1. CALL TO ORDER.  

2. PLEDGE OF ALLEGIANCE.  

   A. Presentation by Westside & Playdaze Preschools – Flag Salute/Children’s Song.  

3. ROLL CALL: (City Council and Redevelopment Agency Board Members)  

   Brooks ___, Faria ___, Sousa ___, Villalta ___, Jones ___  

4. CONSIDERATION OF APPROVAL OF AGENDA.  

5. 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 Council / Redevelopment Agency; 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.)  

6. CONSIDERATION OF APPROVAL OF CONSENT AGENDA. (Items on the Consent Agenda are considered to be routine and will be voted on in one motion unless removed from the Consent Agenda by a City Council / Redevelopment Agency Member.)
A. Minutes for the March 5, 2008 City Council / Redevelopment Agency Meeting.

Recommendation: Approve the minutes as submitted.

B. Minutes for the March 19, 2008 City Council / Redevelopment Agency Meeting.

Recommendation: Approve the minutes as submitted.

C. Minutes for the April 7, 2008 Adjourned City Council Meeting.

Recommendation: Approve the minutes as submitted.

D. Check Register for #106978 - #107271 in the Amount of $894,520.71.

Recommendation: Approve the check register as submitted.

E. 2008 Sponsorship for the Merced County Spring Fair – Los Banos in the Amount of $10,000.00.

Recommendation: Approve the sponsorship as submitted.

F. Annual Salary Adjustment for City Manager – Monthly Salary Adjusted to $13,250.00 Retroactive to January 1, 2008.

Recommendation: Approve salary adjustment as submitted.

G. Waiver of Business License Fee for Total Self Insight, Inc. (TSI).

Recommendation: Waive the business license fee and direct staff to issue the business license.

H. Waiver of Business License Fee for Calvary Baptist Church.

Recommendation: Waive the business license fee and direct staff to issue the business license.

I. Street (Alley) Closure Request from All Angels Pre-School Daycare to Close a Portion of the Alley between J and I Streets to Through Traffic from 2:00 p.m. to 6:00 p.m. on April 17, 2008 to Conduct a Ribbon Cutting Ceremony.

Recommendation: Authorize the street closure request as submitted.

J. Street Closure Request from Rev Tune Cycles to Close I Street between 8th and 9th Streets on April 19, 2008 from 3:00 p.m. to 6:00 p.m. to Conduct a Special Motor Cycle Riding/Stunt Event.

Recommendation: Authorize the street closure request as submitted.
K. Street Closure Request from the Los Banos Police Department to Close 11th Street between Madison and Page Avenues from 5:00 a.m. to 5:00 p.m. on April 22, 2008 for the Los Banos High School “Every 15 Minutes” Presentation.

Recommendation: Authorize the street closure request as submitted.

L. Merced County Association of Governments (MCAG) Fiscal Year 2008/2009 Transportation Planning Work Program, Comprehensive Planning Work Program, and Budget and Allocation of $45,998.00 to the 2008/2009 Fiscal Year Budget for the Annual MCAG Contract.

Recommendation: Approve the MCAG Work Programs and allocation of funds as submitted.

M. City Council Resolution No. 5009 – Approving Funding the City of Los Banos’ Proportional Cost of Televising the Local Agency Formation Commission (LAFCO) Meetings.

Recommendation: Adopt the resolution as submitted.

N. City Council Resolution No. 5010 – Approving the Purchase and Associated Costs of a New Server for the Police and Fire Computer Aided Dispatch (CAD) System, not to Exceed $55,000.00.

Recommendation: Adopt the resolution as submitted.


Recommendation: Receive staff report and adopt the resolution as submitted.

8. PUBLIC HEARINGS. (If you challenge the proposed action as described herein in court, you may be limited to raising only those issues you or someone else raised at the public hearing described herein or in written correspondence delivered to the City or Redevelopment Agency at, or prior to, the public hearing.)

A. Public Hearing – To Consider a Use Permit for a Type 41 Alcohol License in Conjunction with a Restaurant Located at 265 Mercey Springs Road, Suite J, APN 025-121-012. Applicant: H & H Indian Cuisine.

1) City Council Resolution No. 5012 – Approving Use Permit #2008-01 for the On-Sale of Beer and Wine in Conjunction with a Restaurant Located at 265 Mercey Springs Road, Suite J.

Recommendation: Receive staff report, open the public hearing, receive public comment, close the public hearing, and adopt the resolution as submitted.
B. **Public Hearing** – To Consider a Final Development Plan to Develop 99 Single Family, Single-Story Cluster Units in a Gated Senior Community Along with the Existing 36 Single-Story and Two-Story Cluster Homes Located within the Gated Community. The 20.51 Acre Site is Located at the South Side of H Street and on the East Side of Colorado Avenue. Applicant: K Hovnanian Homes.

1) City Council Resolution No. 5013 – Approving Final Development Plan #2007-04 for the Villages at Los Banos.

*Recommendation: Receive staff report, open the public hearing, receive public comment, close the public hearing, and adopt the resolution as submitted.*

9. **CONSIDERATION OF THE INTRODUCTION OF ORDINANCE NO. 1070** – ADDING A NEW CHAPTER 10 TO TITLE 5 OF THE LOS BANOS MUNICIPAL CODE RELATING TO HOSTING GATHERINGS OF UNDERAGE DRINKERS AND AMENDING CHAPTER 11 OF TITLE 4 RELATING TO ADMINISTRATIVE CITATIONS. *(Continued from March 19, 2008) (First Reading & Introduction)*

*Recommendation: Receive staff report, invite public comment, waive the first reading of the ordinance, and introduce the ordinance as submitted.*


*Recommendation: Receive staff report, invite public comment, waive the first reading of the ordinance, and introduce the ordinance as submitted.*

11. **NOTICE & ANNOUNCEMENT OF COMMISSION VACANCIES; APPOINTMENT OF ONE (1) COUNCIL MEMBER TO SERVE WITH THE MAYOR ON THE SELECTION COMMITTEE.**

