

**CITY OF LOS BANOS
CITY COUNCIL MEETING MINUTES
JANUARY 15, 2014**

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.

CALL TO ORDER: Mayor Villalta called the City Council Meeting to order at the hour of 7:0 p.m.

PLEDGE OF ALLEGIANCE: The pledge of allegiance was led by Police Chief Brizzee.

ROLL CALL – MEMBERS OF THE CITY COUNCIL PRESENT: Council Members Tom Faria, Deborah Lewis, Scott Silveira, Elizabeth Stonegrove, Mayor Michael Villalta; Absent: None.

STAFF MEMBERS PRESENT: City Attorney Vaughn, City Clerk/Human Resources Director Mallonee, City Treasurer/Accountant II Brazil, City Manager Carrigan, Police Chief Brizzee, Fire Chief Guintini, Finance Director Williams, Assistant Planner Elms, Public Works Director/City Engineer Fachin, Information Technology Director Spalding.

CONSIDERATION OF APPROVAL OF AGENDA: Motion by Silveira, seconded by Faria to approve the agenda as submitted, noting the addition of 6I – Request by the Kente Women’s Club to Conduct a March and Rally on Martin Luther King Jr. Day, January 20, 2014 Starting at Approximately 10:30 a.m. and Ending No Later Than 12:00 p.m. from Los Banos City Hall and end at the Arts Council to the consent agenda. The motion carried by the affirmative action of all City Council Members present.

PUBLIC FORUM. (MEMBERS OF THE PUBLIC MAY ADDRESS THE CITY COUNCIL MEMBERS ON ANY ITEM OF PUBLIC INTEREST THAT IS WITHIN THE JURISDICTION OF THE CITY COUNCIL; 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.) Mayor Villalta opened the public forum. SANDRA HELMRICK, Los Banos Chamber of Commerce, spoke regarding how they have started planning for the upcoming 4th of July event and is working on putting together a Veterans parade and is looking for volunteers and ideas; GENEVA BRETT, Los Banos, reminded all to vote for the Readers Choice Awards being sponsored by the Los Banos Enterprise and the Los Banos Chamber of Commerce and spoke to the awards ceremony to be held announcing the winners on February 27, 2014 at the Arts Council, how she is excited to talk about how the selection committee of the Los Banos Chamber of Commerce has extended an offer to an individual to become the next Executive Officer of the Los Banos Chamber of Commerce and spoke to the process they went through to select them, reminded all

about the calendar of community events on the Chamber's website; ERNIE ROQUE, announced the knights of Columbus Free Throw Championship being held January 18, 2014 from 9 am to 1 pm at the Los Banos Community Center and invited all to come out. No one else came forward to speak and the public forum was closed.

CONSIDERATION OF APPROVAL OF CONSENT AGENDA. Mayor Villalta asked for an oral report from the Public Works Director/City Engineer Fachin on item 6D – City Council Resolution No. 5544 – Amending the Fiscal Year 2013/2014 Budget by Increasing the Appropriation Amount in the Congestion Mitigation and Air Quality (CMAQ)/Safe Routes to School (SRTS) Grant Revenue and Expenditure Funds by \$88,265.60 and Authorize the City Manager to Issue a Purchase Order to Greenwood Motors for the Procurement of Five (5) Model Polaris GEM Vehicles in the Amount of \$88,265. City Manager Carrigan stated that APA will be present at a future meeting to give an update/presentation.

