

**CITY OF LOS BANOS  
CITY COUNCIL / REDEVELOPMENT AGENCY MEETING MINUTES  
AUGUST 15, 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 items were 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.

**CONFERENCE WITH LABOR NEGOTIATORS, PURSUANT TO GOVERNMENT CODE SECTION 54957.6. 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.

**CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION, PURSUANT TO GOVERNMENT CODE SECTION 54956.9 (A). NAME OF CASE: SUMMIT DEVELOPMENT CORP. VS. CITY OF LOS BANOS, MERCED SUPERIOR COURT CASE NO. 149066.** No action taken, advisement to staff only.

The following closed session items were held at the end of the City Council Meeting:

**CONFERENCE WITH REAL PROPERTY NEGOTIATORS (PURSUANT TO GOVERNMENT CODE SECTION 54956.8); PROPERTY: APPROXIMATELY 5 ACRES GENERALLY LOCATED ON WARD ROAD, APPROXIMATELY ½ MILE SOUTH OF SR 152, PORTION OF APN 083-100-010; NEGOTIATOR: REDEVELOPMENT MANAGER, AGENCY ATTORNEY; NEGOTIATING PARTIES: LOS BANOS REDEVELOPMENT AGENCY & CORPORATION FOR BETTER HOUSING; UNDER NEGOTIATION: PRICE AND TERMS OF SALE.** 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, Fire Chief Guintini, Police Chief Gallagher, Public Works Director/City Engineer Chisam, Redevelopment Manager Post, Planning Manager LeVan, Translator Reyna

**CONSIDERATION OF APPROVAL OF AGENDA:** Motion by Brooks, seconded by Faria to approve the agenda as submitted. The motion carried by the affirmative action of all City Council/Redevelopment Agency Members present.

**PRESENTATIONS – PROCLAMATION RECOGNIZING THE LOS BANOS STORM GIRLS SOFTBALL TEAM.** Mayor Amabile presented the proclamation to the members of the Los Banos Storm Girls Softball Team.

**PRESENTATION – PROCLAMATION RECOGNIZING THE LOS BANOS TIGERS GIRL SOFTBALL TEAM.** Mayor Amabile presented the proclamation to the members of the Los Banos Tigers Girls Softball Team.

**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.** KEN SANDERS, spoke regarding the upcoming Centennial Celebrations events and encouraged participation in the upcoming gun slinger event; WILL YORK, spoke regarding the upcoming California State Shootout in association with the Centennial Celebration event being held in October 2007 and read a poem written by Gary Wagner; JACQUELINE LAWRENCE, spoke regarding doing a 100 year of graduations at the high school; SHIRLEY NAPOLITANO, Los Banos, spoke regarding recycling and read a letter prepared by Sandy Lemus regarding the best price for the best service for recycling, the need for extension education outreach, Lunch in the Park on August 17, 2007; MONICA ANDERSON, thanked the City for supporting the Arts in Los Banos and spoke regarding the SHOUT program, inviting the public to attend the Drifters Performance being held at the Los Banos High School on September 29, 2007 and GB BLACKMON & JOYCE LEE sang a song; JACQUELINE LAWRENCE, stated that they will be having a fashion show to raise funds for the homeless population on Martin Luther King Day and also the other ideas she has to help the homeless. 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 item 8I - City Council Resolution No. 4909 – Authorizing Award of Proposal to Carollo Engineers to Provide Engineering Services for

City of Los Banos Master Plans for the Water Distribution System, Waste Water Collection System and Storm Drainage System in the amount of \$513,400.

Motion by Brooks, seconded by Sousa to approve the consent agenda as follows: Minutes for the June 20, 2007 City Council / Redevelopment Agency Meeting; Check Register for #101289 - #101582 in the Amount of \$2,402,260.95; Preliminary 4<sup>th</sup> Quarter Budget Review for the Fiscal Year 2006-2007; Acceptance of Office of Traffic Safety Grant for Vehicle Impound Program in the amount of \$227,501; Waiver of Business License Fee for the Los Banos Community Access Group (CAG); City of Los Banos and Los Banos Unified School District Agreement for School Resource Officer (SRO) for the Period of August 3, 2007 – July 3, 2008; City of Los Banos and Merced County Office of Education (MCOE) Agreement for School Resource Office (SRO) for the Period of July 1, 2007 – June 30, 2008; City Council Resolution No. 4908 – Accepting a Subdivision Improvement Agreement for 1460 E. Pacheco Boulevard; City Council Resolution No. 4909 – Authorizing Award of Proposal to Carollo Engineers to Provide Engineering Services for City of Los Banos Master Plans for the Water Distribution System, Waste Water Collection System and Storm Drainage System in the amount of \$513,400; City Council Resolution No. 4910 – Authorizing Reduction of Performance Bond Amounts for Regency Park Subdivision, Unit 6 & 7 (Ranchwood Contractors, Inc.); Redevelopment Agency Resolution No. 2007-08 – Approving Cash Match for the General Allocation Planning/Technical Assistance State Community Development Block Grant (CDBG) Program “General Allocation” & “Feasibility Study”. The motion carried by the affirmative action of all City Council/Redevelopment Agency Members present.

