

**CITY OF LOS BANOS  
CITY COUNCIL / REDEVELOPMENT AGENCY MEETING MINUTES  
OCTOBER 7, 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 Adjourned City Council / Redevelopment Agency Meeting to order at the hour of 6:33 p.m.

**ROLL CALL – MEMBERS OF THE CITY COUNCIL / REDEVELOPMENT AGENCY**

**PRESENT:** Joe Sousa, Elizabeth Stone, Mike Villalta, and Tommy Jones; **ABSENT:** Tom Faria (arrived at 6:58 p.m.)

**CITY COUNCIL WORKSHOP – MERCED COUNTY ASSOCIATION OF GOVERNMENTS (MCAG) REGIONAL TRANSPORTATION PLAN (RTP)**

Matt Fell, MCAG Senior Planner, facilitated the workshop and spoke regarding the on going transportation crisis, being under funded for at least two decades, State budget woes, the need to plan ahead, and RTPs being done every 3-4 years.

Informational workshop only; no action taken.

**ADJOURNMENT.** The meeting was adjourned at 7:00 p.m.

**CALL TO ORDER:** Mayor Jones called the City Council / Redevelopment Agency Meeting to order at the hour of 7:01 p.m.

**PLEDGE OF ALLEGIANCE.** Interim Police Chief Knapp 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, Administrative Clerk I/Deputy City Clerk Ascencio, Fire Chief Guintini, Interim Police Chief Knapp, Public Works Director/City Engineer Fachin, Planning Director Fitzgerald, Redevelopment Agency Director Post, Information Technology Director Spalding, and Information Technology Technician Parsad.

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

Mayor Jones invited Merced County District 5 Supervisor Jerry O'Banion and City of Dos Palos Mayor Michael Burns forward and spoke of his appreciation of their sportsmanship and the duo being class acts regarding the Dos Palos High School vs. Los Banos High School football game. Supervisor O'Banion congratulated the Los Banos Tigers on their win and spoke of looking forward to the future and putting a Dos Palos Broncos sweatshirt on Mayor Jones. City of Dos Palos Mayor Burns spoke of the Los Banos Tigers being the better team this year.

**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.**

CARYN COX, Los Banos, read from a prepared statement and spoke of Mr. Faria's classroom door at Los Banos High School being vandalized, and police report on the embezzlement case; GENE FORTE, Los Banos, spoke of the Falasco family and his family being friends and didn't disrespect the Robert M Falasco Justice Center here in Los Banos, Judge Doherty retiring and had been treated badly by him, search warrants regarding the Mary Ann Jones embezzlement case, being locked out of the public defenders office and being a conflict of interest in representing him, respects Supervisor Jerry O'Banion, and feels like he is owed an apology; BOB HART, Los Banos, spoke of failed financials, City Manager not having an education, encouraged people to turn out for the City Council meetings and voice their displeasure, spoke furthermore of wrong thinking, restoring trust, the need for transparency, City must provide financial reports quarterly from each division, expenditures, suggestions, angst wouldn't be needed if the City Manager would have implemented the quarterly reporting, and inquired how many keys are in the vault today; NYDIA ROSA, Los Banos, received absentee voting ballots, reminded all that each vote is important, repeated it in Spanish, spoke of hate and being sad that has been instigated, being infuriated that someone tried to poison the Mayor's dog, and had spoken to a former City Manager and says the buck stops here with City Manager Rath; GENEVA BRETT, Los Banos, spoke of local bathtub races, gave kudos to Kathy Ballard, Tara Brennan, and Rhonda Lowe, thanked all who participated in the street fair, thanked everyone who voted for her as Co-President, Chamber of Commerce doing fabulous things this year, ribbon cutting at Takoolu's on October 20, 2009 at 11:30 a.m. and at Verizon on October 23, 2009 at 1:00 p.m., Sport and Rehab Physical Therapy hosting a mixer on October 22, 2009, American Cancer Society Relay for Life kick-off Rally October 8, 2009 at 6:30 p.m. at Methodist Church, announced a new world champion: 15 year old "Deadly Red" and encouraged everyone to read the sports section of the Los Banos Enterprise, reminded everyone that the world is watching us and the need to be a place that invites people to come here, and asked that everyone please say things the best way they can with respect and dignity; LUISA BOUNDS, Los Banos, spoke to Council Member Faria and Ms. Cox regarding vandalism at Los Banos High School, some people being evil, and being tired of people acting like saints when they are racists; KENT SANDHAGEN, Los Banos, spoke of the need for help with abolishing graffiti, has the paint but needs volunteers, and the need for people who do