Motion by Silveira, seconded by Faria to approve the consent agenda as submitted: Check Register for #145218 – #145375 in the Amount of \$750,977.01; Minutes for the January 2, 2014 Adjourned City Council Meeting; City Council Resolution No. 5543 – Approving a Tentative Agreement/Amended Memorandum of Understanding (MOU) between the City of Los Banos and the Los Banos Fire Fighters Association (LBFFA); City Council Resolution No. 5544 – Amending the Fiscal Year 2013/2014 Budget by Increasing the Appropriation Amount in the Congestion Mitigation and Air Quality (CMAQ)/Safe Routes to School (SRTS) Grant Revenue and Expenditure Funds by \$88,265.60 and Authorize the City Manager to Issue a Purchase Order to Greenwood Motors for the Procurement of Five (5) Model Polaris GEM Vehicles in the Amount of \$88,265; City Council Resolution No. 5545 – Awarding the Bid for the Purchase of One (1) New 2014/2015 Model 10-12 Yard Dump Truck to Fresno Truck Center in and Authorizing the Public Works Director/City Engineer to Issue the Purchase Order in the Amount of \$114,736.58; City Council Resolution No. 5546 – Rejecting All Bids for One (1) New 2014 Model Trailer Mounted Leaf Machine; City Council Resolution No. 5547 – Awarding the Bid for the Purchase of One (1) New 2014/2015 Model Motor Grader to Volvo Construction Equipment and Services and Authorizing the Public Works Director/City Engineer to Issue the Purchase Order in the Amount of \$218,309; City Council Resolution No. 5548 – Awarding the Bid for the Purchase of Two (2) New 2014/2015 Model Backhoe/Loaders to Pape Machinery and Authorizing the Public Works Director/City Engineer to Issue the Purchase Order in the Amount of \$192,092; Request by the Kente Women's Club to Conduct a March and Rally on Martin Luther King Jr. Day, January 20, 2014 Starting at Approximately 10:30 a.m. and Ending No Later Than 12:00 p.m. from Los Banos City Hall and end at the Arts Council. The motion carried by the affirmative action of all City Council Members present.

PRESENTATION & REVIEW OF THE TEMPORARY SUSPENSION OF THE OF THE REGIONAL TRANSPORTATION IMPACT FEE (RTIF). Public Works Director/City Engineer Fachin presented the staff report.

City Manager Carrigan explained MCAG's part in the \$50 million grant application for the Los Banos Bypass Project.

Mayor Villalta invited the public to come forward to speak. KATHY BALLARD, Los Banos, stated that she believes that a decision has already been made because in order to submit that application we have to contribute to the RTIF; Mayor Villalta stated that either way the vote goes, they will be there to speak to the application and a decision has not been made; Ms. Ballard stated that when a commercial business comes to Los Banos they do pay local impact fees, the RTIF is something on top of that for regional projects, how the money the City has paid has gone to smaller projects for other cities, i.e. Livingston and Atwater, and she feels that the bypass is a very big project and won't get RTIF funding, how the bypass is the responsibility of the State not the City of Los Banos, she spoke to the crosswalk/light at the new school by Scripps and that some of the things that bother her is that CalTrans wants you to be self help and corporations do not want to come here because of all the regulations and fees, the Enterprize Zone is gone and re-instituting the RTIF will hurt the City; GENEVA BRETT, stated that business is the very important to the City, we need to be attracting new business, the RTIF is a huge fee, we need jobs and new businesses, spoke to what Hollister is doing and suggested postponing it for another year or reducing it by half; ANN McCAULEY, Los Banos, stated that California makes it flat out difficult to do business, what will happen to the parcels of land, how the percentage we pay is far less than other communities because of our rural location, agrees that is should be bigger impact on the state than the city, MCAG can fund how they feel they need to, feels Los Banos needs a bypass and the good things a bypass could do for Los Banos, how she feels reinstate fees fully is the way to go or half or give businesses a chance to discuss fees on a case by case basis and do what they can to help businesses come to Los Banos. No one else came forward to speak.

Council Member Silveira stated that he has been thinking about this for a few days, how the state funding system is messed up, how he feels it is the states responsibility but if we ever want to get the bypass built we will have to contribute some, how we need to have the discussion if we truly want the bypass before we talk about the RTIF, how money set aside for purchasing right away already, how we can't afford to not do anything, just since he has been on the City Council the traffic has gotten worse to just cross the highway, inquired as to if Hollywood Video wanted to divide into 5 units would they have to pay the RTIF for which Assistant Planner Elms stated that no, RTIF only applies to intensifying a business; Council Member Silveira stated he believes new construction should pay their way, not those who improve existing buildings, noting remodels do not pay the RTIF, he feels this is our best shot at getting the Los Banos Bypass built and if we want a bypass, then the RTIF needs to be reinstated.