*Recommendation: Receive staff report and appoint one (1) Council Member to serve with the mayor on the Selection Committee.*

12. **REDEVELOPMENT AGENCY UPDATE.**

13. **ADVISEMENT OF PUBLIC NOTICES.** *(One Report)*

14. **CITY MANAGER / EXECUTIVE DIRECTOR REPORT.**

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

   A. Anna Brooks
   B. Tommy Jones
   C. Tom Faria
D. Joe Sousa

E. Mike Villalta

16. MISCELLANEOUS INFORMATION IN CITY COUNCIL PACKET, NO ACTION NECESSARY.

17. ADJOURNMENT.

A. Adjourn to 10:00 a.m., Friday, April 25, 2008 to Attend the 2008 Executive Forum of the San Joaquin Valley Blueprint Planning Process, being held at Grand Occasions Banquet Hall, 4584 W. Jacquelyn Avenue, Fresno, California.

I hereby certify under penalty of perjury under the laws of the State of California, that the foregoing agenda was posted on the City Hall bulletin board not less than 72 hours prior to the meeting.

Lucille L. Mallonee, City Clerk

Dated this 11th day of April 2008
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 (video, DVD and/or audiotapes) kept as a permanent record.

The following closed session items were held prior to the City Council Meeting:

CLOSED SESSION – CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION, PURSUANT TO GOVERNMENT CODE SECTION 54956.9 (A). NAME OF CASE: FELIX M. LOPEZ AND ELIZABETH RUIZ VS. COUNTY OF MERCED, ET AL., UNITED STATES DISTRICT COURT, EASTERN DISTRICT OF CALIFORNIA, FRESNO DIVISION, CASE NO. 06-CV-01526-0WW-DLB. No action taken, advisement to staff only.

CLOSED SESSION – PUBLIC EMPLOYEE PERFORMANCE EVALUATION, PURSUANT TO GOVERNMENT CODE SECTION 54957. TITLE: CITY MANAGER. No action taken, advisement to staff only.

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 Commander Fitchie led the pledge of allegiance.

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

STAFF MEMBERS PRESENT: City Attorney Vaughn, City Clerk/Human Resources Director Mallonee, City Manager Rath, Fire Chief Quintini, Police Commander Fitchie, Public Works Director/City Engineer Chisam, Redevelopment Manager Post, Translator Reyna

CONSIDERATION OF APPROVAL OF AGENDA: City Manager Rath requested that item 11, Consideration of Approval of a Funding Augmentation in the amount of $64,679.00 to Environmental Remediation Group for Additional Site Assessment Services and Testing as Required by the Merced County Office of Environmental Health for 740 Second Street (APN 025-054-007), City Council Resolution No. 4998-4999 – Authorizing Funding Augmentation to Environmental Remediation Group for Site Assessment Services for the Redevelopment Agency be removed because it is still under legal review.

Motion by Faria, seconded by Brooks to approve the agenda as amended, with the removal of item 11, Consideration of Approval of a Funding Augmentation in the
amount of $64,679.00 to Environmental Remediation Group for Additional Site Assessment Services and Testing as Required by the Merced County Office of Environmental Health for 740 Second Street (APN 025-054-007), City Council Resolution No. 4998 – Authorizing Funding Augmentation to Environmental Remediation Group for Site Assessment Services for the Redevelopment Agency. The motion carried by the affirmative action of all City Council/Redevelopment Agency Members present.