graffiti to get caught and go to jail; NORM DONOVAN, Los Banos, spoke of an opportunity he had to attend a seminar in Fresno about the high-speed rail, Fresno making a big push to get that maintenance center, and the need for Merced County citizens to write to get it here; DENNIS FAUCHIER, Los Banos, requested that Council pull agenda item 7E – Waiver of Business License Fee for Unification of Cultural Arts to get some understanding regarding non-profits having to obtain business licenses.

No one else came forward to speak and the public forum was closed.

**CONSIDERATION OF APPROVAL OF CONSENT AGENDA.** Council Member Villalta requested to pull Item 7E – Waiver of Business License Fee for Unification of Cultural Arts for discussion only.

City Manager Rath spoke regarding Item 7E – Waiver of Business License Fee for Unification of Cultural Arts and the reason it was presented to Council.

Motion by Stone, seconded by Sousa to approve the consent agenda as follows: Check Register for #117776 - #118192 in the Amount of \$2,732,272.22; Minutes for the August 19, 2009 City Council / Redevelopment Agency Meeting; Street Closure Request from Los Banos Fellowship of Believers to Close Off H Street, between 5<sup>th</sup> and 7<sup>th</sup> Streets, in front of the Henry Miller Plaza from 4:00 p.m. to 8:00 p.m. on Saturday, October 31, 2009 for the Annual Harvest of Fun; Street Usage Request for the Take Back the Night March from Pacheco Park to City Hall & Street Closure Request for the Domestic Violence Awareness Rally Being Held in Front of City Hall on Thursday, October 22, 2009 at 6:00 p.m.; Waiver of Business License Fee for Unification of Cultural Arts; City Council Resolution No. 5176 – Approving the Form and Authorizing the Execution and Delivery of a Purchase and Sale Agreement and Related Documents with Respect to the Sale of the Seller’s Proposition 1A Receivable from the State; and Directing and Authorizing Certain Other Actions in Connection Therewith; Redevelopment Agency Resolution No. 2009-10 – Finding and Determining that the Los Banos Redevelopment Agency and Administrative Expense to be Funded from the Low and Moderate Income Housing Fund are Necessary for the Production, Improvement or Preservation of the County’s Supply of Low and Moderate Income Housing. The motion carried by the affirmative action of all City Council / Redevelopment Agency Members present.

**CONSIDERATION OF ADOPTION OF REDEVELOPMENT AGENCY RESOLUTION NO. 2009-11 – APPROVING THE RENTAL AND DISPOSITION AGREEMENT BETWEEN THE AGENCY AND THE BECKER FAMILY LIVING TRUST REGARDING 511 FEET OF REDEVELOPMENT AGENCY PROPERTY LOCATED AT THE CORNER OF MERCEY SPRINGS & PACHECO BOULEVARD.** Redevelopment Agency Director Post presented the staff report, noting that the City cannot financially assist and this being a way new creative way to assist businesses and enhancement without having a cost to the City.

Motion by Sousa, seconded by Faria to adopt Redevelopment Agency Resolution No. 2009-11 – Approving the Rental and Disposition Agreement between the Agency and

the Becker Family Living Trust Regarding 511 Feet of Redevelopment Agency Property Located at the Corner of Mercey Springs & Pacheco Boulevard. The motion carried by the affirmative action of all City Council/Redevelopment Agency Members present.