Council Member Lewis inquired as to if a tenant does not pay RTIF can fees be waived, stated how we have been told that the Los Banos Bypass is #1 on MCAG's list and nowhere on MCAG's website does it show or state that, how important the Highway 99 corridor is to them, how MCAG has the right and ability to change their mind about what they plan to do with the RTIF money, if we pass the RTIF we can still make deals with

business to reduce fee, she agrees the traffic is getting worse and we have to do something about that, how people are starting to move back to Los Banos, but it concerns her that when she is told they are going to do something they do it and don't change their mind or break promises.

Council Member Stonegrove stated that traffic is very bad on Highway 152 in Los Banos and it is getting worse, despite the suspension that we have had with the RTIF we have invested \$1.8+ million to the RTIF and it is the only means we have for funding our regional transportation projects, the only way we have to work on getting the Los Banos Bypass project done, the application is a great opportunity to make some forward movement on the bypass project and if we are not being fully invested why would they fund our project, this fee applies to only new construction and they should have to pay their way, how it is wrong that Wal-Mart doesn't have to pay for their impact to the roads, fee deferral and waivers are a way to reduce the fees, how restoring the RTIF gives us an opportunity to move forward and make progress with the Los Banos Bypass Project.

Council Member Faria stated that he doesn't like the approach of front loading on new businesses and feels that it is something the people should vote on, how new businesses are putting up their life savings and shoe strings, waivers are seen as playing favorites, we need more businesses and jobs, and he is opposed to reinstating the RTIF.

Mayor Villalta stated how Ms. Kern is the new Executive Director for MCAG and a breath of fresh air, she has been extremely cooperative to answering all his questions, he then presented the agreement signed by MCAG dated May 5, 2011 approved by Resolution 2011/05-05-01 and read language from the resolution that promised funds to be dedicated to the Los Banos Bypass and how each month he cringes when he goes to the MCAG meetings and gets comments about changing the agreement, how he would like to get the agreement to never be changed, doesn't want to keep fighting to keep it, he then showed a document going back to 1994 in regards to the Los Banos Bypass Project, how the City of Livingston never paid RTIF and got a \$27 million project in 1996 and there is a new \$27 million project being proposed this year too; he spoke to how much money has been spent on the Los Banos Bypass to date and how we need to take all the points into consideration.

City Manager Carrigan invited Merced County Supervisor O'Banion to come forward and speak. Mr. O'Banion stated that he is speaking at this moment as Jerry O'Banion and statements made tonight need to be clarified, how MCAG is an organization that goes back to the 1960s, the RTIF has not been in place the whole time the Los Banos Bypass has been a topic, how Highway 99 is a priority for the State of California and that's a fact, he then asked that Ms. Kern come forward and speak to some of the comments made earlier. Mr. O'Banion stated that he does not see a concerted effort to do away with Los Bypass Project not being the #1 project, there have been different reasons why the project has been delayed some to do with the City of Los Banos some not.

Marje Kern, MCAG Executive Director, stated that this is the closest we have ever become to getting construction dollars for the Los Banos Bypass and how the State is allowing us to advance regional transportation dollars, there is enough funding on the books for the right of way for phase 1 and hopes to have the commitment from the State in 2018. She feels this is a great opportunity if phase 1 gets done, phase 2 will happen, it will take 10-15 years to construct and if we miss this opportunity who knows what will happen in 2016, but did note that she will recommend the Los Banos Bypass with or without the City of Los Banos paying RTIF.

City Manager Carrigan asked Ms. Kern to explain the dollars spent on the bypass so far, for which she did. There were also Council Member questions regarding the right of way purchase negotiations, the \$50 million being requested for advancement, what will the funds that Los Banos has put in be used for.

Merced County Supervisor O'Banion came forward and stated that \$1.8 million has been contributed to RTIF and \$2.8 million is set aside for the Los Banos Bypass Project, the largest benefactor of the Los Banos Bypass Project will be the City of Los Banos and how we are closer to a bypass than we ever have been.

