

**CITY OF LOS BANOS
CITY COUNCIL MEETING MINUTES
AUGUST 17, 2005**

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 City Council of the City of Los Banos met on the above given date.

Mayor Amabile called the City Council Meeting to order at the hour of 7:13 p.m.

ROLL CALL – MEMBERS OF THE CITY COUNCIL PRESENT: Council Members Balatti, Smith and Mayor Amabile, McAdam absent.

STAFF MEMBERS PRESENT: City Manager Rath, City Attorney Vaughn, City Clerk/Human Resources Director Mallonee, City Treasurer/Finance Director Wall, Redevelopment Manager Hubler, Planning Manager Goodrich, Police Chief Knapp, Translator Reyna

APPROVAL OF AGENDA: Motion by Balatti, seconded by Jones to approve the agenda as submitted. The motion carried by the affirmative vote of all Council Members present, McAdam 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 THREE (3) MINUTE PRESENTATION. DETAILED GUIDELINES ARE POSTED ON THE COUNCIL CHAMBER INFORMATIONAL TABLE. NORM DONOVAN, Los Banos, reminded everyone about the drive thru dinner to benefit Merced College. No one else came forward to speak and the public forum was closed.

APPROVAL OF CONSENT AGENDA. Mayor Pro Tem Smith stated that she will be abstaining from items 5J, Resolution No. 4637 – Accepting Final Tract Map #2002-04 and Accompanying Subdivision Improvement Agreement (Amador Development Co., LLC) and 5K, Resolution No. 4638 – Accepting Final Tract Map #2002-06 and Accompanying Subdivision Improvement Agreement (KB Home South Bay).

Motion by Jones, seconded by Balatti to remove items 5J, Resolution No. 4637 – Accepting Final Tract Map #2002-04 and Accompanying Subdivision Improvement Agreement (Amador Development Co., LLC) and 5K, Resolution No. 4638 – Accepting Final Tract Map #2002-06 and Accompanying Subdivision Improvement Agreement (KB Home South Bay) from the consent calendar. The motion carried by the affirmative vote of all Council Members present, McAdam absent.

Motion by Jones, seconded by Balatti and carried, items on the consent agenda were approved, by the affirmative action of all Council Members present, McAdam absent, as follows: Minutes for the July 20, 2005 Meeting; Minutes for the August 11, 2005 Adjourned Meeting; Check Register for #84990 - #85072 in the Amount of \$1,232,454.07; Progress Payment No. 4 to Granite Construction in the Amount of \$292,606.17 for the Henry Miller Plaza Project; Progress Payment No. 14 to CB&I Constructors, Inc. in the amount of \$14,931.87 for the Water Storage Tank and Booster Pump Station No. 1; Award of Bids – Two (2) New 2005 or 2006 Heavy Duty Police Department Sedans; Responses to the 2005 Merced County Grand Jury Report by the Los Banos Police Department and the City of Los Banos; Agreement between the City of Los Banos and Los Banos Unified School District for School Resource Officer (SRO) for the Period of August 12, 2005 – May 26, 2006; Resolution No. 4636 – Amending the 2005-2006 Fiscal Year Budget by Increasing the Estimated Revenues by \$494,118 for the General Fund – Motor Vehicle License Fees; ~~Resolution No. 4637 – Accepting Final Tract Map #2002-04 and Accompanying Subdivision Improvement Agreement [Amador Development Co., LLC]; Resolution No. 4638 – Accepting Final Tract Map #2002-06 and Accompanying Subdivision Improvement Agreement [KB Home South Bay].~~

Mayor Pro Tem Smith left her seat at the dais.

Motion by Jones, seconded by Balatti to approve Resolution No. 4637 – Accepting Final Tract Map #2002-04 and Accompanying Subdivision Improvement Agreement [Amador Development Co., LLC]; Resolution No. 4638 – Accepting Final Tract Map #2002-06 and Accompanying Subdivision Improvement Agreement [KB Home South Bay]. The motion carried by the affirmative vote of all Council Members present, McAdam absent, Smith abstain.

Mayor Pro Tem Smith returned to her seat at the dais.

PUBLIC HEARING – REGARDING THE NATIONAL ENVIRONMENTAL POLICY ACT FINDING OF NO SIGNIFICANT IMPACT (FONSI) AND THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) PROPOSED MITIGATED NEGATIVE DECLARATION (PMND) FOR THE CHILD DEVELOPMENT CENTER PROJECT TO BE LOCATED AT 225 G STREET, APN 025-054-007. Public Services Director Sousa presented the staff report.

There was Council Member discussion regarding if the hazardous material report come back yet, if the report comes back will we clean up the location of move the location of the facility, the center will be energy efficient, any thought to using solar power, and if there are there grants out there for additional funding for projects like this.

