

**CITY OF LOS BANOS  
CITY COUNCIL / REDEVELOPMENT AGENCY MEETING MINUTES  
AUGUST 3, 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 7:01 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, City Clerk/Human Resources Director Mallonee, City Manager Rath, Police Chief Brizzee, Public Works Director/City Engineer Fachin, Redevelopment Agency Director Post, Planning Director Fitzgerald, Accounting & Budget Supervisor Williams and Information Technology Director Spalding.

**CONSIDERATION OF APPROVAL OF AGENDA:** Motion by Stone, seconded by Sousa 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.**

LORA RICO, Los Banos, spoke regarding how Casa Mobile Park passes their utility rates increases off to their tenants, how these tenants don't get the opportunity to speak against these increases because they aren't notified of any possible rate increases, and even though money is tight she is willing to pay higher utility fees to ensure the good of the City; JOHN WHALA, Los Banos Chamber of Commerce, spoke regarding the third annual wine stroll being held downtown on August 5, 2011; ANN McCAULEY, Los Banos, spoke regarding the PG&E sponsored Movie in the Park event being held on August 26, 2011 at the Henry Miller Plaza in which the movie *Despicable Me* will be showed for the community; ROBERT HANA, Los Banos, spoke regarding the proposed utility rate increases and what is affordable for him; JUVENAL MATOS, Los Banos, spoke in opposition to the utility rate increases and encouraged the City Council

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

**CONSIDERATION OF APPROVAL OF CONSENT AGENDA.** Motion by Faria, seconded by Stone to approve the consent agenda as follows: Check Register for #129973 - #130476 in the Amount of \$1,051,205.61; Minutes for the July 20, 2011 Adjourned City Council / Redevelopment Agency Meeting; Acceptance of the Fourth Quarter Investment Report for Fiscal Year 2010-2011; City Council Resolution No. 5344 – Accepting the Los Banos Park Equipment Project For Cresthills and College Greens Parks as Complete and Authorizing the Filing of a Notice of Completion with the Merced County Recorder. 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; 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., LLC, presented the staff report.

Mayor Villalta opened the public hearing. ANN McCAULEY, Los Banos, spoke of this being a very trying issue, her concern about what would happen if these rates are not raised, her support of the proposed utility rate increases, how the fines would come from the general fund, and inquired as to what will be the choice when the City has to lay off Police Officers and Fire Fighters to cover those fines.

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

There was discussion among Council Members and Mr. Kuhn regarding there being a budgetary process, chromium 6 levels and there being a cost to meet those levels and unrealized revenue for the City.

Council Member Sousa spoke of how he wanted to approve the consultant's proposal that first came before Council because that was the right thing to do.

Motion by Silveira, seconded by Sousa to adopt to approve City Council Resolution No. 5339 – Establishing Rates for Water Service Fees as stated in "Silveira Proposal B". The motion carried by the following vote: AYES: Silveira, Sousa, Stone, Villalta; NOES: Faria; ABSENT: None.

Motion by Silveira, seconded by Sousa to adopt to approve City Council Resolution No. 5340 – Establishing Rates for Wastewater Service Fees as stated in "Silveira Proposal B". The motion carried by the following vote: AYES: Silveira, Sousa, Stone, Villalta; NOES: Faria; ABSENT: None.

Motion by Silveira, seconded by Sousa to adopt to approve City Council Resolution No. 5341 – Establishing Rates for Solid Waste Service Fees as stated in “Silveira Proposal B”. The motion carried by the following vote: AYES: Silveira, Sousa, Stone, Villalta; NOES: Faria; ABSENT: None.

Council Member Sousa spoke of his disappointment to hear a Council Member blatantly vote no without considering the penalties or repercussions.

Council Member Stone spoke of her hope that the next time we have items of this nature that Council take advantage of the workshops to work out differences.

**PUBLIC HEARING – TO RECEIVE PUBLIC COMMENT AND CONSIDERATION ON THE LEVY AND COLLECTION OF ASSESSMENTS FOR WEED ABATEMENT WITHIN THE CITY OF LOS BANOS; CITY COUNCIL RESOLUTION NO. 5345 – AUTHORIZING THE LEVY AND COLLECTION OF ASSESSMENTS FOR WEED ABATEMENT WITHIN THE CITY OF LOS BANOS.** Accounting & Budget Supervisor Williams presented the staff report.

Mayor Villalta asked for an explanation for the weed abatement process and the levy and collection for assessments which Accounting & Budget Supervisor Williams provided.

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

There was discussion among Council Members, staff, and the City Attorney regarding the lien process.

Motion by Sousa, seconded by Faria to adopt to approve City Council Resolution No. 5345 – Authorizing the Levy and Collection of Assessments for Weed Abatement within the City of Los Banos. The motion carried by the affirmative action of all City Council / Redevelopment Agency Members present.

**PUBLIC HEARING – TO RECEIVE PUBLIC COMMENT AND CONSIDER A USE PERMIT FOR A TYPE 21 ALCOHOL LICENSE FOR THE OFF-SALE OF GENERAL ALCOHOL AT TARGET LOCATED AT 1405 W. PACHECO BOULEVARD, APN 430-010-020; CITY COUNCIL RESOLUTION NO. 5346 – APPROVING USE PERMIT #2011-03 FOR THE OFF-SALE OF GENERAL ALCOHOL FOR TARGET LOCATED AT 1405 W. PACHECO BOULEVARD.** Planning Director Fitzgerald presented the staff report.

Beth Aboulafia, Target Attorney, spoke of the staff report being complete and her hope that Council will adopt the resolution.

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

Motion by Stone, seconded by Silveira to adopt City Council Resolution No. 5346 – Approving Use Permit #2011-03 for the Off-sale of General Alcohol for Target Located at 1405 W. Pacheco Boulevard. The motion carried by the affirmative action of all City Council / Redevelopment Agency Members present.