Council Member Silveira stated that he supports the RTIF and how we need to be team players, part of the region. Council Member Lewis inquired that if the Council votes for this, how long will it last. City Manager Carrigan stated for however long you like. Ms. Lewis inquired as to if the City could take incremental steps to show our commitment and Mr. Carrigan stated that he would be concerned with how the CTC would look at. Council Member Stonegrove stated that we want to show the CTC that we are fully committed and vested in the Los Banos Bypass Project, a council member can make a request to bring the item back forward at any time. She feels the action we ought to take to give us the best chance at CTC is take no action and let the ordinance expire; we need to really show that we are vested in this project and our community. Council Member Silveira agreed with Ms. Stonegrove.

City Attorney Vaughn stated that staff is looking for a clear direction.

Motion by Silveira, seconded by Stonegrove to take no action. The motion failed by the following roll call vote: AYES: Silveira, Stonegrove; NOES: Faria, Lewis, Villalta.

Mayor Villalta requested a 5 minutes recess.

The meeting was reconvened and the City Council continued discussion on this time.

City Attorney Vaughn explained and wanted clarification on the motion that failed before the recess. If you take no action the ordinance would allow the suspension of the RTIF to come back and the posture is no direction to do anything and the effect will be to restore the RTIF of March of this year. If you take no further action tonight, the RTIF will be restored and wants to make sure that it's the intent of the majority of the City Council present.

Motion by Faria, seconded by Lewis to give staff direction to continue the suspension of the RTIF for one (1) year. The motion was carried by the following roll call vote: AYES: Faria, Lewis, Villalta; NOES: Silveira, Stonegrove.

Mayor Villalta stated that he would like to have that agreement with MCAG come back and have the agreement say that it would be in perpetuity in support of the Los Banos Bypass as the #1 project. Ms. Kern and City Attorney Vaughn stated that they were not sure if you could do that legally bind. Council Member Lewis inquired as to what happens now. Mayor Villalta stated that that would have to be voted on by the MCAG Board. City Manager Carrigan stated that the CTC wants to see a full commitment and we have a good shot this year and an even better chance in 2016. If the City of Los Banos does not restore the RTIF we are putting ourselves at a disadvantage and how this discussion is so important we are at a crossroads here. Council Member Stonegrove reminded everyone that we need to stay focused on the task at hand and how she feels we need to support the RTIF. Council Member Silveira stated that suspend the RTIF was a way to see if it would attract new businesses and he didn't feel like we had a chance to get the bypass back then, but this is our best shot, if you don't reinstate the fee, your actions speak louder than words and we are shooting ourselves in the foot, how if a project comes forward we can work with them on fees. Council Member Lewis suggested bringing this item back in 6 months after we have a decision from the CTC and if the State says no we can we bring the RTIF back for re-consideration. Council Member Silveira stated that he feels there is a slim possibility for approval in 2014 but better chance for 2016 and he would wants to make a 2 year commitment to the proposal. Council Member Stonegrove reiterated what Mr. Silveira stated, adding that the more committed you are the better chance you have and how the City needs to show that we are committed to this project. Council Member Lewis stated that she is a bit more cynical as it comes to the political realm; how the Los Banos Bypass Project is 10-15 years down the road and wants to be sure she is making the best decision for the economic growth of Los Banos. Council Member Stonegrove offered one more perspective in stating what do we have to lose by restoring the RTIF. How we can show the CTC that we support the project and if we restore the RTIF we can still defer and waive fees for new businesses, and we send a very clear and positive message that we support the project, we can bring this item back at any time, and we have at least \$50 million to gain at the present and even more in the future at that.

PRESENTATION REGARDING PUBLIC WORKS CAPITAL PROJECTS. Public Works Director/City Engineer presented the staff report, which included a PowerPoint presentation, thanking Tim Baptista, Maintenance Worker I and Greg Pimentel, Acting Assistant Public Works Director for putting the presentation together.

This was an informational item only, no action taken.

ADVISEMENT OF PUBLIC NOTICES. (TWO REPORTS) Assistant Planner Elms reported that there will be two (2) public hearings at the Los Banos Planning Commission Meeting on January 22, 2014: Consideration of a Use Permit to allow the operation of a Home Occupation Business License with employees for Felipe Heredia, dba: Heredia Artificial Insemination Services located at 2501 S. Fallbrook Drive, APN

084-315-001; and Consideration of a Use Permit for an increase in maximum display area for one free standing sign for McDonald's located at 1550 W. Pacheco Boulevard, APN 081-140-039.

