

**CITY OF LOS BANOS  
CITY COUNCIL / REDEVELOPMENT AGENCY MEETING MINUTES  
AUGUST 1, 2007**

***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 (video, DVD and/or audiotapes) kept as a permanent record.***

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

**CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION, PURSUANT TO GOVERNMENT CODE SECTION 54956.9 (A). NAME OF CASE: FELIX M. LOPEZ AND ELIZABETH RUIZ VS. COUNTY OF MERCED, ET AL., UNITED STATES DISTRICT COURT, EASTERN DISTRICT OF CALIFORNIA, FRESNO DIVISION, CASE NO. 06-CV-01526-OWW-DLB.** No action taken, advisement to staff only.

The following closed session item was held after the City Council Meeting:

**CONFERENCE WITH LABOR NEGOTIATORS, PURSUANT TO SECTION 54957.6 OF THE GOVERNMENT CODE. AGENCY DESIGNATED REPRESENTATIVES: CITY MANAGER, CITY ATTORNEY, POLICE CHIEF, HUMAN RESOURCES DIRECTOR; EMPLOYEE ORGANIZATION: LOS BANOS POLICE DISPATCHERS/COMMUNITY SERVICES OFFICERS ASSOCIATION.** No action taken, advisement to staff only.

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

**PLEDGE OF ALLEGIANCE.** Police Chief Gallagher led the pledge of allegiance.

**ROLL CALL – MEMBERS OF THE CITY COUNCIL / REDEVELOPMENT AGENCY PRESENT:** Anna Brooks, Tom Faria, Joe Sousa, Mike Villalta and Tommy Jones

**STAFF MEMBERS PRESENT:** City Attorney Vaughn, City Clerk/Human Resources Director Mallonee, City Manager Rath, City Treasurer/Chief Financial Officer Wall, Assistant Fire Chief Marrison, Police Chief Gallagher, Public Works Director/City Engineer Chisam, Planning Manager LeVan, Recreation Coordinator Soares, Translator Reyna

**CONSIDERATION OF APPROVAL OF AGENDA:** City Manager Rath stated that approval of a resolution approving the submittal of an application to the California State Department for funding under the Home Investment Partnerships Program; and if selected, the execution of a Standard Agreement, and amendments thereto, and of any related documents necessary to participate in the Home Investment Partnership Program.

Motion by Faria, seconded by Brooks, to add the consideration of a resolution, approving submittal of an application to the California State Department of Housing and Community Development (HCD) for funding under the HOME investment partnerships Program, and if

selected, the execution of a Standard Agreement and amendments thereto and of any related documents necessary to participate in the HOME Investment Partnership Program to the agenda. The motion carried by the affirmative action of all City Council/Redevelopment Agency Members present.

Motion by Brooks, seconded by Faria to approve the agenda as amended to include the above stated added consideration of adoption of a resolution. The motion carried by the affirmative action of all City Council/Redevelopment Agency Members present.

**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 THREE (3) MINUTE PRESENTATION. DETAILED GUIDELINES ARE POSTED ON THE COUNCIL CHAMBER INFORMATIONAL TABLE.**

RICHARD MARTERELLO, Los Banos, spoke regarding Habitat for Humanity, their current project, and the services they provide to the community of Los Banos; an unidentified woman spoke regarding her personal experience with Habitat for Humanity and what the program has done for her and her family; GENEVA BRETZ, Los Banos, spoke regarding the Henry Miller Wild West Weekend event being held in October 2007 in coordination of the City's Centennial Summer Celebration and encouraging the whole community to get involved; ASSISTANT FIRE CHIEF MARRISION spoke regarding the arrival of the new fire truck and the Fire Department's newly hired full time Fire Fighter, Bradley Ellien. No one else came forward to speak and the public forum was closed.

**CONSIDERATION OF APPROVAL OF CONSENT AGENDA.** There was Council Member and staff discussion regarding items 7E - Public Works Capital Project Report for August 2007, 7F - Progress Payment No. 7 for Construction of the Los Banos Child Development Center in the amount of \$410,758.45 to Greg Opinski Construction, Inc., 7H - Progress Payment No. 10 for Construction of Seventh and H Street Improvements Project in the amount of \$121,635.20 to Granite Construction Company, and item 7O - City Council Resolution No. 4903 - Authorizing the City Manager to Recruit and Fill the Information Technology (IT) Department Positions and it was noted that the City Council wanted to see the current IT contractor, DreamConcepts, to remain on contract for a ninety (90) to one hundred twenty (120) day window period to assist with the transition from contract IT services to a full time IT Department with not to exceed the amount budgeted and to come back to City Council for approval if more funding is needed.

