

**CITY OF LOS BANOS
CITY COUNCIL / REDEVELOPMENT AGENCY MEETING MINUTES
JULY 15, 2009**

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

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

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

STAFF MEMBERS PRESENT: City Manager Rath, City Attorney Vaughn, City Clerk/Human Resources Director Mallonee, City Treasurer/Chief Financial Officer Wall, Fire Chief Guintini, Police Chief Fitchie, 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 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 KEITH GRONINGA. Mayor Jones presented the proclamation to Mr. Groninga. Mr. Groninga thanked the City for the recognition, stating how proud he was to represent the businesses in Los Banos while working for the Los Banos Chamber of Commerce.

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. CAROLYN DIXON, Allied Waste, introduced Nikki Tuft the new local Recycling Representative for Allied Waste in Los Banos who's primarily role will be promoting the City's recycling program; NIKKI TUFT, Los Banos, stated that she is very very excited about working with the City of Los Banos and looks forward to talking to the citizens about the recycling program; JOHN WHALA, Los Banos Chamber of Commerce, spoke regarding the fire works show sponsored by the Los Banos Chamber of Commerce, Business Round Table, Ribbon Cutting for Tractor Supply, and how he has requested to be on the agenda for the second meeting of each Redevelopment Agency Meeting to report on the Los Banos Chamber of

Commerce activities; NORM DONOVAN, Los Banos, would like to speak on item 8 – Consideration of an Amendment to Measure P- Los Banos Police, Fire, Public Safety/9-1-1 Special Transactions (Sales) and Use Tax to Temporarily Allow Building Funds for Personnel, No Tax Increase and item 10 – Consideration of Development of a City Policy for Outdoor Dining and Alcohol Service, Including Encroachment into the Public Right of Way, he spoke regarding the recall that is going on and stated that he is not in favor of the recall because – he feels there are a lot more people for those identified in the recall than against you; KEITH SNOW, Los Banos, spoke regarding volunteering, the Brown Act, who is the guy with red hair, Gene Forte, embezzlement, something for kids to do, bowling alleys, foreclosures, and the Mayor being the boss of the City; ANN McCAULEY, Los Banos would like to speak to item 10 – Consideration of Development of a City Policy for Outdoor Dining and Alcohol Service, Including Encroachment into the Public Right of Way, and spoke against the recall efforts and changing the RTIF, conflicts of interest, she feels the recall is baseless and just don't compute or justify the cause and finds it quite remarkable to have the recall election and have the City pay for it, how the City is bringing back layed off employees in the Police Department, how voting yes for the Measure P Amendment is very important and to have the recall on the ballot is wasteless funds; SHARON JARVIS, Los Banos, spoke in support of the recall efforts and inquired as to the embezzlement and why we are not being told how much or getting more information and why we paid the Chief of Police for six months while he was not working; JIM VALENTINE, Los Banos, original member of the Measure P Oversight Committee and spoke in support of the proposed resolution to amend Measure P and how imperative it is that the amendment to Measure P passes in November, how due to the current economic crisis the Police and Fire Departments are looking at this measure, a no tax measure, as a way to divert funds for the next five years through the hard economic times, and how if the amendment fails taxes will not decrease; BERNIE SIMIA, Los Banos, spoke regarding a bake sale for the Hollywood Video manager, how she was stared down by the Mayor in public and how she feels about that, spoke in support of the Measure P Amendment; KENT SANDHAGEN, Los Banos, spoke regarding graffiti abatement and how we need to come up with some time of plan that we can monitor and maintain properties that are continuously hit with graffiti, we need to attack this problem and take care of it; *an unidentified woman* spoke of how disappointed she is in the community, how we are not sticking together and we need to, and how beautiful our community is; PASQUEL MANDIVI, Los Banos, announced a celebration for Tommy Jones this Saturday July 18, 3:00-6:00 p.m. at Pacheco Park, spoke regarding comments made regarding the Solutions Meeting, showed a picture of Leticia Chavez who were murdered by their husband and father and how he's marched in memory of them and would like to schedule a date for a march in the fall and invited Soroptimist to get involved; GENE FORTE, Los Banos, spoke regarding comments made to him in the past and how he will react, Jesus Christ being stated during the prayer, how the City of Lodi is in the news for using imprecatory prayer, glad to see Mr. Faria at the meeting, exposing loans to the Mayor, the press missing facts, freedom of the press, and seeking regress, and how the Mayor won the election by paying kids under the table; GENEVA BRETT, Los Banos, spoke regarding the Golden State Gunslingers, the fundraising efforts to help out Cayden Lee, Los Banos Chamber of Commerce sponsoring bath tub races, how we need to come together as a community,