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 THREE (3) MINUTE PRESENTATION. DETAILED GUIDELINES ARE POSTED ON THE COUNCIL CHAMBER INFORMATIONAL TABLE. STEVE HAMMOND, Los Banos, would like to speak to item 12, Consideration of Adoption of Ordinance No. 1069 – Amending and Renumbering Title 2, Chapter 2, Article 1 Los Banos Area Parks and Recreation commission, Article 2 Los Banos Planning Commission, Article 3 Los Banos Youth Assistance Commission, Article 5 Los Banos Airport Advisory Commission, Article 6 Los Banos Cultural Heritage Commission; Amending the Selection/Appointment Process, Length of Terms/Term Limits, adding that he likes the ordinance for the most part but is in objection of making it a board of seven (7) members instead of five (5) because of the issue of interested applicants, the ability to get a quorum, costs associated with additional Planning Commissioners, i.e. sending them to conferences, and how there would be five (5) new commissioners with no experience and only two (2) with experience; NORM DONOVAN, Los Banos, spoke to item 12, Consideration of Adoption of Ordinance No. 1069 – Amending and Renumbering Title 2, Chapter 2, Article 1 Los Banos Area Parks and Recreation commission, Article 2 Los Banos Planning Commission, Article 3 Los Banos Youth Assistance Commission, Article 5 Los Banos Airport Advisory Commission, Article 6 Los Banos Cultural Heritage Commission; Amending the Selection/Appointment Process, Length of Terms/Term Limits, stating that a Planning Commission of five (5) members runs more smoothly than a commission of seven (7), you can get more business done, and it is very difficult to get five (5) members to agree on something sometimes; JOHN SPEVAK, Los Banos, Member of the Los Banos Tree Committee and Parks & Recreation Commission, reminded all about the upcoming Arbor Day Celebration being held on March 7, 2008, spoke to the draft tree ordinance that the Parks & Recreation Commission is currently reviewing, and how he excited he is about the City planting 1000 trees; SANDY LEMAS, Los Banos, stated how happy she is that the recycling program has finally started, how the community recycling program will continue for one more month at the airport site with Kingsview taking over some of the recycling duties, free tax services at the WorkNet Office, and how businesses can benefit from the Enterprise Zone; RICK DAHLGREN, Los Banos, spoke regarding the California Senior Legislature and introduced Joe Cox as the Chairman of the Joints Rules Committee of the California Senior Legislature (CSL) who spoke explaining the purpose and the process of the CSL, how they deal with anything that affects seniors, March being declared “check off California Month” by Governor Schwarzenegger and encouraging all
to check line 52 on their tax returns for the CSL fund, and thanked the City Council for all their support for seniors over the years; JOHN CALDERON, Los Banos, spoke regarding the proposed community center and asked the City Council make sure that the Community Center also provide activities for young people; BEVERLY BROWN, Los Banos, would like to speak on item 8, Consideration of Approval of the Schematic Plans for the Los Banos Community Center, City Council Resolution No. 4997 – Approving the Schematic Plans for the Construction of the Community Center as Outlined in Beverly Prior Architects Schematic Plan, when it is presented; FRANCISCO VASQUEZ, Los Banos, spoke in support of a youth center being a part of the Community Center because there is a great need for the youth to have a place to go to get away from problems; KATHERINE EULEY, Los Banos, spoke to item 8, Consideration of Approval of the Schematic Plans for the Los Banos Community Center, City Council Resolution No. 4997 – Approving the Schematic Plans for the Construction of the Community Center as Outlined in Beverly Prior Architects Schematic Plan, and how she does not feel it is prudent to go forward with the Community Center at this time because of budget concerns and she feels that the proposed Community Center lacks a few essential needs and suggested that they table the item and revisit the idea and plans when we can fully build and staff the Community Center; MELVIN LITTLE, Los Banos, stated that we can't wait for the future, we need to think about the youth now not later, how the youth need something to do and we need to plan for the future; GB BLACKMON III, Los Banos, spoke regarding the SHOUT Arts Program and asked members of SHOUT to come forward and be recognized and they proceeded to sing a song; BILL MAYHEM, Los Banos, spoke to how Los Banos is growing and in support of the proposed Community Center, noting the need to preserve the cultural makeup of the City from the young to the old; MONICA ANDERSON, Los Banos, stated that she is torn with her feelings on the Community Center issue but spoke in support of the proposed Community Center and the need to no only address the young and old, but the 18-50 year olds too; LORI WILSON, Los Banos spoke in support of the proposed Community Center; ERICA DELACRUZ & ASHLEY MCELVANY, Los Banos, spoke regarding the upcoming Second Annual Fun Run being held on March 30, 2008 at Pacheco State Park with the proceeds to benefit the Dustin Hobbs and Gianni Caropreso Scholarship Funds and encouraged all to get involved; ASHLEY MCELVANY spoke regarding the “Ask Us” column in the Los Banos Enterprise that Mr. McNally’s class has been writing and encouraged the public to ask the class a question and they will find the answer and put it in their column; CHUCK ARUDA, Los Banos, thanked the City Council for serving our community, spoke in support of the proposed Community Center, and to make sure that there is a component that includes the youth; ARMOND HENDERSON, Los Banos, spoke in support of the proposed Community Center and thanked the City Council for thinking about the children; DAVE ANDERSON, Los Banos, stated that he would like to speak to item 8, Consideration of Approval of the Schematic Plans for the Los Banos Community Center, City Council Resolution No. 4997 – Approving the Schematic Plans for the Construction of the Community Center as Outlined in Beverly Prior Architects Schematic Plan, after the presentation of the item is made; JOSE SANTANA, Los Banos, spoke in support of the proposed Community Center, looks forward to having a place where the kids can hang out and have somewhere to go and to lead them in the
right direction; MIKE NEU, Los Banos, would also like to speak to item 8, Consideration of Approval of the Schematic Plans for the Los Banos Community Center, City Council Resolution No. 4997 – Approving the Schematic Plans for the Construction of the Community Center as Outlined in Beverly Prior Architects Schematic Plan, after the presentation is made. No one else came forward to speak and the public forum was closed.

CONSIDERATION OF APPROVAL OF CONSENT AGENDA. Motion by Sousa, seconded by Brooks to approve the consent agenda as follows: Minutes for the February 21, 2008 Adjourned City Council / Redevelopment Agency Meeting; Minutes for the February 28, 2008 Adjourned City Council / Redevelopment Agency Meeting; Check Register for #106065 - #106309 in the Amount of $1,130,240.20; Waiver of Business License Fee for Oasis Community Center (aka Dayspring Christian Church); City Council Resolution No. 4992 – Accepting Grant Deed and Dedication of Verona Park Basin, APN 428-272-001 (Woodside Homes); City Council Resolution No. 4993 – Amending the Fiscal Year 2007-2008 Budget by Increasing the Appropriation Limit for the General Fund Revenues by $69,301 and for the General Fund Expenditures for the Fire Department for Personnel Costs by $69,301; City Council Resolution No. 4944 – Amending the Fiscal Year 2007-2008 Budget by Increasing the Appropriation Limit for the Fire Development Impact Fee Fund for Revenues by $69,000 and for Expenditures by $69,000 for the Fire Department for Capital Outlay; City Council Resolution No. 4995 – Amending the Fiscal Year 2007-2008 Budget by Increasing the Appropriation Limit for the Fire Development Impact Fee Fund for Revenues by $90,000 and for Expenditures by $110,000 for the Fire Department for Capital Outlay; City Council Resolution No. 4996 – Amending the Fiscal Year 2007-2008 Budget by Increasing the Appropriation Limit for the Fire Development Impact Fee Fund for Expenditures by $10,000 for Capital Projects. The motion carried by the affirmative action of all City Council/Redevelopment Agency Members present.

CONSIDERATION OF APPROVAL OF THE SCHEMATIC PLANS FOR THE LOS BANOS COMMUNITY CENTER; CITY COUNCIL RESOLUTION NO. 4997 – APPROVING THE SCHEMATIC PLANS FOR THE CONSTRUCTION OF THE COMMUNITY CENTER AS OUTLINED IN BEVERLY PRIOR ARCHITECTS SCHEMATIC PLANS. Public Works Director/City Engineer Chisam presented the staff report and turned the item over the Beverly Prior Architects to provide an overall plan, which Byron Johnson proceeded to do, which included a detailed PowerPoint presentation. Mary McGrath, Beverly Prior Architects, talked about the proposed Overall Project Budget for the proposed Community Center get, stating that it is estimated to cost $12,500,000 to build Phase 1 and $5,600,000 to build Phase 2, how they plan to award pre-construction to contractor in June 2008, award GNP contract to contractor in October 2008, start construction in March 2009, with the move in date to be June 2010.