Motion by Brooks, seconded by Sousa to approve the consent agenda as follows: Minutes for the June 6, 2007 City Council / Redevelopment Agency Meeting; Minutes for the July 18, 2007 City Council / Redevelopment Agency Meeting; Minutes for the July 23, 2007 Adjourned City Council Meeting; Check Register for #100958 - #101288 in the Amount of \$1,269,830.44; Public Works Capital Project Report for August 2007; Progress Payment No. 7 for Construction of the Los Banos Child Development Center in the amount of \$410,758.45 to Greg Opinski Construction, Inc.; Progress Payment No. 8 and 22 for Professional Services Related to the Wastewater Treatment Plant Expansion Project Totaling \$3,532.69 to Erler & Kalinowski, Inc. (EKI); Progress Payment No. 10 for

Construction of Seventh and H Street Improvements Project in the amount of \$121,635.20 to Granite Construction Company; Progress Payment No. 11, 12, 13, and 14 for Professional Services Related to the Wastewater Treatment Plant Expansion and Upgrade Phase II Project Totaling \$23,538.72 to Eco:Logic; Street Closure Request to Close off the 900 block of 5<sup>th</sup> Street from 8:00 a.m. to 1:30 p.m. on Thursday, August 2, 2007 for the Honorable Judge Robert Falasco Justice Center Dedication Ceremony; Street Closure Request to Close Main Street from K Street to H Street from 3:00 p.m. to 9:30 p.m. on Saturday, August 11, 2007 for the Downtown Car Show, Centennial Movie and Entertainment at Henry Miller Plaza; Notice of Completion for the Security Fencing and Gate Improvements Project for the Los Banos Municipal Airport and Retention Payment in the Amount of \$16,465.67 to Woida Enterprises dba Arrow Fencing Thirty-five (35) Days Following Recordation of the Notice of Completion; City Council Resolution No. 4901 – Accepting Public Utility Easements and Dedications for Parcel Map No. 2005-07 (Menezes Industrial Park); City Council Resolution No. 4902 – Amending Division 4, Salary Schedule Relating to Changes Associated with Section 403, Regular Full Time Employee Classifications, Section F - Public Works & Section 404, Part Time Employee Classifications - Police Officer; City Council Resolution No. 4903 – Authorizing the City Manager to Recruit and Fill the Information Technology Department Positions; City Council Resolution No. 4904 – Accepting Reduction of Set Aside Letter for the Villages at Stonecreek Unit 4 Southbrook, Phase 1B, Tract No. 2005-05 and the North Sewer and Storm Drain Improvements, Phase 2. The motion carried by the affirmative action of all City Council/Redevelopment Agency Members present.

**CONSIDERATION OF PROPOSALS FOR A TEN (10) YEAR CONTRACT FOR RECYCLING GREEN WASTE AND SOLID WASTE COLLECTION FROM ALLIED WASTE & SUNSET WASTE; CITY COUNCIL RESOLUTION NO. 4905 – AUTHORIZING THE ACCEPTANCE OF THE PROPOSAL FOR A TEN (10) YEAR CONTRACT FOR RECYCLING GREEN WASTE AND SOLID WASTE COLLECTION.** Public Works Director/City Engineer Chisam presented the staff report. Mr. Chisam introduced Mr. Rob Farnkopf, of Hilton Farnkopf and Hobson (HF&H) the consultant for the City who conducted the analysis of the two Solid Waste proposals submitted from Allied Waste and Sunset Waste, which included a PowerPoint presentation.

DANNY LISENKO, Sunset Waste, spoke regarding their proposal, which also included a PowerPoint presentation.

Keith Hester, Allied Waste, spoke regarding their proposal, which included a promotional piece and a PowerPoint presentation.