the upcoming pool tournament, Tony Dutra and all that he will have going on, and encouraged all to buy locally; CARYN COX, Los Banos, stated that the recall petitions are now circulating for Mayor Jones, Council Members Stone and Sousa, spoke regarding the embezzlement, Measure P money and wanting like to make sure that the money is being spent as promised, bringing back the police officers, how the Community Center is something that my grandchildren will be paying for and please watch the overrides; City Manager Rath, stated that there have been no talks about laying off any additional ten police officers. No one else came forward to speak and the public forum was closed.

CONSIDERATION OF APPROVAL OF CONSENT AGENDA. Motion by Stone, seconded by Sousa to approve the consent agenda as follows: Check Register for #116551 - #116853 in the Amount of \$1,401,487.12; Minutes for the June 30, 2009 Adjourned City Council / Redevelopment Agency Meeting; Second Quarter Investment Report for the Period Ending June 30, 2009; City Council Resolution No. 5155 – Amending the Fiscal year 2009-2010 Budget by Increasing the Appropriation Amount for the School Project Trust fund for Expenditures in the Amount of \$1,795,000 for Land Purchase and \$5,060,263 for Special Departmental Expenses. The motion carried by the affirmative action of all City Council / Redevelopment Agency Members present.

CONSIDERATION OF AN AMENDMENT TO MEASURE P – LOS BANOS POLICE, FIRE, PUBLIC SAFETY/9-1-1 SPECIAL TRANSACTIONS (SALES) AND USE TAX TO TEMPORARILY ALLOW BUILDING FUNDS FOR PERSONNEL, NO TAX INCREASE. Fire Chief Guintini and Police Chief Fitchie presented the staff report, stating how very important it is to have this amendment approved so that Police and Fire Departments can preserve their personnel. Fire Chief Guintini spoke regarding the survey done by The Lew Edwards Group that was very favorable in support of the proposed amendment to Measure P, the history of Measure P and the expenditure plan that was put in place, the personnel hired and the mobile data terminals (MDT) installed, the Measure P Oversight Committee, how the amendment will allow us to temporarily use the Measure P building funds when needed, how this is a no tax increase amendment and will be used for five years and five years only, accountability will still be there because the Oversight Committee will be there as it is today, and annual audits will be done as they have been done all along. Police chief Fitchie spoke regarding this being the most tough economic and challenging time in his 28 years of service with the Los Banos Police Department and how we need to keep strong to be able to serve our community, how this is a special sales tax that is the City's alone and the State can't touch it, how very important that this measure amendment be placed on the ballot and get approval in November, and he stressed that this is a no a tax increase. Fire Chief Guintini stated that he is 100% in support of the Measure P amendment as proposed today and feels it is mandatory that we go in this direction.

There was Council Member and staff discussion regarding complete support of the proposed Measure P amendment, how much of the City's budget goes to the Police and Fire Departments, if the percentage of the general fund would be reduced to the Fire and Police Departments,

City Attorney Vaughn stated that there are no provisions in the Measure P Ordinance that speaks to general fund levels, the intent is to maintain the same percentage in respect to the revenue coming in, and this proposed Measure P amendment does not change the expenditure level.

There was additional Council Member and staff discussion regarding how important this amendment to Measure P is to both Police and Fire Departments and the community, commending the people who helped put the wording of the ballot measure together, thanking the Measure P Oversight Committee for their hard work, thanking the representatives from the Police and Fire Departments for showing their support of the proposed Measure P amendment, how this money will supplement not supplant the general fund, how the percentage of the general fund for the Police and Fire Departments have actually increased over the years, the Oversight Committee Member names were mentioned (Jim Valentine, Diana Ingram, Billy Marques, Roger Pruitt, Alvin Marques, Gary Caropreso, Andrea Lahocki Brandt) and if this is approved all the documents will be posted on the City's website.

Mayor Jones invited the public to come forward to speak. MASON HURLEY, Los Banos Fire Fighters Association, spoke in support of the Measure P Amendment and how Measure P has allowed the Police and Fire Departments to add personnel and provide new equipment to help them do their jobs; NORM DONOVAN, Los Banos, stated that he volunteers at the Police Department and spoke to how the Police Department can not afford to lose another police officer and encouraged all to vote yes on the proposed Measure P amendment; KEITH GRONIGNA, Los Banos, spoke in support of the proposed Measure P amendment and how both Police and Fire Departments are a huge asset to this community; GENEVA BRETT, Los Banos Realtor, spoke in support of the proposed Measure P amendment and how vital public safety is and encouraged all to vote yes; KEITH SNOW, Los Banos, spoke of trust, how he ran for mayor a few years back, how all of us need to look out for the City's money, bank statements, the need for more volunteers, and the need for banking on line to see where the money is being spent; JIM VALENTINE, Los Banos, spoke regarding Measure P funds, the Measure P Oversight Committee, and how the Measure P Funds are processed.