The public was invited to come forward and speak on the item. A unidentified man spoke in opposition of the community center, speaking to the portable elements of the center, the basketball court without a hardwood floor, not sure basketball games should
be going on at the same time and place as events in the grand room, the MOTT Foundation, would like to see a Fine Arts Program, and not being comfortable with the cost of the proposed Community Center; MIKE NEU, Los Banos, spoke in opposition of the proposed Community Center as presented because he feels that the fine arts programs should be addressed more than sports programs, and would like to see the gymnasium dropped as part of the proposed plan or drop the whole project; BEV BROWN, Los Banos, thanked staff for being able to review the proposed Community Center plans and the opportunity for the community to give input, she spoke in support of the proposed Community Center plans before them tonight; DAVE ANDERSON, Los Banos, spoke in support of the proposed Community Center plans, his thoughts and ideas for putting in place a funding mechanism through the Redevelopment Agency to build Phase 2; SHIRLEY NAPOLITANO, Los Banos, spoke in support of the proposed Community Center plans and feels that we should just build it and move on, we will not be able to make everyone happy; No one else came forward to speak.

There was Council Member discussion regarding

Council Member Villalta stated that he would love to see a facility that addresses the needs of a community, what he sees before him he feels does not meet the needs of the community, not sure why these plans were changed after public input, feels that we should give all an opportunity to meet and make comments on the new revisions, not comfortable with the revised plans without input from the community, would like to have another Community Center Committee meeting before approving the plans at the meeting tonight, would like to see how much this will cost to staff and maintain, what the fixed costs are, what the fees are to rent this, he does not see community – he sees a gym and dining hall, and stressed that he wants to see a Community Center that reflects the whole community not just a few. Council Member Brooks stated that if we wait it will never happen, she knows that this plan is not perfect for everyone, noting that you will make 90% of the people happy 90% of the time, how hard it is to make everyone happy, how the City Council and staff have been working on this project for 2 ½ years, and reminding everyone that there was been plenty opportunities for public input. Mayor Jones asked Redevelopment manager Post to explain what the Redevelopment Agency funds can be spent on which she provided. Mayor Jones spoke in regards to his passion for the Community Center project, a way to create something for the kids to do to keep them out of trouble, a place for the seniors to utilize also, how it will never be perfect, you do the best you can possibly do for the complete community, we need to take care of the kids, he feels this is a great project, and we need to move forward with the plans. Council Member Sousa stated that this project has been around for more than 2 ½ years, how this is one of the most positive things that a City Council could do is build a Community Center, how we have always encouraged everyone to get involved throughout the process, how we need to do this now not later, this is a benefit to the community, the Community Center will be an integral part of the downtown corridor, and how he feels we need to move forward with the plans as presented tonight. Council Member Faria stated that the Community Center plans were shown to the public on February 21, 2008 and some changes were made and the updated plans have not had the opportunity to go back to the original committee to review and comment, he feels the
kitchen is really too small, how courtyard could be shared with the grand room and
gymnasium and possibly alcohol, does not feel the design matches the old down town
Los Banos, performing arts ability is missing, need determine function to determine
structure, how much and who will run the facility, how you fail to plan if you plan to fail,
would like to table the issue to give the committee time to sign off on the revised plans
and bring back in two weeks before we spend commit to spending $12,000,000, creating
a trigger mechanism in the Redevelopment Agency for fund the construction of Phase 2,
and how he hates to see people divided by age.

Motion by Faria, seconded by Villalta to table item 8, Consideration of Approval of the
Schematic Plans for the Los Banos Community Center, City Council Resolution No.
4997 – Approving the Schematic Plans for the Construction of the Community Center as
Outlined in Beverly Prior Architects Schematic Plan so that the Community Center
Committee can review the plans and bring it back in two weeks for City Council
consideration. The motion failed by the following roll call vote: AYES: Faria, Villalta;
NOES: Brooks, Sousa, Jones; ABSENT: None.

Motion by Sousa, seconded by Brooks to adopt City Council Resolution No. 4997 –
Approving the Schematic Plans for the Construction of the Community Center as
Outlined in Beverly Prior Architects Schematic Plan as identified in Attachment 2 –
Schematic Floor Plans. The motion failed by the following roll call vote: AYES: Brooks,
Sousa, Jones Brooks; NOES: Faria, Villalta; ABSENT: None.

PUBLIC HEARING – TO DISCUSS THE FISCAL YEAR 2008-09 COMMUNITY
DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM FOR THE GENERAL
ALLOCATION AND TO SOLICIT CITIZEN INPUT. Redevelopment Manager Post
presented the staff report and asked Anna Fuentes from MCAG to give an overview of
the CDBG Program, which she provided.

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

No action taken, just an opportunity for public input.

CONSIDERATION OF APPROVAL OF A FIVE YEAR LEASE OF TEN MEDIUM DUTY
VEHICLES; CITY COUNCIL RESOLUTION NO. 4998 – AUTHORIZING THE CITY
MANAGER TO ENTER INTO A LEASE AGREEMENT APPROVED BY THE CITY
ATTORNEY, AS TO FORM, WITH ______ FOR THE PROCUREMENT OF TEN (10)
LEASED VEHICLES. Public Works Director/City Engineer Chisam presented the staff
report.

There was Council Member discussion regarding the lease price being down, the
preferred course of action being to purchase the vehicles, liking the idea of owning the
vehicles after five years, and Santos Ford being $14,000 more than Hansel Ford.
Motion by Villalta, seconded by Faria to adopt City Council Resolution No. 4998 – Authorizing the City Manager to Enter into a Lease Agreement Approved by the City Attorney, as to Form, with Santos Ford for the Procurement of Ten (10) Leased Vehicles. The motion carried by the following vote: AYES: Brooks, Faria, Villalta, Jones; NOES: Sousa; ABSENT: None.

