adjourned Meeting; Block Party/Street Closure Request for Sunday, July 4, 2010 from 3:00 p.m. to 10:00 p.m., on the 500 Block of Sixth Street; Block Party/Street Closure Request for Saturday, July 17, 2010 from 11:00 a.m. to 7:00 p.m., on the 100 Block of Tangelo Avenue; Measure P Oversight Committee Report; City Council Resolution No. 5245 – Authorizing the City Manager to File Regional Surface Transportation Program (RSTP) Exchange Funds Claim for Fiscal Year 2009/2010; ~~Redevelopment Agency Resolution No. 2010-05 – Awarding a Bid for Furnishings for the Los Banos Community Center to Mighty-Lite, Inc.; Redevelopment Agency Resolution No. 2010-06 – Approving and Authorizing the Execution of a Professional Services Agreement with the Merced County Economic Development Corporation.~~ The motion carried by the affirmative action of all City Council / Redevelopment Agency Members present, Mayor Jones absent.

REDEVELOPMENT AGENCY RESOLUTION NO. 2010-05 – AWARDING A BID FOR FURNISHINGS FOR THE LOS BANOS COMMUNITY CENTER TO MIGHTY-LITE, INC. Council Member Villalta spoke regarding his concern that there were no local vendors that submitted a bid, doesn't believe this was a fair thing to do, this not being a level playing field, and his hope to spend money locally.

City Manager Rath spoke of his surprise that this concern wasn't brought to his attention prior to the Council Meeting because staff has had conversations with local vendors as well as with the supplier, offered to review progress made and what they are doing with local vendors, and spoke of having a very good working relationship with the local vendors.

Redevelopment Agency Director Post spoke to the type of furnishings needed and specified within the bid, has spoken to local vendors who will help furnish some of the rooms and areas of the community center, and having done everything professionally and ethically to have our locals have an opportunity to be part of this.

Mayor Pro Tem Sousa spoke regarding his experience with bidding contracts, there is specific state law dictates our bidding process, and he is convinced what staff has done was ethical.

Council Member Stone spoke of her concern that this discussion could take away from the vision of the community center and furnishing it is part of this, only having received one bid, and no local vendors chose to submit a bid.

Motion by Stone, seconded by Faria to adopt Redevelopment Agency Resolution No. 2010-05 – Awarding a Bid for Furnishings for the Los Banos Community Center to Mighty-Lite, Inc. The motion carried by the following roll call vote: AYE: Faria, Sousa, Stone, Villalta; NOES: none; ABSENT: Jones.

REDEVELOPMENT AGENCY RESOLUTION NO. 2010-06 – APPROVING AND AUTHORIZING THE EXECUTION OF A PROFESSIONAL SERVICES AGREEMENT WITH THE MERCED COUNTY ECONOMIC DEVELOPMENT CORPORATION.

Council Member Faria inquired as to the services Merced County Economic Development Corporation (MCEDCO) provides to the City.

Redevelopment Agency Director Post presented the staff report speaking to what MCEDCO has done for Los Banos.

There was council member and staff discussion regarding agencies within Merced County that are members, MCEDCO undergoing a change with a new Chief Executive Officer, grant administration separate from this membership action, and fee reduction in the contract due to the economy last year as well as this year.

Council Member Faria read MCEDCO's mission statement and read the Los Banos Chamber of Commerce's mission statement, compared their purposes, and spoke of the MCEDCO contract having been cut 25% and the Chamber of Commerce having been cut much more.

Redevelopment Agency Director Post explained the difference between the level of services that MCEDCO provides and the level of services that the Los Banos Chamber of Commerce provides.

Council Member Faria inquired if MCEDCO would be willing to negotiate this fee down even further to represent the City's economic base and give the balance to the Chamber of Commerce to help them out with services they provide.

City Manager Rath spoke of the importance of the MCEDCO management team as professionals in the economic development field, trained and experienced, the level of expertise they bring to the table, MCEDCO having brought millions of dollars to the City of Los Banos, and the return on the great investment.