Motion by Sousa, seconded by Villalta to adopt City Council Resolution No. 5156 – Calling and Giving Notice of a Special Municipal Election to be held on Tuesday, November 3, 2009 for the Submission of a Measure Seeking Voter Approval to Temporarily Amend the Measure P Half Cent Sales Tax Expenditure Plan for the Provision of Public Safety, Police and Fire Protection Services, Without Raising Taxes to the Qualified Voters of the City. The motion carried by the following roll call vote: AYES: City Council / Redevelopment Agency Members Faria, Sousa, Stone, Villalta, Mayor Jones; NOES: None; ABSENT: None.

Motion by Sousa, seconded by Stone to adopt City Council Resolution No. 5157 – Requesting the Board of Supervisors of the County of Merced, California to Provide for

the Consolidation of a Special Ballot Measure Election to be Held on November 3, 2009 with the Merced County Uniform District Election (UDEL) to be Held on that Date Pursuant to Section 10403 of the Elections Code. The motion carried by the following roll call vote: AYES: City Council / Redevelopment Agency Members Faria, Sousa, Stone, Villalta, Mayor Jones; NOES: None; ABSENT: None.

Motion by Sousa, seconded by Faria to adopt City Council Resolution No. 5158 – Establishing Dates for the Submission of Arguments Regarding the Special Election Set for November 3, 2009. The motion carried by the following roll call vote: AYES: City Council / Redevelopment Agency Members Faria, Sousa, Stone, Villalta, Mayor Jones; NOES: None; ABSENT: None.

Mayor Jones called for a five minute break.

PUBLIC HEARING – TO RECEIVE PUBLIC COMMENT AND CONSIDERATION OF APPROVAL OF THE DRAFT 2030 GENERAL PLAN UPDATE, DRAFT ENVIRONMENTAL IMPACT REPORT (EIR) AND FINAL EIR FOR THE CITY OF LOS BANOS. Planning Director Fitzgerald presented the report, which included a PowerPoint presentation.

The public hearing was opened. NORM DONOVAN, Chairman of the Planning Commission, spoke in support of the proposed General Plan Update and EIRs and commented on the great job the Planning Department has done on these items; KEITH SNOW, Los Banos, spoke regarding parks for the kids, wetlands, Highway 152, businesses leaving town, home foreclosures, and non profit youth activities. No one else came forward to speak and the public forum was closed.

There was Council Member and staff discussion regarding the substitution of the maps and if this would subject us to a challenge if we approve it tonight, water management, impacts and mitigation measures associated with CCID, 20,000 acre ft vs. 15,2000 acre ft recharge, if we were preparing ourselves for surface treated water in the future, how CCID has implemented conservation measures to address the water issues, how approving the general plan is not a road map to approving construction, park acreage increase, liking that the Asthma Coalition Guidelines were included in General Plan Update, wetlands, wanting to increase sphere of influence like Gustine so that we can control the outlining areas because it will affect us, the water study, how industrial development will be a challenge for us, how doing this job in-house with full time staff saved the City a lot of money, likes the walk-ability with all the parks, thanking the Planning Commission for the work they've done, how note one person is in attendance to oppose the general plan, SB 221 and if there was a way to actually have the developer pay for the study instead of the City, how important the general plan is to the City and planning for now and in the future, the Los Banos Creek Parkway and needing to be preserve it, regional park site, school sites, rail corridor, bypass, solar ideas, and Gardens 5 Park and how it should be colored green on the map – which staff will correct.

Planning Consultant Abbott stated that in his opinion the substitution of maps is common, noting that the maps do conform with State law. City Manager Rath asked Planning Director Fitzgerald to review the master plans for needs pertaining the water and future development. Public Works Director/City Engineer Fachin spoke to his concerns regarding water treatment, CCID and recharges, quantity vs. quality issues, and ground water studies. Planning Consultant Abbott stated that this is par to the standard CEQA review process. Planning Director Fitzgerald thanked Assistant Planner Sousa for all she did on this project. City Manager Rath spoke to the water issues.