Mayor Jones invited the public to come forward and speak. JACQUELINE LAWRENCE, Los Banos, spoke regarding her concerns for the homeless community and would like to see 25% of the recyclables go towards into a homeless program at Brandi's and the Los Banos Hotel; and invited the Council to take part in a program to experience being homeless; CAROLINE DIXSON, Allied Waste, spoke regarding their excellent track record and the service they currently provide to the City of Los Banos and the outreach service they provide to the community; NORM DONOVAN, Los Banos, spoke in support of awarding Allied Waste the ten (10) year contract; LARRY STERLING, Allied Waste, spoke

regarding the outstanding service they have provided over the last 20+ years and introduced Allied Waste employees in attendance, he thanked the Council and asked that they continue with Allied Waste for another 10 years; JOSE CORTEZ & RICK PENA, Allied Waste, spoke regarding their desire to continue working for Allied Waste with hopes of retiring with them; KATHY BALLARD, Los Banos, spoke in support of Allied Waste; DANE ALVO, Los Banos, spoke in support of Allied Waste; LARRY DIXSON, husband of Caroline Dixson, spoke regarding his wife's passion for recycling and spoke in support of Allied Waste. No one else came forward to speak.

There was Council Member discussion regarding if Sunset would hire the Allied Waste employees, if the salary and benefits are comparable, there is always room for improvement, the need to be fiscally responsible, needing more information to make a decision, not sure if the lowest bidder is the best choice, wanting to see the contract and what the actually final cost will be before making a decision, and how long the solid waste coordinator would be here in Los Banos or just for the implementation.

There was staff discussion regarding the contract cost being fixed at the amount proposed and there being other components that will be included in the contract. Mr. Hylton, HF&H, spoke to the contract items that address the escalator of costs which include an annual CPI, requesting cost increases only in the case of new law or regulation, customer service liquidated damages, and the team of people to monitor the recycling program is just for the beginning not ongoing.

There was additional Council Member discussion regarding potential reduction in costs that the City incurs with City employees depending on which company they go with, wanting to see an ongoing solid waste monitoring program, and what the responsibilities on a long term basis and short term basis are, surveying the level of service/reference checks for each company and everyone being pleased with both, the ultimate goal is waste diversion as mandated by the State, the size and costs for various container sizes, accommodating/compensating the senior community, smaller containers being available to those who have the need, how the recycling, green waste, and garbage will be coordinated, employee satisfaction with each company, multiple size containers, contamination levels, surcharges for fuel,

Motion by Sousa, seconded by Faria to table this item and send it back to staff for them to address the issues raised by Council and to report back in a couple of weeks for Council consideration and approval. The motion carried by the affirmative action of all Council Members present.

**CONSIDERATION OF ADOPTION OF RESOLUTION NO. 4907, APPROVING SUBMITTAL OF AN APPLICATION TO THE CALIFORNIA STATE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT (HCD) FOR FUNDING UNDER THE HOME INVESTMENT PARTNERSHIPS PROGRAM, AND IF SELECTED, THE EXECUTION OF A STANDARD AGREEMENT AND AMENDMENTS THERETO AND OF ANY RELATED DOCUMENTS NECESSARY TO PARTICIPATE IN THE HOME INVESTMENT PARTNERSHIP PROGRAM.** Anna Fuentes from MCAG presented the

staff report.

Motion by Sousa, seconded by Faria to approve Resolution No. 4907, approving the submittal of an application to the California State Department of Housing and Community Development (HCD) for funding under the HOME investment partnerships Program, and if selected, the execution of a Standard Agreement and amendments thereto and of any related documents necessary to participate in the HOME Investment Partnership Program. The motion carried by the affirmative action of all Council Members present.

**PUBLIC HEARING – PUBLIC HEARING – CONSIDERATION OF LANDSCAPING & LIGHTING DISTRICTS NO. 1-7 & NO. 9-19 ANNUAL ASSESSMENTS FOR THE FISCAL YEAR 2007-2008; CITY COUNCIL RESOLUTION NO. 4906 – CONFIRMING DIAGRAM AND ASSESSMENT AND LEVYING ASSESSMENTS FOR ASSESSMENT DISTRICTS NO. 1-7 AND NO. 9-19 FOR FISCAL YEAR 2007-2008.** City Treasurer/Chief Financial Officer Wall presented the staff report.

The public hearing was opened. No one came forward to speak and the public hearing was closed.

Motion by Faria, seconded by Brooks to adopt City Council Resolution No. 4906, confirming diagram and assessment and levying assessments for Assessment Districts No. 1-7 and No. 9-19 for Fiscal Year 2007-2008. The motion carried by the affirmative action of all City Council/Redevelopment Agency Members present.

