

**City of Los Banos
City Council/Redevelopment Agency
Adjourned Meeting and Regular Meeting
Minutes**

**Click here:
Adjourned Meeting July 20, 2011 - 5:30 PM**

**Click here:
Regular Meeting July 20, 2011 - 7:00 PM**

**CITY OF LOS BANOS
ADJOURNED
JOINT CITY COUNCIL AND
REDEVELOPMENT AGENCY MEETING MINUTES
JULY 20, 2011**

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 / Redevelopment Agency Meeting to order at the hour of 5:30 p.m.

ROLL CALL – MEMBERS OF THE CITY COUNCIL / REDEVELOPMENT AGENCY PRESENT: Council Members Tom Faria, Scott Silveira, Joe Sousa, Elizabeth Stone, Mayor Michael Villalta.

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

PUBLIC FORUM: MEMBERS OF THE PUBLIC MAY ADDRESS THE CITY COUNCIL / REDEVELOPMENT AGENCY MEMBERS 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. RICK SPALDING, Information Technology Director, spoke of technical issues affecting the City's website and an improvised way to access the City Council/ Redevelopment Agency agendas for July 20, 2011, the City Council/Redevelopment Agency agenda packets for July 20, 2011, the live stream of Channel 96, and the site to pay utility bills online.

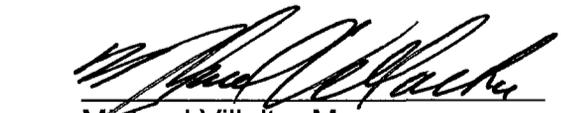
No one else came forward to speak and the public forum was closed.

2009-2010 FISCAL YEAR FINANCIAL AUDIT WORKSHOP. Brent Kuhn, Vavrinek, Trine, Day & Co., LLP, presented the report.

Mayor Villalta stated that he would like to see the action plan that states where staff currently stands in regards to the implementation of the controls.

ADJOURNMENT. The meeting was adjourned at the hour of 6:53 p.m.

APPROVED:



Michael Villalta, Mayor

ATTEST:



Sandra B. Ascencio, Deputy City Clerk

**CITY OF LOS BANOS
CITY COUNCIL / REDEVELOPMENT AGENCY MEETING MINUTES
JULY 20, 2011**

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 / Redevelopment Agency Meeting to order at the hour of 7:04 p.m.

PLEDGE OF ALLEGIANCE: Police Chief Brizzee led the pledge of allegiance.

ROLL CALL – MEMBERS OF THE CITY COUNCIL / REDEVELOPMENT AGENCY

PRESENT: Council Members Tom Faria, Scott Silveira, Joe Sousa, Elizabeth Stone, Mayor Michael Villalta.

STAFF MEMBERS PRESENT: City Attorney Vaughn, Deputy City Clerk Ascencio, City Manager Rath, Police Chief Brizzee, Fire Chief Guintini, Public Works Director/City Engineer Fachin, Redevelopment Agency Director Post, Planning Director Fitzgerald, and Information Technology Director Spalding.

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.

PRESENTATION – BY CALTRANS REGARDING THE HIGHWAY 165 RECONSTRUCTION. Michael Hutchison, CalTrans Civil Engineer, presented the report, noting that the rehabilitation project will include the closure of Highway 165 from Henry Miller Road to Route 140 beginning on October 3, 2011 and will reopen on February 3, 2012.

Informational item only, no action taken.