CONSIDERATION OF APPROVAL OF A FUNDING AUGMENTATION IN THE AMOUNT OF $64,679.00 TO ENVIRONMENTAL REMEDIATION GROUP FOR ADDITIONAL SITE ASSESSMENT SERVICES AND TESTING AS REQUIRED BY THE MERCED COUNTY OFFICE OF ENVIRONMENTAL HEALTH FOR 740 SECOND STREET (APN 025-054-007); CITY COUNCIL RESOLUTION NO. 4998 – AUTHORIZING FUNDING AUGMENTATION TO ENVIRONMENTAL REMEDIATION GROUP FOR SITE ASSESSMENT SERVICES FOR THE REDEVELOPMENT AGENCY. This item was removed by motion at the beginning of the City Council Meeting.

CONSIDERATION OF THE ADOPTION OF ORDINANCE NO. 1069 – AMENDING AND RENUMBERING TITLE 2, CHAPTER 2, ARTICLE 1 LOS BANOS AREA PARKS AND RECREATION COMMISSION, ARTICLE 2 LOS BANOS PLANNING COMMISSION, ARTICLE 3 LOS BANOS YOUTH ASSISTANCE COMMISSION, ARTICLE 5 LOS BANOS AIRPORT ADVISORY COMMISSION, ARTICLE 6 LOS BANOS CULTURAL HERITAGE COMMISSION; AMENDING THE SELECTION/APPOINTMENT PROCESS, LENGTH OF TERMS/TERM LIMITS. (Second Reading & Adoption) City Attorney Vaughn presented the staff report, noting the change to increase the membership of the Planning Commission from 5 members to 7 members.

Mayor Jones invited the public to speak. NORM DONOVAN, Los Banos, spoke in opposition of increasing the Planning Commission to 7 members instead of keeping it at 5 members. He feels that a 5 member Planning Commission is more efficient.

Council Member Brooks stated that she would like to see the number on the Planning Commissioners stay at 5. Council Member Sousa says that he understands their concerns but feels that adding two members would provide for the opportunity of more involvement from the community.

Motion by Villalta, seconded by Sousa to waive the second reading of Ordinance No. 1069 – Amending and Renumbering Title 2, Chapter 2, Article 1 Los Banos Area parks and Recreation Commission, Article 2 Los Banos Planning Commission, Article 3 Los Banos Youth Assistance Commission, Article 5 Los Banos Airport Advisory Commission, Article 6 Los Banos Cultural Heritage Commission; Amending the Selection/Appointment process, Length of Terms/Term Limits. The motion carried by the following vote: AYES: Faria, Sousa, Villalta, Jones; NOES: Brooks; ABSENT: None.

Motion by Villalta, seconded by Sousa to adopt Ordinance No. 1069 – Amending and Renumbering Title 2, Chapter 2, Article 1 Los Banos Area parks and Recreation Commission, Article 2 Los Banos Planning Commission, Article 3 Los Banos Youth
Assistance Commission, Article 5 Los Banos Airport Advisory Commission, Article 6 Los Banos Cultural Heritage Commission; Amending the Selection/Appointment process, Length of Terms/Term Limits. The motion carried by the following roll call vote: AYES: Faria, Sousa, Villalta, Jones; NOES: Brooks; ABSENT: None.

**2008 SPRING CLEANUP DAY. (INFORMATIONAL ITEM ONLY)** Public Works Operations Manager Pimentel spoke to the upcoming 2008 Spring Clean Up Day being held on April 12, 2008, the new recycling program and the commercial that will was produced by City staff to begin airing on Channel 96 tomorrow, how backyard garbage pickup service will be available to those who have a disability with a note from the doctor and how senior citizens 65 years old and older can also get backyard service, this will be the first clean up day that will involve recycling, and displayed the new grebe recycling bags being distributed at City Hall.

There was Council Member discussion regarding what types of waste is recyclable and what it not, and inquired as to the status of implementing the assistance plan for those who can not afford the added costs.

**REDEVELOPMENT AGENCY UPDATE.** Redevelopment Manager Post spoke regarding the 2007 HOME Investment Partnership Program, the First Time Homebuyers Program, the next Economic Development Advisory Committee Meeting on March 10, 2008, the next Street Naming Committee on March 17, 2008, the new city banners will be going up soon downtown, and a presentation on the new Merced County Enterprise Zone by Congressman Cardoza.

**ADVISEMENT OF PUBLIC NOTICES (ONE REPORT)** Public Works Director/City Engineer Chisam reported that a Public Hearing will be held at the Planning Commission Meeting on March 12, 2008 at 7:00 p.m. to consider an amendment to the Los Banos Municipal Code regarding mobile vendors. The Ordinance amendment request would apply City-wide.

**CITY MANAGER/EXECUTIVE DIRECTOR REPORT.** City Manager Rath stated that representatives from May Day Fair have requested a meeting to discuss sponsorship of the event and he is looking for two Council Members to meet with the fair people, and Council Members Faria and Sousa stated that the would like to be at that meeting.

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

**TOM FARIA:** Spoke regarding how his father has recently become ill, the upcoming Arbor Day Event being held on March 7, 2008 and comments he has received form the public regarding unsavory individuals tormenting walkers on the rail trail and the need to make them feel safe. He requested that a committee be created to start looking into the staffing needs, program activities and financing mechanisms for the Community Center and he would also like to discuss implementing a trigger for Redevelopment Agency funding for Phase 2 of the Community Center. He stated that he feels it would be wise to adopt the updated General Plan before approving future annexations.
JOE SOUSA: Stated that his prayers are with Council Member Faria's father, Spoke regarding the upcoming Arbor Day event on March 7, 2008 at Orchard Park, how the Child Development Center is now open with an open house scheduled in the future, his recent trip to Washington, D.C. to speak to delegates regarding transportation appropriation issues and thanked Congressman Cardoza for his support and time, and the cartoon in the local newspaper last week and his feelings on annexations.