**PUBLIC HEARING – CONSIDERATION OF A ZONE CHANGE TO REZONE A 1.1 ACRE PARCEL FROM R-2 (MEDIUM DENSITY RESIDENTIAL) TO PD (PLANNED DEVELOPMENT) AND APPROVE A FINAL DEVELOPMENT PLAN ON PROPERTY LOCATED AT THE SOUTHWEST CORNER OF FIRST AND F STREETS, APN 025-042-001; APPLICANT: COMMUNITY HOUSING IMPROVEMENT SYSTEMS AND PLANNING ASSOCIATION, INC. (CHISPA). (CONTINUED FROM JULY 18, 2007); ORDINANCE NO. 1057 – ADDING SECTION 9-3.2399.78 TO CHAPTER 3, TITLE 9 OF THE LOS BANOS MUNICIPAL CODE TO REZONE FROM R-2 (MEDIUM DENSITY RESIDENTIAL) TO PD (PLANNED DEVELOPMENT) (SECOND READING & ADOPTION); CITY COUNCIL RESOLUTION NO. 4898 – APPROVING OF FINAL DEVELOPMENT PLAN 2007-02.** Planning Manger LeVan presented the staff report.

The public hearing was opened. No one came forward to speak and the public forum was closed.

Motion by Villalta, seconded by Brooks to waive the second reading of Ordinance No. 1057, adding Section 9-3.2399.78 to Chapter 3, title 9 of the Los Banos Municipal Code to Rezone from R-2 (Medium Density Residential) to PD (Planned Development). The motion carried by the affirmative action of all City Council/Redevelopment Agency Members present.

Motion by Villalta, seconded by Brooks to adopt Ordinance No. 1057, adding Section 9-3.2399.78 to Chapter 3, title 9 of the Los Banos Municipal Code to Rezone from R-2 (Medium Density Residential) to PD (Planned Development). The motion carried by the

following roll call vote: AYES: Brooks, Faria, Sousa, Villalta, Jones; NOES: None; ABSENT: None.

There was Council Member discussion regarding wanting to add a condition to the resolution that addresses backyard landscaping.

Staff requested that the City Council request it of the onsite drainage plan for Public Works to review and direct staff to bring back backyard landscaping requirements at a later date.

Motion by Brooks, seconded by Sousa to adopt City Council Resolution No. 4898, approving Final Development Plan 2007-02 with the addition of a requirement for backyard landscaping. The motion carried by the affirmative action of all City Council/Redevelopment Agency Members present.

**PUBLIC HEARING TO DISCUSS CALTRANS' PLAN TO INSTALL A TRAFFIC SIGNAL AT H STREET & HIGHWAY 152 AND CITY PROPOSED ALTERNATIVE.** Public Works Director/City Engineer Chisam presented the staff report. He noted that he has received two telephone calls and written correspondence in support of this item.

The public hearing was opened. BERNARD PARADISO, Los Banos, spoke regarding his experience with the H & I Street intersection and his belief that the 11<sup>th</sup> Street signal light would be the better location for a light; KATHY BALLARD, Los Banos, stated that she canvassed the area and most of the people wanted the light at 11<sup>th</sup> Street; MARY KALJIAN, Los Banos, spoke regarding her concern for the median going all the way down the highway to 7<sup>th</sup> Street and feels it could be devastating to the businesses in that area. No one else came forward to speak and the public hearing was closed.

There was Council Member discussion regarding where the funding would come from if CalTrans will not fund the proposed project, if punching through Page Avenue to Scripps Avenue and do the H Street realignment is done would we be able to avoid installing, safety requirements by CalTrans, time frame for the Page/Scripps design, and putting in turn pockets to break up the proposed median.

Motion by Faria, seconded by Brooks to direct staff to submit the proposed conceptual plan for approval by CalTrans and that staff negotiate a cooperative agreement for the proposed improvements. The motion carried by the affirmative action of all City Council/Redevelopment Agency Members present.

**PUBLIC HEARING TO DISCUSS THE HIGHWAY 152 REALIGNMENT PROJECT (BY-PASS).** Public Works Director/City Engineer Chisam presented the staff report, which included a PowerPoint presentation

The public hearing was opened. JOE MELLO, Los Banos, spoke regarding how the freeway will be going through developed property and how he will have access south to north and vice-versa. Public Works Director/City Engineer Chisam spoke to his concerns. No one else came forward to speak and the public hearing was closed.