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

Motion by Smith, seconded by Balatti to adopt the Finding of No Significant Impact (FONSI) as required by the National Environmental Policy Act (NEPA). The motion carried by the affirmative action of all Council Members present, McAdam absent.

Motion by Smith, seconded by Balatti to adopt the Proposed Mitigated Negative Declaration (PMND) as required by the California Environmental Quality Act (CEQA). The motion carried by the affirmative action of all Council Members present, McAdam absent.

CONSIDERATION TO PROVIDE SUPPLEMENTAL CHILD DEVELOPMENT CENTER PROJECT FUNDING IN THE AMOUNT OF \$440,265 (PARK DEVELOPMENT FUNDS) IN THE FORM OF A GRANT; RESOLUTION NO. 4635 – COMMITTING SUPPLEMENTAL LOCAL LEVERAGE SUPPORT FOR THE CHILD DEVELOPMENT CENTER PROJECT. Public Services Director Sousa presented the staff report, noting that part that Merced County's First5 Commission has taken on the City's behalf to help fund this project.

There was Council Member discussion regarding the \$30,000 coming out of the Park Development Fund. Mayor Amabile thanked the Merced County Board of Supervisor O'Banion for the support of the First5 Commission and invited Supervisor O'Banion to speak about the First5 Commission, which he then did.

Motion by Jones, seconded by Balatti to adopt Resolution No. 4635, committing supplemental local leverage support for the Child Development Center Project. The motion carried by the affirmative action of all Council Members present, McAdam absent.

PUBLIC HEARING – CONSIDERATION OF RESOLUTION NO. 4639 – SUPPORTING ADOPTION OF CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) FINDINGS FOR AND APPROVAL OF A PERMIT ALLOCATION SYSTEM. Mayor Pro Tem stated that she will be abstaining from this item and left her seat at the dais.

Planning Manager Goodrich presented the staff report, including a power point presentation outlining the proposed Permit Allocation System.

There was Council Member discussion regarding the stopping the 50% rollover and keeping the 4% escalator.

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

Mayor Amabile spoke regarding the history behind the Permit Allocation System and how we got to where we are today.

There was Council Member discussion regarding the criteria to judge the project, doing away with the exemptions, and the pros and cons to the 4% escalator.

Motion by Jones, seconded by Balatti to adopt Resolution No. 4639, supporting adoption of California Environmental Quality Act (CEQA) findings for and approval of a Permit Allocation System, with the change as follows: “50% rollover provisions and 4% escalator provisions which have been allowed in existing Development Agreement will be eliminated in all future Development Agreements.” The motion carried by the affirmative action of all Council Members present, McAdam absent, Smith abstained.

Mayor Pro Tem Smith returned to her seat at the dais.

PUBLIC HEARING – CONSIDERATION OF ORDINANCE NO. 1038 – INTRODUCING & ADOPTING A TEMPORARY INTERIM ZONING ORDINANCE PROHIBITING OUTDOOR BILLBOARDS AND DECLARING THE URGENCY THEREOF. Planning Manager Goodrich presented the staff report, noting that there is a current and immediate threat to the public health, safety or welfare from additional new billboards in the City in that said additional billboards would increase and intensify the inconsistent land use policies and objectives between the City and the Redevelopment Agency.

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

There was Council Member discussion regarding the need for Section 2 d) “A sign erected near a city or county boundary that contains the name of that city or county and the names of, or any other information regarding, civic, fraternal, or religious organization located within that city or county”.

Motion by Smith, seconded by Balatti waive the first reading of Ordinance No. 1038, introducing and adopting a temporary interim zoning ordinance prohibiting outdoor billboards and declaring the urgency thereof. The motion carried by the affirmative action of all Council Members present, McAdam absent.

Motion by Smith, seconded by Balatti to introduce Ordinance No. 1038, introducing and adopting a temporary interim zoning ordinance prohibiting outdoor billboards and declaring the urgency thereof. The motion carried by the following roll call vote: AYES; Balatti, Jones, Smith, Amabile; NOES: None; ABSENT: McAdam.

Motion by Smith, seconded by Balatti to adopt Ordinance No. 1038, introducing and adopting a temporary interim zoning ordinance prohibiting outdoor billboards and declaring the urgency thereof. The motion carried by the following roll call vote: AYES; Balatti, Jones, Smith, Amabile; NOES: None; ABSENT: McAdam.

CONSIDERATION ORDINANCE NO. 1037 – REPEALING AND REPLACING SECTIONS 3-1.201 THROUGH 3-1.236 OF ARTICLE 2 OF CHAPTER 1 OF TITLE 3 OF THE LOS BANOS MUNICIPAL CODE RELATING TO BUSINESS LICENSE FEES. (SECOND READING & ADOPTION) Redevelopment Manager Hubler presented the staff report.