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hosted by Westside Community Church on July 31, 2011 at 6:00 p.m. at Rafael L. Silva farm worker housing center, the need for donated school supplies, efforts to show appreciation to those who work in fields, acknowledge the difficulty of managing family while following work, asked the community to encourage and support these families while they are in our area; GENE FORTE, Patterson, spoke regarding the grand jury investigation that was done regarding his complaint, played portion of an audio recording of conversation between Mr. Forte and a Stanislaus County Sheriff Deputy regarding tampering in handling of evidence, spoke of being the subject of death threats, and not being a racist; ROBERT HANNAH, Los Banos, spoke regarding the water fees and increase in rates, asked the City Council to deny the utility rate increases, spoke of many people being unemployed or on fixed incomes, how the current system for Public Works has been working well, suggested that the City save money by keeping the current system, and maybe in the future citizens will agree on the increase; TISHA BLACKWOOD FREITAS, Los Banos, spoke of Green Valley Charter Schools, thanked all who participated in the previous fundraiser dinner, the importance of community support, those interested can attend the July 21, 2011 Los Banos Unified School District Board meeting, projecting to bring ten jobs for kindergarten through third grade and at least twenty jobs for when it becomes kindergarten through eighth grade, looking for leads for a development team, and brochures are available in the Council Chambers tonight; JUVENAL MATOS, Los Banos, spoke in opposition of the utility rates increases, the poor economy, and thanked the City Council for listening; GENEVA BRETT, Los Banos, spoke regarding Jeanette King who took an oath to become a US citizen, how many natural born citizens take duties lightly, and business license issues; ERNIE ROQUE, Los Banos, spoke regarding City Council/Redevelopment Agency meeting that took place on June 1, 2011 in which Jeanette Garcia from Merced County Association of Governments (MCAG) spoke on the ten year plan to end homelessness and the hiring a part time person, read an employment advertisement in the Merced Sun-Star for a MCAG grant analyst position, inquired if this was the same position presented by Ms. Garcia and if this was a misrepresentation. 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 #129757 - #129972 in the Amount of \$1,120,703.96; Minutes for the July 6, 2011 City Council / Redevelopment Agency Meeting; Authorization to Extend Vavrinek, Trine, Day & Co., LLP (VTD) Agreement to Provide Certified Municipal Public Accounting Finance Department Management Staff Services Support through June 30, 2012; City Council Resolution No. 5342 – Authorizing the City Manager to File Regional Surface Transportation Program (RSTP) Exchange Funds Claim for Fiscal Year 2010-2011. The motion carried by the affirmative action of all City Council / Redevelopment Agency Members present.

PUBLIC HEARING – TO RECEIVE PUBLIC COMMENT AND CONSIDERATION OF ADOPTION OF THE NEW UTILITY RATES FOR WATER, WASTEWATER AND SOLID WASTE SERVICE FEES (CONTINUED FROM July 6, 2011); CITY COUNCIL RESOLUTION NO. 5339 – ESTABLISHING RATES FOR WATER SERVICE FEES;

CITY COUNCIL RESOLUTION NO. 5340 – ESTABLISHING RATES FOR WASTEWATER SERVICE FEES; CITY COUNCIL RESOLUTION NO. 5341 – ESTABLISHING RATES FOR SOLID WASTE SERVICE FEES.

Brent Kuhn, Vavrinek, Trine, Day & Co., LLP, presented the staff report, noting the changes to the proposed utility rates and timeline.

Mayor Villalta re-opened the public hearing due to new information being presented this evening and asked those who would like to speak to state their name and address prior to addressing the City Council. ROBERT HANNAH, 521 N. Santa Ana Street, inquired as to whether or not the proposal is being reduced; Mr. Kuhn spoke to Council Member Stone's proposal and Council Member Silveira's proposal; JUVENAL MATOS, Los Banos, spoke of the proposed rates still being an increase, how letters should have gone out to let the community know how much their bill would be with the increase, and how the numbers presented are unclear; DAVE ANDERSON, Los Banos, spoke of not being against the increase, how he sent out an email to everyone today with suggestions on how to address the change, and confusion regarding the dump fees and how the spreadsheet is lined up; AUSTIN TERRY, 832 Olivewood Drive, spoke of the original proposed resolution, being on a fixed income, difficult to take the way its presented, urged the City Council to consider the alternate proposals by Council Member Stone and Council Member Silveira, and his disappointment that nothing was accomplished on the July 6, 2011 City Council/Redevelopment Agency meeting. No else one came forward to speak and the public hearing was closed.

There was discussion among Council Members, staff, and Mr. Kuhn regarding the current and proposed rates and effective dates and the average increase per month for each rate under each proposal.

Council Member Stone spoke of the continuance of this discussion that has been taking place since March, having had plenty of time to go to staff with different proposals, over 80% of property owners and/or account holders did not file protests, having heard about the reason for the numbers and increases, the seriousness of the need for the increases, concern about what would happen if we did nothing or didn't adjust accordingly, understanding that the adjustments will be difficult but they are necessary, cannot do nothing, and the need to compromise.

Council Member Sousa spoke of making headway being better than not doing anything, fines and increases in rates, dump closure project and how the delay has cost the City, thanked Council Member Silveira and Council Member Stone for making alternative suggestions, the need to do this in a responsible manner, and how he would support a proposal before the City Council tonight.