Council Member Stone spoke of her understanding for the concern, but this being a real investment that she has seen first hand, MCEDCO having tremendous expertise and professionalism, the return on the investment being truly large, not discounting the Chamber of Commerce, difficulty in comparing the entities due to the capacity and

scope of what MCEDCO is able to do is on a different level, MCEDCO having already discounted the rate, very limited Redevelopment Agency staff, and the value of MCEDCO to the City of Los Banos.

Council Member Faria spoke of not wanting to sell the Chamber of Commerce short, the need to pursue the public and private economic development businesses, would like to direct staff to negotiate a few thousand dollars off of the fee so that the difference can be directed back to the Chamber of Commerce.

Redevelopment Agency Director Post clarified that none of the cities in Merced County are currently supporting their local Chambers and that MCEDCO is a consultant who is certified in the field of our needs.

Mayor Pro Tem Sousa spoke of having had the opportunity to work with MCEDCO, has asked businesses why they are looking at Los Banos, a majority of those responded that MCEDCO was the reason they looked into the area, believes that the local Chamber of Commerce should be self supported by Chamber members, the difference in levels of expertise, and supports the contract as it is.

Motion by Faria, seconded by Villalta to direct staff to negotiate a further discount of about \$5,000 and to use the saved money in the discount to apply to our local Chamber of Commerce. The motion failed by the following roll call vote: AYES: Faria, Villalta; NOES: Sousa, Stone; ABSENT: Jones.

Redevelopment Agency Director Post pointed out there was a \$15,000 reduction in the contract due to not utilizing MCEDCO in regards to the enterprise zone.

Motion by Stone, seconded by Sousa to adopt Redevelopment Agency Resolution No. 2010-06 – Approving and Authorizing the Execution of a Professional Services Agreement with the Merced County Economic Development Corporation. The motion failed by the following roll call vote: AYES: Sousa, Stone; NOES: Faria, Villalta; ABSENT: Jones.

Due to the loss of both motions, no action was taken.

CONSIDERATION OF APPROVAL OF CITY COUNCIL RESOLUTION NO. 5246 – APPROVING A MEMORANDUM OF UNDERSTANDING BY AND BETWEEN THE CITY OF LOS BANOS AND THE LOS BANOS POLICE SERGEANTS ASSOCIATION (LBPSA). Human Resources Director Mallonee presented the staff report.

Council Member Faria thanked the Police Sergeants and all employees for their help in keeping the City running.

Council Member Stone thanked the Police Sergeants and all City employees for their concessions.

Mayor Pro Tem Sousa thanked the Police Sergeants and all employees who stepped up to help out the City.

Council Member Villalta echoed all that has been said with gratitude.

Motion by Faria, seconded by Stone to adopt City Council Resolution No. 5246 – Approving a Memorandum of Understanding by and between the City of Los Banos and the Los Banos Police Sergeants Association (LBPSA). The motion carried by the affirmative action of all City Council/Redevelopment Agency Members present, Mayor Jones absent.

PUBLIC HEARING – TO RECEIVE PUBLIC COMMENT AND CONSIDERATION OF APPROVAL OF USE PERMIT #2010-01 FOR THE USE OF A TYPE 20 ALCOHOL LICENSE FOR THE OFF-SALE OF BEER AND WINE FOR FRESH & EASY NEIGHBORHOOD MARKET LOCATED AT 1420 EAST PACHECO BOULEVARD, APN: 428-140-030; CITY COUNCIL RESOLUTION NO. 5247 – APPROVING USE PERMIT #2010-01 FOR THE OFF-SALE OF BEER AND WINE FOR FRESH & EASY NEIGHBORHOOD MARKET LOCATED AT 1420 EAST PACHECO BOULEVARD, MORE SPECIFICALLY IDENTIFIED AS APN: 428-140-030. Planning Director Fitzgerald presented staff report.

Public hearing was opened. PARKER FANDLER, Evergreen Development, spoke to how great staff has been to work with, what Fresh & Easy offers, a small percentage in the store being dedicated to alcohol, a good partnership, and how this meets a need the community has; KEITH SNOW, Los Banos, stated that this is going to be a pretty big store and would like to see a handicapped ramp. No one else came forward and the public hearing was closed.

There was council member, staff, and applicant discussion regarding the size of the building, limitations the store would have for placing spirits, one camera down the aisle being satisfactory, not associating candy with alcohol, Los Banos being an agricultural farming community, and the possible incorporation of local foods to the produce sold in store.