There was additional Council Member discussion regarding wanting staff to look at solar to promote energy efficient practices.

Motion by Faria, seconded by Sousa to adopt City Council Resolution No. 5159 – Approving and Certifying the Final Environmental Impact Report (EIR) and Approving the Los Banos 2030 General Plan, to include the change of designating the Gardens 5 area as parkland. The motion carried by the affirmative action of all City Council / Redevelopment Agency Members present.

CONSIDERATION OF DEVELOPMENT OF A CITY POLICY FOR OUTDOOR DINING AND ALCOHOL SERVICE, INCLUDING ENCROACHMENT INTO THE PUBLIC RIGHT OF WAY. Planning Director Fitzgerald presented the staff report.

There was Council Member and staff discussion regarding keeping in place the strict handling of alcohol, closing by 9:00 p.m. or 10:00 p.m., being a good idea for the downtown development, would like to see staff to proceed with drafting an ordinance to allow such use, creating a policy on a trial basis and address issues as they come up, how this would give our downtown a boost, being a good asset to the revitalization to downtown and rail corridor, not feeling the timing is right with the public safety staffing issues, how other communities have wider sidewalks and at the curb edge there is always wrought iron fencing to prevent people from falling off the curb, ABC requiring some sort of material that would provide some sort of separation with the applicant paying for the improvements, public consumption of alcohol, and concern regarding the availability of space to maintain the 5 ft width of sidewalk for pedestrians, and maybe moving forward with the idea but not taking action until the time is ready.

Mayor Jones invited the public to come forward and speak regarding this item. NORM DONOVAN, Los Banos, stated that he does not feel the downtown has the sidewalks to accommodate this type of use, how we made Target abide to restrictions to sell wine by their registers a few times a year, feels it is the wrong time for this idea, and to check out where SaveMart has their wine closed by the candy; ANN MCCAULEY, Los Banos, stated that she has lived in cities that have this but they had wider streets and sidewalks, maybe this could be done in the future but does not feel this could be done in the existing downtown or even on the rail corridor, and agrees with the comments made about what Target had to go through to sell wine; SHIRLEY NAPOLITANO, Los Banos, is concerned that you need to have food to serve alcohol, knows what happens when people sit at a bar for hours and how people act, thinks the idea is good but would like

to see some type of restriction that allows for dining along with alcohol, not wanting to have drunks on the sidewalks; KEITH SNOW, Los Banos, spoke regarding bringing the city some revenue, concerns with underage kids drinking, drinking and driving, chicken wire fence, and how he likes the idea of what is being proposed.

There was additional Council Member discussion regarding moving forward, how it is very important that we adhere to strict guidelines, how it wouldn't hurt to work on this now with the rail corridor in mind and also something good to have in place for future businesses, good tool for repopulating the downtown area and the rail corridor, how some of our curb heights throughout the down town changes that would require some modifications, how we have a school that is just down the block and could be a real risk for kids walking by, and not wanting to have public safety spending valuable time dealing with these issues instead of more important issues, and wanting to get the Police Chief's approval.

City Attorney Vaughn stated that this situation is an activity in the public right of way which can lead to a liability, but there are indemnity clauses in place.

Motion by Faria, seconded by Villalta to have staff move forward, as Planning Departments work flow allows, with development of a City Policy for outdoor dining and alcohol service, including encroachment into the public right of way and contingent upon the Police Chief's approval. The motion carried by the affirmative action of all City Council / Redevelopment Agency Members present.

CONSIDER REQUEST FROM COUNCIL MEMBER VILLALTA TO BRING TO THE CITY COUNCIL AN AMENDMENT TO THE REGIONAL TRANSPORTATION IMPACT FEE (RTIF). Council Member Villalta stated that he is asking for a moratorium on the Regional Transportation Impact Fee (RTIF) and roll it back to where it was for one year and come back to council for approval again to bring it back up to the fee, he would like to involve the business community, and hopes this will be our economic stimulus plan to help businesses start businesses.

Council Member Stone stated that there staff is working on proposal for business incentives and deferral and waiting to see what staff brings forward, we should keep moving forward instead of going backwards, need to respect the opinions of Council Members who voted against the RTIF, removing the RTIF will not help everyone, and would like to see a more comprehensive proposal, something that has a broader base.

Council Member Faria stated that he was surprised this came back so soon, but would support a moratorium of the RTIF for a year, most communities would not approve this, spoke of past fee deferrals, vacant commercial property, more businesses more jobs more sales tax, and how other cities have said that they would not enact the fee now if asked.