Mayor Villalta spoke of this being a mini version of the national debt ceiling, the need to come up with a proposal that we can live with, not going to blindly vote on something he doesn't believe in, and how this may take more meetings and soul searching on Council's part.

Council Member Silveira spoke of his appreciation for Council Member Stone's work and staff's work, not being comfortable with going as high as Council Member Stone's proposed rates, willing to move a little off what he proposed, imperative to come up with compromises, will take some responsibility that he should have gotten those numbers to staff earlier, inquired if there can be a compromise between his proposed rates and Council Member Stone's proposed rates, and spoke of being bound by the Brown Act.

Council Member Stone spoke of heading in the right direction, not having an unlimited amount of time, and the differences between her proposal and Council Member Silveira's proposal.

Motion by Stone, seconded by Sousa to adopt City Council Resolution No. 5339 – Establishing Rates for Water Service Fees with the amendment that the increase in the flat water rate would not go into effect until February 1, 2012 per Council Member Stone's proposal. The motion failed by the following roll call vote: AYES: Sousa, Stone; NOES: Faria, Silveira, Villalta; ABSENT: None.

Mayor Villalta spoke of not knowing the end result in numbers if they will be voting on these rates separately, not being able to support going from one to the next, and the need to know the total amount.

Council Member Stone spoke of how the motion that she made was directly under Council Member Stone's proposal and how Council had the numbers for a week.

Motion by Stone, seconded by Sousa to adopt City Council Resolution No. 5340 – Establishing Rates for Wastewater Service Fees with the amendment to lower the increase by 4.75 percent and not impose rates until September 1, 2011 per Council Member Stone's proposal. The motion failed by the following roll call vote: AYES: Sousa, Stone; NOES: Faria, Silveira, Villalta; ABSENT: None.

Motion by Stone, seconded by Sousa to adopt City Council Resolution No. 5341 – Establishing Rates for Solid Waste Service Fees with the amendment to not impose rates until February 1, 2012 per Council Member Stone's proposal. The motion failed by the following roll call vote: AYES: Sousa, Stone; NOES: Faria, Silveira, Villalta; ABSENT: None.

Motion by Stone, seconded by Silveira to Continue the Public Hearing and Consideration of Adoption of the New Utility Rates for Water, Wastewater and Solid Waste Service Fees; City Council Resolution No. 5339 – Establishing Rates for Water Service Fees; City Council Resolution No. 5340 – Establishing Rates for Wastewater Service Fees; City Council Resolution No. 5341 – Establishing Rates for Solid Waste Service Fees to the August 3, 2011 City Council/Redevelopment Agency Meeting. The motion carried by the following roll call vote: AYES: Silveira, Sousa, Stone, Villalta; NOES: Faria; ABSENT: None.

City Attorney Vaughn spoke of his concern about the continuance of this item past the August 3, 2011 City Council/Redevelopment Agency Meeting due to Proposition 218 and urged the City Council to reach a conclusion by then.

City Manager Rath asked that if the City Council had any more proposals then get it to staff no later than Monday, July 25, 2011 so that the agenda can be distributed timely.

City Attorney Vaughn spoke to failed motions being subject to reconsideration by anyone who was on the prevailing side.

PUBLIC HEARING – TO RECEIVE PUBLIC COMMENT AND CONSIDERATION OF AMENDMENTS TO THE CITY BUILDING CODES ORDINANCE BY ADOPTING BY REFERENCE THE 2010 CALIFORNIA BUILDING STANDARDS CODE; ORDINANCE NO. 1098 – ADOPTING BY REFERENCE THE 2010 EDITION OF THE CALIFORNIA BUILDING CODE, THE 2010 EDITION OF THE CALIFORNIA ENERGY CODE, THE 2010 EDITION OF THE CALIFORNIA HISTORICAL BUILDING CODE, THE 2010 EDITION OF THE CALIFORNIA REFERENCED STANDARDS CODE, THE 2010 EDITION OF THE CALIFORNIA ELECTRICAL CODE, THE 2010 EDITION OF THE CALIFORNIA MECHANICAL CODE, THE 2010 EDITION OF THE CALIFORNIA ADMINISTRATIVE CODE, THE 2010 EDITION OF THE CALIFORNIA EXISTING BUILDING CODE, THE 2010 EDITION OF THE CALIFORNIA GREEN BUILDING STANDARDS CODE, THE 2010 EDITION OF THE CALIFORNIA RESIDENTIAL CODE, THE 2010 EDITION OF THE CALIFORNIA PLUMBING CODE, TOGETHER WITH CERTAIN AMENDMENTS AND DELETIONS, AND AMENDING AND REORGANIZING TITLE 8 OF THE LOS BANOS MUNICIPAL CODE (SECOND READING & ADOPTION). Fire Chief Guintini presented the staff report.