MIKE VILLALTA: Spoke regarding the photo show being held at the Ted Falasco Arts Center, the Rotary Crab Feed on April 4, 2008, how the Council Members we all have different opinions and his comments are his comments, encouraged the public to contact him if they have feedback for him, how happy he is that we will have a Community Center but would still like to see a staffing and budget plan for once its open, wanting to see the updated General Plan adopted before we annex any new land, his recent trip to Washington, D.C. to speak to delegates regarding transportation appropriation issues and thanked Congressman Cardoza for all his efforts and how very important it is that we continue to receive funds for the Los Banos Bypass we very much need with the gridlock on the highway, and reminded all about the Arbor Day event on March 7, 2008.

ANNA BROOKS: Spoke regarding the Foreclosure Workshop presented by Assemblywomen Calgiani and Congressman Cardoza and how glad she was that we were reaching out to help those in need, thanked Council Members Villalta and Sousa and staff for going to Washington, D.C. to speak to delegates regarding transportation appropriation issue, and reminded all that day light savings time begins on Sunday, March 9, 2008.

TOMMY JONES: Stated that his prayers are with Council Member Faria's father, the Child Development Center open house, the foreclosure workshop, and he handed out a copy of Roberts Rules of Order and come back with ideas to streamlining the meetings, spoke to how passionately the City Council is on their beliefs and how they all respect each other, and what a great City Council we have.

MISCELLANEOUS INFORMATION IN COUNCIL PACKET, NO ACTION NECESSARY.

ADJOURNMENT. The meeting was adjourned at the hour of 10:19 p.m.

APPROVED:

______________________________
Tommy Jones, Mayor

ATTEST:
Lucille L. Mallonee, City Clerk
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 (video, DVD and/or audiotapes) kept as a permanent record.

The following closed session items were held prior to the City Council Meeting:

CONFERENCE WITH REAL PROPERTY NEGOTIATORS: PROPERTY: APPROXIMATELY 0.796 ACRES LOCATED ON THE MERCED COUNTY SPRING FAIR FAIRGROUNDS WEST OF LOS BANOS FIRE STATION NUMBER 1; AGENCY NEGOTIATOR: CHET GUINTINI, FIRE CHIEF; NEGOTIATING PARTIES: RON BRANDT, MERCED COUNTY SPRING FAIR MANAGER; UNDER NEGOTIATION: PRICE AND TERMS OF SALE (PURSUANT TO GOVERNMENT CODE SECTION 54956.8). No action taken, advisement to staff only.

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. The Girl Scouts led the pledge of allegiance and also performed a flag ceremony prior to the call to order of the meeting.

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

STAFF MEMBERS PRESENT: City Attorney Vaughn, City Clerk/Human Resources Director Mallonee, City Manager Rath, Fire Chief Quintini, Police Chief Gallagher, Public Works Director/City Engineer Chisam, Redevelopment Manager Post, Translator Reyna, Assistant City Engineer Fachin

CONSIDERATION OF APPROVAL OF AGENDA: City Manager Rath requested that item 16, Consideration of Commission Member Appointments, Parks & Recreation Commission – One (1) Unexpired Term, Expiring December 31, 2010, Planning Commission – One (1) Unexpired Term, Expiring December 31, 2010 be pulled from the agenda.

Motion by Faria, seconded by Brooks to approve the agenda as amended, pulling item 16, Consideration of Commission Member Appointments, Parks & Recreation Commission – One (1) Unexpired Term, Expiring December 31, 2010, Planning Commission – One (1) Unexpired Term, Expiring December 31, 2010. The motion carried by the affirmative action of all City Council/Redevelopment Agency Members present.
PRESENTATION – GIRL SCOUT WEEK PROCLAMATION. Mayor Jones presented the Girl Scout Week Proclamation to the Girl Scouts in attendance.

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 THREE (3) MINUTE PRESENTATION. DETAILED GUIDELINES ARE POSTED ON THE COUNCIL CHAMBER INFORMATIONAL TABLE. NATHAN LEON spoke regarding his comments made at the February 20, 2008 City Council meeting he felt were not fully reflected in the minutes, his concerns with the issues raised in the Badger Flat Gazette and would like the Mayor to comment on the article; GENE FORTE, Los Banos, spoke regarding undisclosed loans by Mayor Jones from Mr. Hostetler as he reported in his recent Badger Flat Gazette publication, how he feels about bringing this issue forward, asked that the Mayor tender his resignation immediately, the complaint he filed with the Fair Political Practices Commission (FPPC); MIKE NEU, Los Banos, invited all to St. John's Luther Church's sunrise Easter service at the O'Neal Forebay at 7:00 a.m. and spoke regarding newly adopted ordinance regarding the commission member appointments especially as it pertains to those commissioners in office that are not appointed by the City but by Merced County and the Los Banos Unified School District, and wished all to have a nice Easter. City Attorney Vaughn stated that he will look into the concerns raised by Mr. Neu; GREG HOSTETLER, Los Banos, stated he would like to address some of the rumors being circulated around town and that he has an abundance of the facts and would make them available to the City Attorney and the Fair Political Practices Commission (FPPC) if needed, all loans to Mr. Jones were as a private citizen and while he was not in office and Mr. Jones has paid all outstanding loans as of May 12, 2004; all loans are public record, were secured, and he has the legal documents to prove that Mr. Jones has repaid all loans.

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

CONSIDERATION OF APPROVAL OF CONSENT AGENDA. Council Member Villalta stated that he will need to excuse himself from voting on item 8K, Redevelopment Agency Resolution No. 2008-02 – Approving Consultancy Agreement with RBF Consulting's Urban Design Studio to Create a Rail Corridor Specific Plan at a Cost not to exceed $145,000 due to a conflict of interest.