**CONSIDERATION OF AUTHORIZATION FOR THE CITY MANAGER TO EXECUTE AN ENGAGEMENT LETTER WITH VAVRINEK, TRINE, DAY & CO., LLP FOR FINANCIAL AND ACCOUNTING SERVICES IN RELATION TO THE CHIEF FINANCIAL OFFICER RESPONSIBILITIES.** City Manager Rath presented the report, noting that the City is in need of these services and is currently working close with Maze & Associates and an audit committee.

Council Member Villalta inquired as to where we are with the search for a Chief Financial Officer

City Manager Rath spoke of the recruitment process in relations to this position.

Motion by Stone, seconded by Sousa to authorize the City Manager to execute an engagement letter with Vavrinek, Trine, Day & Co., LLP for financial and accounting services in relation to the Chief Financial Officer Responsibilities. The motion carried by the affirmative action of all City Council/Redevelopment Agency members present.

**CONSIDERATION OF FILLING VACANT CITY TREASURER POSITION BY APPOINTMENT OR CALL FOR SPECIAL ELECTION.** City Attorney Vaughn presented the report, noting that the resignation of City Treasurer Melinda Wall was effective September 30, 2009 and the term would be expiring November 2010.

There was Council Member and City Attorney discussion regarding the appointing process, the monthly stipend, qualifications being determined by the Council, being bound by this structure as a general law city, and the possibility of appointing someone who is in the department and is familiar with it now.

Motion by Jones, seconded by Villalta to fill the vacant City Treasurer position by appointment by accepting applications and letters of interest until 5:00 p.m. on October 16, 2009, then opening up for nominations at the next regularly scheduled City Council Meeting on October 21, 2009 and then vote. The motion carried by the following roll call vote: AYES: Faria, Stone, Villalta, Jones; NOES: Sousa; ABSENT: none.

**COUNCIL MEMBER AGENDA REQUESTS. (TO SEE IF THERE IS A MAJORITY CONSENSUS TO HAVE STAFF EXPEND TIME ON THE ISSUE AND TO HEAR IT AT A FUTURE MEETING.) – CONSIDER REQUEST FROM COUNCIL MEMBER VILLALTA TO DISCUSS HAVING COUNCIL MEMBER INVOLVEMENT IN THE CHIEF FINANCIAL OFFICER HIRING PROCESS.** Council Member Villalta spoke of being on the audit committee with Council Member Faria, being impressed with auditors and felt they were inclusive in the process, being at the point of hiring a Chief Financial Officer, would like to be on the interview committee after narrowing down the applications for the Chief Financial Officer, having worked in the past with the Los

Banos Unified School District and allowing board members to sit in on the hiring of personnel, enhancement of the process and offering another area of expertise.

There was Council Member concern regarding the need to be careful of power that Council Members have, what they are and aren't responsible for, not wanting personnel issues to become political, setting dangerous precedents, not being prudent to give Council more power than what is granted by law, unraveling of organization, the need to keep organization in chain of command as it should, and keeping things professional.

Motion by Villalta, seconded by Faria to add Council Member Involvement in the hiring process of the Chief Financial Officer position to the agenda for the next regularly scheduled City Council Meeting on October 21, 2009. The motion failed by the following roll call vote: AYES: Faria, Villalta; NOES: Sousa, Stone, Jones; ABSENT: none.

Council Member Villalta stated that he would not serve on the audit committee without having input and verbally gave his immediate resignation from the audit committee.

**REDEVELOPMENT AGENCY UPDATE.** Redevelopment Agency Director Post spoke regarding Neighborhood Stabilization Program funding, having met with realtors and lenders throughout the past couple weeks, the Redevelopment Plan Implementation Plan, "incubator" being a new buzzword, Merced Community College having a global market class and would like to bring it to Los Banos, first walkabout of the community center and thanked those who attended.

There was Council Member and staff discussion regarding working with the Chamber of Commerce for marketing new business hours to incorporate commuters and farmers markets on Thursday nights.