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

Motion by Sousa, seconded by Silveira to waive the second reading of Ordinance No. 1098 - Adopting by Reference the 2010 Edition of the California Building Code, the 2010 Edition of the California Energy Code, The 2010 Edition of the California Historical Building Code, the 2010 Edition of the California Referenced Standards Code, the 2010 Edition of the California Electrical Code, the 2010 Edition of the California Mechanical Code, the 2010 Edition of the California Administrative Code, The 2010 Edition of the California Existing Building Code, the 2010 Edition of the California Green Building Standards Code, the 2010 Edition of the California Residential Code, the 2010 Edition of the California Plumbing Code, Together with Certain Amendments and Deletions, and Amending and Reorganizing Title 8 of the Los Banos Municipal Code. The motion carried by the affirmative action of all City Council / Redevelopment Agency Members present.

Motion by Sousa seconded by Silveira to adopt Ordinance No. 1098 – Adopting by Reference the 2010 Edition of the California Building Code, the 2010 Edition of the California Energy Code, The 2010 Edition of the California Historical Building Code, the

2010 Edition of the California Referenced Standards Code, the 2010 Edition of the California Electrical Code, the 2010 Edition of the California Mechanical Code, the 2010 Edition of the California Administrative Code, The 2010 Edition of the California Existing Building Code, the 2010 Edition of the California Green Building Standards Code, the 2010 Edition of the California Residential Code, the 2010 Edition of the California Plumbing Code, Together with Certain Amendments and Deletions, and Amending and Reorganizing Title 8 of the Los Banos Municipal Code. The motion carried by the following roll call vote: AYES: Faria, Silveira, Sousa, Stone, Villalta; NOES: None; ABSENT: None.

PUBLIC HEARING – TO RECEIVE PUBLIC COMMENT AND CONSIDERATION OF AMENDMENTS TO THE CITY FIRE PREVENTION CODE ORDINANCE BY ADOPTING BY REFERENCE THE 2010 CALIFORNIA FIRE CODE; ORDINANCE NO. 1099 – ADOPTING BY REFERENCE THE 2010 EDITION OF THE CALIFORNIA FIRE CODE TOGETHER WITH CERTAIN AMENDMENTS AND DELETIONS, AND AMENDING AND REORGANIZING TITLE 4 CHAPTER 3 OF THE LOS BANOS MUNICIPAL CODE (SECOND READING & ADOPTION). Fire Chief Guintini presented the staff report.

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

Motion by Silveira, seconded by Sousa to waive the second reading of Ordinance No. 1099 – Adopting by Reference the 2010 Edition of the California Fire Code Together with Certain Amendments and Deletions, and Amending and Reorganizing Title 4 Chapter 3 of the Los Banos Municipal Code. The motion carried by the affirmative action of all City Council / Redevelopment Agency Members present.

Motion by Silveira, seconded by Sousa to adopt Ordinance No. 1099 - Adopting by Reference the 2010 Edition of the California Fire Code Together with Certain Amendments and Deletions, and Amending and Reorganizing Title 4 Chapter 3 of the Los Banos Municipal Code. The motion carried by the following roll call vote: AYES: Faria, Silveira, Sousa, Stone, Villalta; NOES: None; ABSENT: None.

CONSIDERATION OF REQUEST TO FUND UP TO \$1,000 WORTH OF LEGAL FEES TO THE CALIFORNIA REDEVELOPMENT ASSOCIATION TO BATTLE THE GOVERNOR'S BUDGET, NAMELY ABX1 26 AND ABX1 27 (CONTINUED FROM July 6, 2011). City Manager Rath presented the staff report and requested to table the item to a date uncertain.

Motion by Silveira seconded by Faria to table the Request to Fund up to \$1,000 Worth of Legal Fees to the California Redevelopment Association to Battle the Governor's Budget, Namely ABX1 26 and ABX1 27 to a date uncertain. The motion carried by the affirmative action of all City Council/Redevelopment Agency Members present.