No council action required, informational item only.

**CONSIDERATION OF ORDINANCE NO. 1058 – AMENDING TITLE 4, CHAPTER 3, SECTION 4-3.12 OF THE LOS BANOS MUNICIPAL CODE RELATING TO FIRE ALARM SYSTEMS. (FIRST READING & INTRODUCTION)** Assistant Fire Chief Marrison presented the staff report.

Motion by Villalta, seconded by Sousa to waive the first reading of Ordinance No. 1058, Amending Title 4, Chapter 3, Section 4-3.12 of the Los Banos Municipal Code relating to Fire Alarm Systems. The motion carried by the affirmative action of all City Council/Redevelopment Agency Members present.

Motion by Villalta, seconded by Sousa to adopt Ordinance No. 1056, amending Title 4, Chapter 3, Section 4-3.12 of the Los Banos Municipal Code relating to Fire Alarm Systems. The motion carried by the following roll call vote: AYES: Brooks, Faria, Sousa, Villalta, Jones; NOES: None; ABSENT: None.

**REDEVELOPMENT AGENCY UPDATE.** No report.

**ADVISEMENT OF PUBLIC NOTICES (TWO REPORTS)** Planning Manager LeVan reported that a Public Hearing will be held at the Planning Commission Meeting on August 8, 2007 at 7:00 p.m. to consider the approval of Conditional use permit #2007-04 to allow the operation of a large family daycare facility. The project is located at 636 Santa Barbara Street, APN 082-310-033.

Planning Manager LeVan reported that a Public Hearing will be held at the Planning Commission Meeting on August 8, 2007 at 7:00 p.m. to consider a Site Plan Review to permit the construction of a 4,956 sq. ft. professional/commercial building. The project is located at 828 West Pacheco Boulevard (Highway 152), APN 027-130-009.

**CITY MANAGER/EXECUTIVE DIRECTOR REPORT.** Public Works Director/City Engineer Chisam thanked Dr. Tag Soares for working with the City on the improvements to his office renovation and Police Chief Gallagher thanked Silverstate Helicopter Services for assisting the Police Department in locating a suspect.

**CITY COUNCIL / REDEVELOPMENT AGENCY MEMBER REPORTS.**

**JOE SOUSA:** Stated that he would like to formally recognize Dr. Tag Soares for his excellent addition to downtown, congratulated the Fire Department on hiring the newest fire fighter, and thanked staff for being as patient as they are.

**MIKE VILLALTA:** Congratulated Fire Fighter Brad Ellien, spoke regarding the event to honor our own Los Banos resident Robert Falasco by re-naming the Merced County Justice Center in Los Banos the Robert M. Falasco Judicial Center on August 2, 2007, Los Banos Chamber of Commerce's upcoming Car Show event to be held on August 11, 2007, and the next centennial movie and the Wild West weekend in October, encouraging all to attend.

**ANNA BROOKS:** Congratulated Fire Fighter Brad Ellien and presented each Council Member with a green-reuse shopping bag that she picked of at the recent League of California Cities Conference.

**TOMMY JONES:** Congratulated Fire Fighter Brad Ellien, spoke regarding the renaming of the Robert M. Falasco Judicial Center in Los Banos, and thanked Habitat for Humanity for the job they do.

**TOM FARIA:** Congratulated Fire Fighter Brad Ellien, spoke regarding the recent League of California Cities Conference, Centennial Celebration movie night to be held on August 11, 2007 with a Christian singing group scheduled to perform encouraging all to come out, the naming of the Robert M. Falasco Judicial Center, how busy it was this weekend for the Public Safety Departments and what a great job they always do, the new Merced College Campus in Los Banos just outside our city limits, and making note of some tumbleweeds that he would like the City to take care of.

**MISCELLANEOUS INFORMATION IN COUNCIL PACKET, NO ACTION NECESSARY.**

**ADJOURNMENT.** The meeting was adjourned at the hour of 11:28 p.m. to 6:00 p.m., Tuesday, August 14, 2007 to review Community Center Designs being held at the Miller & Lux Building, 830 6<sup>th</sup> Street, Los Banos, California.

APPROVED:

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Tommy Jones, Mayor

ATTEST:

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Lucille L. Mallonee, City Clerk