**PUBLIC HEARING – TO RECEIVE PUBLIC COMMENT AND CONSIDER PARTICIPATION IN AN ALTERNATIVE VOLUNTARY REDEVELOPMENT PROGRAM (TO BE CONTINUED TO AUGUST 17, 2011).** Mayor Villalta opened the public hearing. No one else came forward to speak and the public hearing was closed.

City Manager Rath spoke to the continuation of this item and the rules being put forth by the state.

Mr. Kuhn spoke to pending legal issues between the California Redevelopment Association and the State of California that have been submitted to the Supreme Court.

Motion by Silveira, seconded by Faria to continue the Public Hearing and Consideration of Participation in an Alternative Voluntary Redevelopment Program to the August 17, 2011 City Council / Redevelopment Agency Meeting. The motion carried by the affirmative action of all City Council / Redevelopment Agency Members present.

**PUBLIC HEARING – TO RECEIVE PUBLIC COMMENT ON THE EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT (JAG) IN THE AMOUNT OF \$14,034.00.** Police Chief Brizzee presented the staff report.

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

There was council member and staff discussion regarding what the grant is being used for and evidence collection.

**CONSIDERATION OF ADOPTION OF CITY COUNCIL RESOLUTION NO. 5347 – ACCEPTING THE 2009/2010 FISCAL YEAR AUDIT REPORTS CONSISTING OF THE BASIC FINANCIAL STATEMENTS, SINGLE AUDIT REPORT AND THE MEMORANDUM ON INTERNAL CONTROL AND REQUIRED COMMUNICATIONS.** Brent Kuhn, Vavrinek, Trine, Day & Co., LLC, presented the staff report.

There was discussion among Council Members and Mr. Kuhn regarding the findings and another audit coming up for the 2010/2011 fiscal year.

Vikki Rodriguez, Maze & Associates, spoke regarding great improvement made in 2009/10 fiscal year as well as in the 2010/11 report.

Motion by Sousa, seconded by Stone to adopt City Council Resolution No. 5347 – Accepting the 2009/2010 Fiscal Year Audit Reports Consisting of the Basic Financial Statements, Single Audit Report and the Memorandum on Internal Control and Required Communications. The motion carried by the affirmative action of all City Council/Redevelopment Agency Members present.

**CONSIDERATION OF ADOPTION OF REDEVELOPMENT AGENCY RESOLUTION NO. 2011-08 – ACCEPTING THE 2009-2010 FISCAL YEAR BASIC COMPONENT UNIT FINANCIAL STATEMENTS.** Brent Kuhn, Vavrinek, Trine, Day & Co., LLC, presented the staff report.

Vikki Rodriguez, Maze & Associates, spoke regarding how the law currently states that that Redevelopment Agencies will be terminated as of July 1, 2011.

Motion by Sousa, seconded by Stone to adopt Redevelopment Agency Resolution No. 2011-08 – Accepting the 2009-2010 Fiscal Year Basic Component Unit Financial Statements. The motion carried by the affirmative action of all City Council/Redevelopment Agency Members present.

**REDEVELOPMENT AGENCY UPDATE.** Redevelopment Agency Director Post spoke of the most recent report for the Neighborhood Stabilization Program which included a PowerPoint presentation.

**ADVISEMENT OF PUBLIC NOTICES (One Report).** Planning Director Fitzgerald stated that there will be a public hearing held at the regularly scheduled Planning Commission meeting on Wednesday, August 10, 2011 at 7:00 p.m. at City Hall in the Council Chambers to consider a use permit for a small collection recycling facility.

**CITY MANAGER / EXECUTIVE DIRECTOR REPORT.** City Manager Rath spoke regarding the budget, credit going to staff and all employees, anticipating going back to the voters to amend Measure P/A, homes taking three years to get through the foreclosure process, chromium 6 levels being proposed to be lowered, arsenic being the next to be addressed, full filtration being inevitable in the future, and how the state is pushing the federal to the same standards.

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

**TOM FARIA:** Spoke of his attendance at the League of California Cities Central Valley Division Executive Committee meeting last week in which a topic of concern was regarding the State taking local funding, the League of California Cities holding a golf tournament being on October 13, 2011 in Modesto, how school starts next week, and looking forward to seeing students return this new school year.

**SCOTT SILVEIRA:** Spoke of his plans to attend the downtown wine stroll this year on August 5, 2011 and how he attended a charity poker fundraiser for local cancer patient Jamie Brown.

**JOE SOUSA:** Spoke regarding the Redevelopment Agency and the Neighborhood Stabilization Program having been an outstanding success for the City and thanked Council and staff for contributing to the success.

**ELIZABETH STONE:** Spoke of having fought for the Neighborhood Stabilization Program funds, the struggle to get the program going and how successful it has become, thanked City staff and Merced County Association of Governments, continuing to help families become homeowners, the downtown wine stroll event being held on August 5, 2011, Movie in the Park night on August 26, 2011 at the Henry Miller Plaza, and the Salute to Seniors Fair on September 30, 2011 at the community center.

**MAYOR MICHAEL VILLALTA:** Encouraged all to attend the local events that have been mentioned and help support those that are putting them on, reminded all that the community center is a great place for a cooling shelter, thanked the public for all their comments, and encouraged all to contact Council Members with their input.

**ADJOURNMENT.** The meeting was adjourned at the hour of 8:32 p.m. to 8:30 a.m., Friday, August 12, 2011 to attend a Council Member and Staff Goals & Objectives Workshop being held at the Child Development Center, 1624 San Luis Street, Los Banos, California.

APPROVED:

/s/ Michael Villalta  
Michael Villalta, Mayor

ATTEST:

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