Motion by Villalta, seconded by Stone to adopt City Council Resolution No. 5247 – Approving Use Permit #2010-01 for the Off-sale of Beer and Wine for Fresh & Easy Neighborhood Market Located at 1420 East Pacheco Boulevard, More Specifically Identified as APN: 428-140-030. The motion carried by the affirmative action of all City Council /Redevelopment Agency Members present, Mayor Jones absent.

PUBLIC HEARING – CONSIDERATION OF THE APPROPRIATION LIMITATION FOR THE FISCAL YEAR 2010/2011; CITY COUNCIL RESOLUTION NO. 5248 – SETTING THE TAX RELATED APPROPRIATION LIMIT IN COMPLIANCE WITH PROPOSITION 4 AND PROPOSITION 111 FOR FISCAL YEAR 2010/2011 APPROPRIATION LIMIT. (TO BE CONTINUED TO JUNE 25, 2010). Mayor Pro Tem

Sousa opened the public hearing, no one came forward and the public hearing was continued.

Motion by Stone, seconded by Villalta to continue the public hearing for Consideration of the Appropriation Limitation for the Fiscal Year 2010/2011; City Council Resolution No. 5248 – Setting the Tax Related Appropriation Limit in Compliance with Proposition 4 and Proposition 111 for Fiscal Year 2010/2011 Appropriation Limit to the June 25, 2010 City Council/Redevelopment Agency Meeting. The motion carried by the affirmative action of all City Council /Redevelopment Agency Members present, Mayor Jones absent.

PUBLIC HEARING – CONSIDERATION OF THE 2010/2011 FISCAL YEAR BUDGET; CITY COUNCIL RESOLUTION NO. 5249 – ADOPTING FISCAL YEAR 2010-2011 BUDGET INCLUDING DIVISION 4 – EMPLOYEE CLASSIFICATIONS & SALARY SCHEDULES OF THE CITY OF LOS BANOS POLICY & PROCEDURES MANUAL.

(TO BE CONTINUED TO JUNE 25, 2010) Mayor Pro Tem Sousa opened the public hearing. KEITH SNOW, Los Banos, spoke regarding that how the City is in the red, his meeting on Friday with City Manager, \$35 million for the enterprise, how you go to a workshop and didn't get to talk, City cut backs made in the Redevelopment Agency, \$8 dinners should be free, wasted money on consultant to find a new Police Chief, could use the money for new programs, what he would do if he was in charge of this City, and the need to give things for free. No one else came forward and the public hearing was continued.

Motion by Stone, seconded by Villalta to continue the public hearing for Consideration of the 2010/2011 Fiscal Year Budget; City Council Resolution No. 5249 – Adopting Fiscal Year 2010-2011 Budget Including Division 4 – Employee Classifications & Salary Schedules of the City of Los Banos Policy & Procedures Manual to the June 25, 2010 City Council/Redevelopment Agency Meeting. The motion carried by the affirmative action of all City Council /Redevelopment Agency Members present, Mayor Jones absent.

CONSIDERATION OF APPROVAL OF REDEVELOPMENT AGENCY RESOLUTION NO. 2010-07 – DECLARING THAT PLANNING AND ADMINISTRATIVE EXPENSES ARE NECESSARY FOR THE PRODUCTION, IMPROVEMENT OR PRESERVATION OF LOW AND MODERATE INCOME HOUSING DURING FISCAL YEAR 2010/2011.

(TO BE CONTINUED TO JUNE 25, 2010) Motion by Stone, seconded by Faria to continue Redevelopment Agency Resolution No. 2010-07 – Declaring that Planning and Administrative Expenses are Necessary for the Production, Improvement or Preservation of Low and Moderate Income Housing During Fiscal Year 2010/2011 to the June 25, 2010 City Council/Redevelopment Agency Meeting. The motion carried by the affirmative action of all City Council /Redevelopment Agency Members present, Mayor Jones absent.