Motion by Brooks, seconded by Faria to remove item 8K, Redevelopment Agency Resolution No. 2008-02 – Approving Consultancy Agreement with RBF Consulting's Urban Design Studio to Create a Rail Corridor Specific Plan at a Cost not to exceed $145,000 from the consent agenda and to be voted on separately. The motion carried by the affirmative action of all City Council/Redevelopment Agency Members present.

Motion by Brooks, seconded by Sousa to approve the consent agenda as amended as follows: Motion by Sousa; seconded by Brooks to approve the consent agenda as follows: Minutes for the December 19, 2007 City Council / Redevelopment Agency
Meeting; Minutes for the February 20, 2008 City Council / Redevelopment Agency Meeting; Check Register for #106310 - #106700 in the Amount of $3,144,746.20; Waiver of Business License Fee for Day3 Church; Waiver of Business License Fee for Los Banos Ag Boosters; Waiver of Business License Fee for Los Banos Westside Youth Football Organization (aka Los Banos Wildcats); Merced County Spring Fair Street Closure Request for the Following Streets to be Closed from Monday, April 28, 2008 to Sunday, May 4, 2008: 3rd Street from E Street to D Street to North Avenue, F Street from 3rd Street to 5th Street, 4th Street from G Street to F Street.; City Council Resolution No. 5000 – Amending the Fiscal Year 2007-2008 Budget by Increasing the Appropriation Limit of the Fire Development Impact Fee Fund for Revenues by $139,154 and for Expenditures by $139,154 for the Fire Department for Capital Outlay; City Council Resolution No. 5001 – Amending the Fiscal Year 2007-2008 Budget by Increasing the Appropriation Limit for the Asset Forfeiture Fund – Expenditures for the Police Department for Capital Outlay by $35,000; City Council Resolution No. 5002 – Accepting Public Improvements for The Meadowlands Unit 3 Phase 4 with Park and Storm Basin Improvements (KB Homes); Redevelopment Agency Resolution No. 2008-02 – Approving Consultancy Agreement with RBF Consulting's Urban Design Studio to Create a Rail Corridor Specific Plan at a Cost not to exceed $145,000. The motion carried by the affirmative action of all City Council/Redevelopment Agency Members present.

Council Member Villalta left his seat at the dais and the City Council Chambers.

Motion by Faria, seconded by Sousa to adopt Redevelopment Agency Resolution No. 2008-02 – Approving Consultancy Agreement with RBF Consulting's Urban Design Studio to Create a Rail Corridor Specific Plan at a Cost not to exceed $145,000. The motion carried by the following vote: AYES: Brooks, Faria, Sousa, Jones; NOES: None; ABSENT: Villalta.

Council Member Villalta returned to the City Council Chambers and his seat at the dais.

LEAGUE OF CALIFORNIA CITIES LEGISLATIVE UPDATE – Presented by Stephen Qualls, Central Valley Regional Public Affairs Manager. Mr. Qualls presented a legislative update.

Informational item only, no action to be taken.

PUBLIC HEARING – TO DISCUSS THE FISCAL YEAR 2008-09 COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM FOR THE GENERAL ALLOCATION AND TO SOLICIT CITIZEN INPUT; CITY COUNCIL RESOLUTION NO. 5003 – APPROVING SUBMITTAL OF AN APPLICATION TO THE STATE COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM; COMMITTING LOCAL LEVERAGE; AUTHORIZING THE CITY MANAGER TO EXECUTE THE GRANT AGREEMENT AND ACT ON THE CITY'S BEHALF FOR MATTERS PERTAINING TO THIS APPLICATION; AND APPROVING THE PROGRAM GUIDELINES, RELOCATION ASSISTANCE PLAN AND PROGRAM INCOME REUSE
PLAN. Redevelopment Manager Post introduced Anna Fuentes from MCAG who presented the staff report.

There was Council Member and staff discussion regarding an what "Activity Delivery" meant in the body of the resolution, great results and comments from homeowners who have taken advantage of this grant program, how this grant funding also help fund our Child Development Center, ideas for letting people know about this grant program, putting a PowerPoint presentation on the city's website, advertising in the local newspaper, inserts in the City's utility billing, direct mailing to homeowners, and attending the Golden Agers monthly dinner to inform the senior citizen community.

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

Motion by Sousa, seconded by Villalta to adopt City Council Resolution No. 5003 - Approving Submittal of an Application to the State Community Development Block Grant (CDBG) Program; Committing Local Leverage; Authorizing the City Manager to Execute the Grant Agreement and Act on the City's Behalf for Matters Pertaining to this Application; and Approving the Program Guidelines, Relocation Assistance Plan and Program Income Reuse Plan. The motion carried by the affirmative action of all City Council/Redevelopment Agency Members present.

PUBLIC HEARING – TO RECEIVE TESTIMONY RELATING TO THE FINAL GENERAL PROGRESS REPORT ON THE CITY'S COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) FOR CONSTRUCTION OF A CHILD DEVELOPMENT CENTER. City Treasurer/Chief Financial Officer Wall presented the staff report.

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

No action to be taken, just an opportunity for public input.

CONSIDERATION OF ADOPTION OF REDEVELOPMENT AGENCY RESOLUTION NO. 2008-03 – APPROVING CONTRACT FOR SERVICES WITH MERCEDES COUNTY ASSOCIATION OF GOVERNMENTS (MCAG) FOR ADMINISTRATION OF THE $800,000 HOME GRANT. Redevelopment Manager Post presented the staff report.

Motion by Sousa, seconded by Faria to adopt Redevelopment Agency Resolution No. 2008-03 – Approving Contract for Services with Merced County Association of Governments (MCAG) for Administration of the $800,000 Home Grant. The motion carried by the affirmative action of all City Council/Redevelopment Agency Members present.

CONSIDERATION OF ADOPTION OF REDEVELOPMENT AGENCY RESOLUTION NO. 2008-04 – APPROVING SUBMITTAL OF AN APPLICATION TO THE STATE COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM AND
COMMITTING MATCHING FUNDS UP TO $12,000. Redevelopment Manager Post presented the staff report.