CITY MANAGER REPORT. City Manager Carrigan wanted to thank the Mayor and City Council for their professionalism during the RTIF/bypass discussion. He stated that he will be absent for the next meeting, February 5, 2014, as he will be at a City Managers League of California Cities Conference in Long Beach, and wished all a Happy Martin Luther King Day/holiday.

CITY COUNCIL MEMBER REPORTS.

SCOTT SILVEIRA: Reminded all about the January 18, 2014 Knights of Columbus Free Throw Contest at the Community Center and encouraged all to go to church and pray to whoever you pray to for rain/water for the farmers.

ELIZABETH STONEGROVE: Spoke regarding the Martin Luther King Jr. Day March/Event being held on January 20, 2014 beginning at 10:30 am in front of City Hall and encouraged all to attend.

TOM FARIA: Echoed the request to pray for rain, spoke about the Martin Luther King Day March on January 20, 2014 and encouraged his students to read his speech he was a very remarkable man.

DEBORAH LEWIS: Spoke regarding how recently the Los Banos Salvation Army is now a full fledge core no longer just a unit or outpost. They have worked really hard over the years to become self sufficient and not dependent on the parent Salvation Army and congratulated to Felicia Grant and Joy and Bonnie Roberts.

MAYOR MICHAEL VILLALTA: Spoke regarding how his job as Mayor has required more and more of his time, and because of City Manager Carrigan he has become a more powerful Mayor and been allowed to do things all throughout the State and Region, how we are now involved in Chromium 6, the bypass is something we are still working towards not around, businesses are very important, we need to make sure we are fully vested to have a dump site to go to in Los Banos, how he is going to offer even more of his time and clear his calendar and focus more on City issues even if it equates to more than 40 hours a week, he is pledging everything he can do to make sure it is a City that is getting everything it can do/get to prosper; commended the Salvation Army and what a giving community Los Banos is, the great job that Michael O'Brien, Public Works Foreman and his staff did to ridden downtown of crows and how much cleaner it is.

Assistant Planner Elms spoke to the activity going on in the Lowes Building how t is not Costco.

CLOSED SESSION – CONFERENCE WITH LABOR NEGOTIATORS, PURSUANT TO GOVERNMENT CODE SECTION 54957.6, AGENCY DESIGNATED REPRESENTATIVES: CITY MANAGER CARRIGAN, CITY ATTORNEY VAUGHN, CITY CLERK/HUMAN RESOURCES DIRECTOR MALLONEE, FINANCE DIRECTOR WILLIAMS, LEGAL COUNSEL TUFFO; EMPLOYEE ORGANIZATIONS: LOS BANOS POLICE OFFICERS ASSOCIATION (LBPOA), LOS BANOS POLICE SERGEANTS ASSOCIATION (LBPSA), LOS BANOS POLICE DISPATCHERS/COMMUNITY SERVICES OFFICERS ASSOCIATION (LBPDCSOA), LOS BANOS FIRE FIGHTERS ASSOCIATION (LBFFA). No reportable action.

ADJOURNMENT – ADJOURN TO 8:00 A.M., WEDNESDAY, JANUARY 29, 2014 IN THE CESAR CHAVEZ ROOM, MARTIN LUTHER KING JR. CHILD DEVELOPMENT CENTER, 1624 SAN LUIS STREET, LOS BANOS, CALIFORNIA TO CONDUCT CITY COUNCIL GOALS & OBJECTIVES WORKSHOP. The meeting was adjourned at the hour of 10.40 p.m. to 8:00 A.M. Wednesday, January 29, 2014 in the Cesar Chavez Room, Martin Luther King Jr. Child Development Center, 1624 San Luis Street, Los Banos, California to Conduct City Council Goals & Objectives Workshop.

APPROVED:

/s/ Michael Villalta
Michael Villalta, Mayor

ATTEST:

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