**PUBLIC HEARING – TO ACCEPT PUBLIC COMMENTS ON THE CITY OF LOS BANOS’ LAND FOR PARKS AND RECREATION LAND, AND 9-2.1607 AMOUNT OF FEES IN LIEU OF LAND DEDICATION. (TO BE CONTINUED TO SEPTEMBER 5, 2007)** Mayor Jones reported that staff is requesting that this item be continued to the September 5, 2007 City Council Meeting.

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

Motion by Sousa, seconded by Villalta to continue this public hearing item to the September 5, 2007 City Council Meeting. The motion carried by the affirmative action of all City Council/Redevelopment Agency Members present.

**REVIEW OF SOLID WASTE CONTRACTS FROM ALLIED WASTE SERVICES AND SUNSET WASTE SYSTEMS.** Public Works Director/City Engineer Chisam presented the staff report.

There was Council Member discussion regarding the closing of Billy Wright Land Fill, multiple size cans, cost to the hauler, community needing to make a real effort to recycle, if the approved hauler would run 2 or 3 trucks for the 3 different cans, concern for overuse of the trucks causing hydraulics to break and spill out on the streets, if customers would still need a doctors note for back yard service, the need to take care of the senior citizen and disabled citizens.

Informational item only, no action taken.

**DISCUSSION OF PROGRESS PAYMENT AND CHANGE ORDER PROCEDURES FOR PUBLIC CONTRACTS.** Public Works Director/City Engineer Chisam presented the staff report, noting how other jurisdictions handle contract change orders and progress payments.

There was Council Member discussion regarding being in favor of the of sliding scale concept to set the allowable percentage for change orders, contingency payment being set at 10% or a set number not to exceed, concern that if we need to wait for approval by Council we could possibly put a project behind, change orders that exceed the authorized amount to spend are the ones that need to come for Council for approval, saving money and time to allow staff to make decisions that could save money for the City; include the contingency amounts allowable it in the contract, and wanting to see periodic matrices of the projects and their activity.

Informational item only, no action taken.

**CONSIDERATION OF ACCEPTANCE TO APPROVE THE PROGRAM AND BUDGET FOR THE PROPOSED LOS BANOS COMMUNITY CENTER; CITY COUNCIL RESOLUTION NO. 4911 – AUTHORIZING APPROVAL OF THE PROGRAM AND BUDGET FOR THE PROPOSED LOS BANOS COMMUNITY CENTER.** Public Works Director/City Engineer Chisam presented the staff report, noting that there was an adjourned City Council Meeting held on the prior night, August 14, 2007 where staff was directed to include the comments and concerns and bring back to the City Council for consideration.

There was Council Member and staff discussion regarding how fast the final documents could get back to the City Council for approval, thoughts that the

Council Member Villalta was not in attendance the August 14, 2007 meeting and wanted to make the following comments for the record: He thought that the strategy was to continue along the lines of the initial plans, the great room was not big enough sitting only 150 people, the best plan would be to go with the drawings, increase the size of the great room to 5000 ft to seat 300 people, build the gym and the great room and the connecting classrooms/offices be left as a shell and as more money comes in we can build the classrooms/office space, the community needs to buy into this and raise funds, phasing the project, taking the revised plans to the Community Center Committee for their comments and review, and he really wants to see this project move ahead.

There was additional Council Member and staff comments regarding increasing the size of the great room, the proposed parking spaces, space between the two phases being sacrificed for now, the need to move on and make a decision to get the project underway, remembering that this is to serve the community.

By consensus of Council, staff was directed to meet with the Community Center Committee one more time and bring the updated documents back to the City Council for approval at their September 19, 2007 Meeting.

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

Motion by Sousa, seconded by Villalta to waive the second reading of Ordinance No. 1058, Amending 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.

Motion by Faria, seconded by Villalta to adopt Ordinance No. 1058, Amending 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.

CONSIDERATION OF APPOINTMENT TO PLANNING COMMISSION VACANCY (UNEXPIRED TERM ENDING DECEMBER 31, 2009). Mayor Jones stated that he would like to appoint Jose Manzo Hernandez to the vacant Planning Commission seat.

Motion by Brooks, seconded by Sousa to Jose Manzo Hernandez to the Planning Commission with the term to expire December 31, 2009. The motion carried by the affirmative action of all City Council/Redevelopment Agency Members present.

Mayor Jones asked Mr. Hernandez to come forward to speak regarding his appointment, which he did.

There was Council Member discussion regarding having staff start looking at updating the Los Banos Municipal Code, and to also establish a more formal process of appointments to commissions which would include a group process that includes a Council Member, City Manager and Department Head, and wanting to see Planning Commissioners be able to serve more than two (2) terms.

By consensus of Council, staff was directed to look into the Commission Member appointment process and bring back to the City Council for consideration.