**ADVISEMENT OF PUBLIC NOTICES (One Report).** Planning Director Fitzgerald reported that there will be a Public Hearing held at the Planning Commission Meeting on October 14, 2009 at 7:00 p.m. to consider Site Plan Review #2009-02 and associated Mitigated Negative Declaration for the development of a double drive-thru fast food Rally's Restaurant.

**CITY MANAGER / EXECUTIVE DIRECTOR REPORT.** City Manager Rath reported of Maze & Associates working well with the City, looking at cash handling and management procedures, suggested that we invite a representative from Maze & Associates to attend the City Council meeting on November 4, 2009 to present the whole report and be available for questions, making improvements on utility billing accounts, implementation of electronic meter reading system, and water allotment.

There was Council Member and City Attorney discussion regarding water allotment and overage charges, average days meter is read, and the need for customers to contact the Finance Department with their questions.

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

**JOE SOUSA:** Spoke of the water issue; thanked those who attended the tour of the community center project; happiness to see the progress; the local FFA chapter going to the FFA national convention October 21-28, 2009 including Jonathan Cotta who will be noticed for Ag Mechanics and Gene Lieb, Jr. and Tiffany Henderson who will be receiving the American Farmer Award and wished luck to all of them; FFA rigatoni dinner on October 19, 2009, having been accused of calling people names and asked for honesty when people approach the podium to speak, quarterly report being available to council and anyone who requests, Measure A being vital to this community, thanked Ms. Cox for filing a report against him with the Fair Political Practices Commission (FPPC) and read a letter that he received from the FPPC that informed Ms. Cox that he did not violate the provisions of the Political Reform Act.

**ELIZABETH STONE:** Spoke of the community center tour and events having already been booked, horseshoe tournament at Los Banos Junior High on October 10 & 11, 2009 at 10:00 a.m., Friends of the Library meeting at on October 14, 2009 at 7:00 p.m., March of Dimes event on November 7, 2009 from 12:00 p.m. to 9:00 p.m. at the football stadium, Annual Harvest Fest at Miller & Lux on November 20, 2009 from 10:00 a.m. – 2:00 p.m.

**MIKE VILLALTA:** Spoke of the street fair being a huge success as well as the rotary breakfast, water overage charges, importance of reducing the amount of residual waste and recyclables that go to the dump, and the need for all take an active part in recycling.

**TOM FARIA:** Spoke of being thankful for those who shared their compassion with the loss of his father, High School choir will have a fall concert on October 14, 2009 in the multipurpose room, having voted against building the community center but a majority of City Council felt it was in the budget and important for everyone to support it, and suggested a permanent recognition of veterans in that facility.

**MAYOR TOMMY JONES:** Spoke of the Take Back the Night event on October 22, 2009 and encouraged everyone to attend, thanked the Los Banos High School Tiger football team and asked everyone to support them, gang prevention program meeting with Interim Police Chief Knapp, the community center tour, Congressman Cardoza's Blue Dog Bash at the Fairgrounds on October 10, 2009, importance of Measure A and the need for community support.

**CLOSED SESSION – CONFERENCE WITH LEGAL COUNSEL – INITIATION OF LITIGATION; PURSUANT TO SUBDIVISION (B) OF SECTION 54956.9 OF THE GOVERNMENT CODE; THREE (3) CASES.** Informational item only, no action taken.

**ADJOURNMENT.** The meeting was adjourned at 9:52 p.m. to Tuesday, October 13, 2009 at 4:30 p.m. to Attend a City Council Workshop on the Los Banos Redevelopment Agency Five (5) Year Implementation Plan Being Held in the Police Annex, 535 J Street, Los Banos, California by the affirmative action of all City Council/Redevelopment Agency members present.

APPROVED:

/s/ Tommy Jones  
Tommy Jones, Mayor

ATTEST:

/s/ Sandra B. Ascencio  
Sandra B. Ascencio, Deputy City Clerk