NOTICE AND ANNOUNCEMENT OF ONE (1) MERCED COUNTY MILLIKEN MUSEUM ADVISORY COMMITTEE VACANCY EXPIRING MARCH 10, 2012 AND

APPOINTMENT OF ONE (1) COUNCIL MEMBER TO SERVE WITH THE MAYOR ON THE SELECTION COMMITTEE. Motion by Faria, seconded by Stone to authorize staff to advertise the vacancy and appoint Mayor Pro Tem Sousa to serve with the Mayor on the Selection Committee. The motion carried by the affirmative action of all City Council /Redevelopment Agency Members present, Mayor Jones absent.

CONSIDER REQUEST FROM COUNCIL MEMBER FARIA TO BRING FORWARD A RESOLUTION FOR THE \$313 THAT IS IN THE CITY'S COMMUNITY CENTER DONATION ACCOUNT BEING THE SEED MONEY FOR SOME TYPE OF VETERANS MEMORIAL AT THE COMMUNITY CENTER. Council Member Faria spoke regarding his request.

Motion by Faria, seconded by Villalta to bring back for consideration the request for the \$313 that is in the City's Community Center Donation Account Being the Seed Money for Some Type of Veterans Memorial at the Community Center. The motion carried by the affirmative action of all City Council /Redevelopment Agency Members present, Mayor Jones absent.

REDEVELOPMENT AGENCY UPDATE. No report.

ADVISEMENT OF PUBLIC NOTICES (One Report). Planning Director Fitzgerald stated that a public hearing will be held by the Los Banos Planning Commission to consider a vendors permit to allow the operation of a certified farmers market to vend on private property at 1339 Place Road in the Highway Commercial zoning district on Wednesday, June 23, 2010 at 7:00 p.m. in the Council Chambers at City Hall located at 520 J Street, Los Banos, California.

CITY MANAGER / EXECUTIVE DIRECTOR REPORT. No report.

CITY COUNCIL / REDEVELOPMENT AGENCY MEMBER REPORTS.

ELIZABETH STONE: Spoke regarding the success of the KB Home Neighborhood Watch meeting that she attended last Saturday, hopes that it inspired other neighborhoods to create their own neighborhood watch groups, attended a Community Resource Council meeting where Ashlee Williams spoke regarding 1800volunteer.org and volunteer opportunities, attended the Flag Day event at City Hall and saw all the beautiful flags displayed around town, reminded all about movie night at the Henry Miller Plaza on Saturday, June 19, 2010, anxious for the community center to open, and the new digital having exceeded her expectations.

MIKE VILLALTA: Thanked Dr. Cox for speaking regarding the Veterans of Foreign Wars Korean War anniversary, hopes to continue with movie night events, Chamber of Commerce Awards Dinner being held at Espanas on June 22, 2010, thanked Assistant Fire Chief Marrison for the update on fireworks, and the 4th of July event taking place at the fairgrounds with the fireworks show being put on by donations.

TOM FARIA: Spoke regarding the Flag Day event, thanked Dr. Cox for reminding all about the Korean War anniversary, the importance of studying history and the constitution.

JOE SOUSA: Apologized for missing the KB Homes Neighborhood Watch meeting, commended the group for their efforts, thanked the Fire Department for all their efforts on tackling the illegal firework issues, thanked Dr. Cox for mentioning the Korean war anniversary, thanked all the veterans for their sacrifices, reminded all about movie night and encouraged all to come out, thanked Ann McCauley for her fundraising efforts for movie night, Kite Day on Saturday, June 19, 2010 from 12:00 p.m. to 4:00 p.m., had the to opportunity to put out flags on Flag Day, the honor and beauty to see the flags lining the streets, people stealing and breaking these flags, the need to put a stop to it and find out who they are, and the privilege it is to live here.

MAYOR TOMMY JONES: Absent.

ADJOURNMENT. Motion by Villalta, seconded by Faria to adjourn the City Council/Redevelopment Agency meeting at 8:59 p.m. to 1:00 p.m., Friday, June 25, 2010 for Consideration of the Adoption of the 2010/2011 Fiscal Year Budget, to be held in the Council Chambers, 520 J Street, Los Banos, California.

APPROVED:

/s/ Tommy Jones
Tommy Jones, Mayor

ATTEST:

/s/ Lucille L. Mallonee
Lucille L. Mallonee, City Clerk