**REDEVELOPMENT AGENCY UPDATE.** Redevelopment Manager spoke regarding the Economic Development Committee survey targeting commuters, the work she is doing on the mid term update for the five (5) year Redevelopment Plan, her recent tour with Mayor Jones to San Jose, recently meeting with met with Diana Church of the Federal Economic Development Department, the work she is doing to prepare a

comprehensive economic development strategy, and the videos CGI is doing for the Los Banos Chamber website.

**ADVISEMENT OF PUBLIC NOTICES (FOUR REPORTS)** Planning Manager LeVan reported that a Public Hearing will be held at the Planning Commission Meeting on August 22, 2007 at 7:00 p.m. to consider a Vesting Tentative Tract Map, Final Development Plan, Site Plan Review, and Development Agreement for Stonecreek Villages, Unit 5, including 53 single-family residential lots and three office buildings. The project is located at south of Pacheco Boulevard between Badger Flat Road and the Los Banos Creek, APN 083-040-004, 083-040-008, 083-040-050, 083-040-051, 083-020-032.

Planning Manager LeVan reported that a Public Hearing will be held at the Planning Commission Meeting on August 22, 2007 at 7:00 p.m. to consider a Use Permit for the construction of a heavy processing recycling facility. The project is located at the northeast corner of Ward Road and Technology Drive, APN 084-250-006.

Planning Manager LeVan reported that a Public Hearing will be held at the Planning Commission Meeting on August 22, 2007 at 7:00 p.m. to consider a Tentative Parcel Map to allow the division of 6.2 acre parcel into three parcels, Parcel 1 = 2.7 acres, parcel 2 = 1.41 acres, Parcel 3 = 2.09 acres. The project is located at 1460 E Pacheco Boulevard, APN 428-140-029.

Planning Manager LeVan reported that a Public Hearing will be held at the Planning Commission Meeting on August 22, 2007 at 7:00 p.m. to consider a Use Permit to allow a parking lot to be used as a collection site for recyclable containers. The project is located at 1337 Pacheco Boulevard, APN 026-280-016.

**CITY MANAGER/EXECUTIVE DIRECTOR REPORT.** City Manager Rath asked Police Chief Gallagher to speak in more detail to item 8D - Acceptance of Office of Traffic Safety Grant for Vehicle Impound Program in the amount of \$227,501, which he did. City Manager Rath asked Fire Chief Guintini to speak regarding the Fire Department's new fire truck, which he did.

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

**MIKE VILLALTA:** Spoke regarding the Untied Way luncheon being held on August 17, 2007 and encouraged all to attend, SHOUT sponsoring the Drifters Performance on September 29, 2007, Centennial Celebration's final movie night being held on September 15, 2007 with the movie Footloose being shown, the services WorkNet provides, and current or future educators wanting to work in Los Banos.

**ANNA BROOKS:** Spoke regarding the dedication of the Robert Falasco Justice Center, thanked Supervisor O'Banion for facilitating that event, happy to see that the recycling bags she handed out to her fellow Council Members are being used tonight, encouraged all to use the reusable bags. City Manager Rath stated that staff is working

on making the recycling bags available to the public for their use. Mayor Pro Tem Brooks spoke to another pit bull attack last week and the need to revamp the dog ordinance because something needs to be done to address these dangerous dogs.

**TOMMY JONES:** Asked Supervisor O'Banion to come forward and speak regarding the Robert Falasco Justice Center event. Supervisor O'Banion thanked the City for their support of the event and recognized all that Merced County has done. Mayor Jones encouraged all commuters to participate in the recent survey that was sent out in the utility bills, he spoke regarding his recent trip to San Jose to speak to businesses about Los Banos, the recent 2 day MCAG workshop he attended and reminded all about the upcoming Drifters performance.

**TOM FARIA:** Wished his daughter, Arianna, happy birthday, congratulated the softball players on their achievements this year noting that they learn more than just the sport, spoke regarding the last Centennial Celebration event and how terrific the performers were, reminded all about the upcoming Drifters event sponsored by SHOUT, spoke to his concerns about dangerous dogs, the Tea Dance held this past Sunday, August 12, 2007 with the next one scheduled on September 16, 2007 following movie night.

**JOE SOUSA:** Congratulated Judge Falasco on the honor of having the Justice Center named after him and speaking to the contributions he has made to the community of Los Banos, recognized the Storm and Tiger Girls Softball Teams for the great job they have done and noted the parent volunteers that make it all possible, he spoke regarding the Los Banos Municipal Code and the need to update it, the SHOUT program, and the recent trip to San Jose with the City Manager, Redevelopment Manager, and Mayor to visit ROEM projects.

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

**ADJOURNMENT.** The meeting was adjourned at the hour of 10:15 p.m. to 5:30 p.m., Thursday, August 30, 2007, at Los Banos City Hall, 520 J Street, Los Banos, California to Conduct a Tour the City of Los Banos' Park Facilities and Commercial Business Sites.

APPROVED:

/s/ Tommy Jones  
Tommy Jones, Mayor

ATTEST:

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