Motion by Smith, seconded by Balatti to waive the second reading of Ordinance No. 1037, repealing and replacing Sections 3-1.201 through 3-1.236 of Article 2 of Chapter 1 of Title 3 of the Los Banos Municipal Code relating to Business License Fees. The motion carried by the affirmative action of all Council Members present, McAdam absent.

Motion by Smith, seconded by Balatti to waive the second reading of Ordinance No. 1037, repealing and replacing Sections 3-1.201 through 3-1.236 of Article 2 of Chapter 1 of Title 3 of the Los Banos Municipal Code relating to Business License Fees. The motion carried by the following roll call vote: AYES; Balatti, Jones, Smith, Amabile; NOES: None; ABSENT: McAdam

Motion by Smith, seconded by Balatti to adopt Resolution No. 4640, authorizing and setting the fees for the issuance, regulation, monitoring and administration of business licenses. The motion carried by the affirmative action of all Council Members present, McAdam absent.

ADVISEMENT OF PUBLIC NOTICES. (Two Reports) Planning Manager Goodrich reported that a Public Hearing will be held at the Planning Commission meeting on August 24, 2005, at 7:00 p.m. to consider a Site Plan Review to allow an addition and façade remodel of an existing optometry office in the C-1 zone district. The project is located at 1028 Sixth Street, APN 026-053-016.

Planning Manager Goodrich reported that a Public Hearing will be held at the Planning Commission meeting on August 24, 2005, at 7:00 p.m. to consider a an annexation, pre-zoning, and a pre-annexation development agreement for the Spadafore-Giannone Area Plan. The site is 35.9 acres east of Mercey Springs Road, north of Scripps Avenue, and south of the planned extension of Radcliff Avenue. The site is more precisely described as APN 083-100-005, 083-100-006, 083-100-007, 083-100-008 and 083-100-009.

CITY MANAGER REPORT: Reported that the Henry Miller Plaza is coming along, with the unveiling of the Henry Miller statue set for October 29, 2005. He stated that he had the opportunity to go visit the foundry where the statue is being completed.

M.C.A.G. REPORT: The next MCAG meeting will be held on August 18, 2005 at 3:00 p.m., there will also be a workshop at 12:00 Noon with the Citizen Advisory Committee.

CITY COUNCIL REPORTS

COUNCIL MEMBER BALATTI: Stated that she has received complaints about the tomato trucks going too fast, especially there by SaveMart/Kmart Shopping Centers, and wanted to know if putting a speed car out there would help. Police Chief Knapp stated that the speed in that area is set by CalTrans because it is a highway and a speed car would pick up too many signals to get an accurate number She also inquired as to the building on Highway 152 at 11th Street. She stated that there have been

complaints regarding the senior housing project with people under 55 years of age living there and wanted staff to look into the matter. She also wanted to let everyone know that someone is poisoning cats on her street (the 600 block of Adams), what can be done to warn people about missing cats in her area, and what can be done to those who poison cats.

COUNCIL MEMBER JONES: Stated that thoughts and prayers are with Debbie Daguerre family. He then encouraged everyone to slow down – school has started.

COUNCIL MEMBER McADAM: Excused absence

MAYOR PRO TEM SMITH: Inquired as to what happens to those people who purchased a home in the senior complex and are not 55 or older. It was noted that staff will look into the situation.

MAYOR AMABILE: Reported that on August 15, 2005 he participated in a General Plan Assessment and was very impressed with the proposal submitted by a prospective company. Staff will be working on a contract to bring to Council for approval. He stated that he met with the casino group last week and gave them a list of impacts to the City a casino would bring to the community, noting that no determinations have been made in regards to the proposed casino project. He invited all to the next Downtown Meeting being held on August 8, 2005 to talk to the downtown business owners about what is going to be happening with the Revitalization Project, which will start August 22, 2005. He reported that on August 13, 2005 he had the opportunity to speak with Mayor Autry of Fresno regarding the different issues both the cities of Los Banos and Fresno are experiencing. He stated that a week ago he had a meeting with Merced College regarding a child care center at their new Merced College Los Banos Campus site.

CLOSED SESSION – PUBLIC EMPLOYEE PERFORMANCE EVALUATION, PURSUANT TO GOVERNMENT CODE SECTION 54957. TITLE(S): CITY MANAGER. Motion by Smith, seconded by Balatti to continue this closed session item to September 7, 2005. The motion carried by the affirmative action of all Council Members present, McAdam absent.

ADJOURNMENT. The meeting was adjourned at the hour of p.m. to 6:00 p.m. August 31, 2005, in the Council Chambers 520 J Street, Los Banos, California to hold a Capital Facilities Fee Study Workshop.

MISCELLANEOUS INFORMATION IN COUNCIL PACKET, NO ACTION NECESSARY.

APPROVED:

Michael S. Amabile, Mayor

ATTEST:

Lucille L. Mallonee, City Clerk