CONSIDERATION OF APPROVAL OF CITY COUNCIL RESOLUTION NO. 5343 – DECLARING ITS INTENTION TO ENACT AN ORDINANCE WHEREBY THE CITY SHALL ELECT TO COMPLY WITH AND PARTICIPATE IN THE ALTERNATIVE VOLUNTARY REDEVELOPMENT PROGRAM CONTAINED IN PART 1.9 OF DIVISION 24 OF THE CALIFORNIA HEALTH AND SAFETY CODE. Redevelopment Agency Director Post presented the staff report, which included a PowerPoint presentation and introduced Mark Huebsch with Stradling Yocca Carlson & Rauth.

There was discussion among Council Members, staff, and Mr. Huebsch regarding the difference between enacting and adopting an ordinance, preference on how to pay, the right of appeal, and urgency ordinances.

City Manager Rath explained to the City Council from a staff perspective that the general fund cannot afford it, having barely closed the gap with this new budget, the need to reduce expenses, revenue declining, and cannot incur any liabilities from the Redevelopment Agency that would affect the general fund.

Motion by Sousa, seconded by Stone to adopt City Council Resolution No. 5343 – Declaring its Intention to Enact an Ordinance Whereby the City Shall Elect to Comply with and Participate in the Alternative Voluntary Redevelopment Program in Part 1.9 of Division 24 of the California Health and Safety Code. The motion carried by the affirmative action of all City Council/Redevelopment Agency Members present.

CONSIDERATION OF APPOINTMENT OF ONE (1) COUNCIL MEMBER TO SERVE ON THE LEAGUE OF CALIFORNIA CITIES CENTRAL VALLEY DIVISION EXECUTIVE COMMITTEE AND ONE (1) COUNCIL MEMBER TO SERVE AS AN ALTERNATE. City Manager Rath presented the staff report.

Motion by Faria, seconded by Sousa to appoint Mayor Villalta to serve on the League of California Cities Central Valley Division Executive. The motion carried by the affirmative action of all City Council/ Redevelopment Agency Members present.

Motion by Stone to appoint Council Member Silveira to serve on the League of California Cities Central Valley Division Executive Committee as an alternate. The motion failed due to the decline of nomination by Council Member Silveira.

Motion by Silveira, seconded by Faria to appoint Council Member Stone to serve on the League of California Cities Central Valley Division Executive Committee as an alternate. The motion carried by the affirmative action of all City Council/ Redevelopment Agency Members present.

REDEVELOPMENT AGENCY UPDATE. Redevelopment Agency Director Post spoke of studying ABX1 26 and ABX1 27.

ADVISEMENT OF PUBLIC NOTICES (No Reports).

CITY MANAGER / EXECUTIVE DIRECTOR REPORT. City Manager Rath spoke of the federal highway appropriations bill and trying to get Los Banos funding.

CITY COUNCIL / REDEVELOPMENT AGENCY MEMBER REPORTS.

ELIZABETH STONE: Spoke of the Salute to Seniors Fair on September 30, 2011 in which there will be a special tribute to veterans.

TOM FARIA: Spoke of the Green Valley Charter School and educating the home child.

SCOTT SILVEIRA: Spoke of the 2x3 Committee, reported that the City and the Los Banos Unified School District are working on a grant for safe routes to schools putting sidewalks around Los Banos Junior High School and Pacheco High School, and reminded all that the Milliken Museum is still open for business.

JOE SOUSA: Spoke of a citizen's missing cat that needs to come home, encouraged the community to help this person get her pet back, and asked Mayor Villalta if he could find out why the bus shelter that is supposed to be at the fairgrounds hasn't been placed there yet.

MAYOR MICHAEL VILLALTA: Spoke of a meeting regarding the animal shelter on July 21, 2011 at 9:00 a.m., the Merced County Association of Governments (MCAG) Governing Board meeting that will take place on July 21, 2011 in which among discussion will be regarding garbage expansion, the importance of the Billy Wright landfill, the number of call boxes on Highway 152 and Interstate 5 within our area were approved at the previous MCAG Governing Board Meeting, a plan in place to continue with call boxes, new bus shelters in town that were approved at a previous MCAG Governing Board meeting, the importance of the Salute to Seniors Fair, and encouraged all to visit the Milliken Museum.

Redevelopment Agency Director Post inquired if the City Council would like for it to be displayed on the digital sign that the museum is open. Mayor Villalta indicated that he would like to see that happen.

ADJOURNMENT. The meeting was adjourned at the hour of 10:11 p.m.

APPROVED:

/s/ Michael Villalta
Michael Villalta, Mayor

ATTEST:

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