Council Member Sousa stated that we voted for the RTIF for the proposed Los Banos Bypass needs and would like to see the report staff is working on regarding fees and incentives.

Council Member Villalta stated that he thinks we are being duped by MCAG, how we are not going to get the proposed Los Banos Bypass, and the little we contribute to that bypass is not going to make a difference. He spoke regarding economic incentives, how people can't afford the fee as it is, how they can not get a loan, this is a time of economic disaster not economic survival, postponing the RTIF a year would not hurt anyone, and if he should happen to inherit property he will pay the higher RTIF fee and will give half to the Police and Fire Departments not MCAG.

Mayor Jones stated that the City has started a process to help businesses find a way to help them with their fees and if we do not have a bypass we will destroy the community.

Motion by Villalta to, seconded by Faria to bring to the City Council an amendment to the Regional Transportation Impact Fee. The motion failed by the following roll call vote: AYES: Faria, Villalta; NOES: Sousa, Stone, Jones.

REDEVELOPMENT AGENCY UPDATE. None

ADVISEMENT OF PUBLIC NOTICES (Three Reports). Planning Director Fitzgerald reported that there will be five (5) Public Hearings held at the Planning Commission Meeting on July 22, 2009 at 7:00 p.m. to consider revising condition numbers 49d and 55 of Site Plan #2007-06 for the PMB Development, to consider a vendors permit to allow the operation of a snow cone mobile unit in the City of Los Banos, to consider a vendors permit to allow the operation of an ice cream truck in the City of Los Banos, to consider Tentative Parcel Map No. 2009-01 to subdivide an existing Highway Commercial parcel into four lots, and to consider a subdivision map for Tentative Tract Map 2001-04.

CITY MANAGER / EXECUTIVE DIRECTOR REPORT. City Manager Rath spoke regarding attending a meeting last week regarding HCD Neighborhood Stabilization Programs and how he will be meeting next week again with HCD to make our feelings known about the funding and ask for an extension because we have not even received it yet, and how we will be replacing a camera in the Council Chambers because it is not working well.

CITY COUNCIL / REDEVELOPMENT AGENCY MEMBER REPORTS.

TOM FARIA: Stated he was sorry he was gone at the last meeting as he was in the emergency room with his mother in Modesto. He spoke regarding the Our Lady of Carmel Italian celebration, how in the College Greens area there is a green tower that is all torn up by the parking lot and asked staff to look into that, the Cayden Lee event being held on July 18, 2009, NAACP is celebrating a 100 years and inquired to see where City Attorney Vaughn was at on the decorum policy for the City Council, how he would like to look into expanding our sphere of influence as Gustine has done, domestic

violence was mentioned tonight and he offered his help in that regard, would like to get an update on the Rescue Mission and poverty services, and asked for everyone's prayers for Norman Silva who is very ill.

JOE SOUSA: Spoke regarding the Cayden Lee event being held at Santos Ford July 18, 2009 and encouraged all to support this little girl, and how elated and overjoyed he was to go by the Community Center and see it under construction.

ELIZABETH STONE: Spoke regarding the Cayden Lee drive thru dinner and how the location has been changed to the Fairgrounds on August 5, 2009, and the Salute to Seniors Fair being held on September 25, 2009.

MIKE VILLALTA: Congratulated Nikki Tuft the new Recycling Coordinator at Allied Waste and encouraged all to contact her, the upcoming Los Banos Chamber business round table meeting and encouraged all to participate, the Cayden Lee event on July 18, 2009 at Santos Ford fundraiser, Kent Sandhagen and his efforts to fight graffiti encouraging all to call the Police Department if you see it happening and asked for a dollar amount spent so far this year on graffiti abatement.

MAYOR TOMMY JONES: Thanked both the Police Chief and Fire Chief and everyone for all their work on the Measure P amendment, the Council for being in complete agreement on supporting the Measure P amendment, and Planning Director Fitzgerald and Assistant Planner Souza on the wonderful job they did on the General Plan Update. He spoke regarding the vacancy on the Parks and Recreation Commission, wanting to create a naming committee for the Community Center and to include veterans on that committee, and thanked the citizens that put together the event for him, and the NAACP dinner on August 1, 2009.

Council Member Faria asked if we could get an update on the embezzlement case.

ADJOURNMENT. The meeting was adjourned at 11:16 p.m. by the affirmative action of all City Council / Redevelopment Agency members present.

APPROVED:

/s/ Tommy Jones
Tommy Jones, Mayor

ATTEST:

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