Motion by Brooks, seconded by Faria to adopt Redevelopment Agency Resolution No. 2008-03 – Approving Submittal of an Application to the State Community Development Block Grant (CDBG) Program and Committing Matching Funds up to $12,000. The motion carried by the affirmative action of all City Council/Redevelopment Agency Members present.

CONSIDERATION OF APPROVAL OF SITE ASSESSMENT FUNDING AUGMENTATION FOR 740 SECOND STREET; CITY COUNCIL RESOLUTION NO. 5004 – AUTHORIZING FUNDING AUGMENTATION TO ENVIRONMENTAL REMEDIATION GROUP FOR SITE ASSESSMENT SERVICES FOR THE REDEVELOPMENT AGENCY; REDEVELOPMENT AGENCY RESOLUTION NO. 2008-05 – AUTHORIZING FUNDING AUGMENTATION TO ENVIRONMENTAL REMEDIATION GROUP FOR SITE ASSESSMENT SERVICES FOR THE REDEVELOPMENT AGENCY. Redevelopment Manager Post presented the staff report.

There was Council Member and staff discussion regarding expecting to be reimbursed, if there is a chance we might not get reimbursed, and clarification on resolutions submitted for adopt and how it addresses the Los Banos Redevelopment Agency and City Council.

Motion by Sousa, seconded by Faria to adopt City Council Resolution No. 5004 – Authorizing Funding Augmentation to Environmental Remediation Group for Site Assessment Services for the Redevelopment Agency. The motion carried by the affirmative action of all City Council/Redevelopment Agency Members present.

Motion by Sousa, seconded by Faria to adopt Redevelopment Agency Resolution No. 2008-05 – Authorizing Funding Augmentation to Environmental Remediation Group for Site Assessment Services for the Redevelopment Agency. The motion carried by the affirmative action of all City Council/Redevelopment Agency Members present.

CONSIDERATION OF THE INTRODUCTION OF ORDINANCE NO. 1070 – ADDING A NEW CHAPTER 10 TO TITLE 5 OF THE LOS BANOS MUNICIPAL CODE RELATING TO HOSTING GATHERINGS OF UNDERAGE DRINKERS AND AMENDING CHAPTER 11 OF TITLE 4 RELATING TO ADMINISTRATIVE CITATIONS. (FIRST READING & INTRODUCTION) Police Chief Gallagher presented the staff report and Police Commander Brizzee gave a more detailed report, which included a PowerPoint presentation.

There was Council Member and staff discussion regarding including a provision to make the parents do something productive with the kids, like some time of school or some type of activity with the kids for eight hours, how staff will be educating the kids, actually going out to the schools to educate, getting Merced County involved because this will cause them to go outside the City limits, getting parental community service, the
responsible party is not always the parent, the fine can be reduced on the enrollment and completion of the class, these classes can be very costly, reducing the fine by the expense for the class, there should be an incentive to do the class, cutting the fine in half upon completion of the class, what happens if a violation happens outside a home, tying some community service into the ordinance to not only deter it but prevent it, and making sure it is strict enough so that is doesn’t happen,

Merced County Supervisor O'Banion spoke to the request by UC Merced to have a similar ordinance applied county-wide, but noting that it has not come back to the Board of Supervisors for additional consideration.

Motion by Faria, seconded by Brooks to continue this item, Consideration of the Introduction of Ordinance no. 1070 – Adding a New Chapter 10 to Title 5 of the Los Banos Municipal Code Relating to Hosting Gatherings of Underage Drinkers and Amending Chapter 11 of Title of Title 4 Relating to Administrative Citations. The motion carried by the affirmative action of all City Council/Redevelopment Agency Members present.

CONSIDERATION OF ADOPTION OF CITY COUNCIL RESOLUTION NO. 5005 – WAIVING COMPETITIVE BIDDING AND AUTHORIZING EXECUTION OF A SOLE SOURCE PURCHASE ORDER WITH SOLAR BEE TO PROVIDE AND INSTALL 20 SOLAR MIXING UNITS PER PHASE 1 OF LOS BANOS WASTEWATER STRATEGIC PLAN. Public Works Director/City Engineer Chisam presented the staff report.

Motion by Brooks, seconded by Villalta, to adopt City Council Resolution No. 5005 – Waiving Competitive Bidding and Authorizing Execution of a Sole Source Purchase Order with Solar Bee to Provide and Install 20 Solar Mixing Units per Phase 1 of the Los Banos Wastewater Strategic Plan. The motion carried by the affirmative action of all City Council/Redevelopment Agency Members present.

CONSIDERATION OF COMMISSION MEMBER APPOINTMENTS; PARKS & RECREATION COMMISSION – ONE (1) UNEXPIRED TERM, EXPIRING DECEMBER 31, 2010; PLANNING COMMISSION – ONE (1) UNEXPIRED TERM, EXPIRING DECEMBER 31, 2010. This item was removed from the agenda at the beginning of the meeting.

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 FARIA FOR STAFF TO RESEARCH A WAY TO CREATE A REDEVELOPMENT AGENCY FUNDING TRIGGER FOR PHASE 2 OF THE COMMUNITY CENTER PROJECT. Council Member Faria spoke regarding his request.
There was Council Member discussion regarding an annexation fee that would be split into categories with 25% going directly into a Community Center fund for Phase 2 of the Community Center, wanting to make sure the who facility gets built, waiting to consider this until we have the annexation fee discussion, with the economy the way it is we may get more done on Phase 1 and be able to start on Phase 2 of the Community Center, and not wanting to restrict it just to the Redevelopment Agency funding.

Motion by Faria, seconded by Sousa to table this item, Consider Request from Council Member Faria for Staff to Research a Way to Create a Redevelopment Agency Funding Trigger for Phase 2 of the Community Center Project, until the annexation fee comes before the City Council for discussion and consideration. The motion carried by the affirmative action of all City Council/Redevelopment Agency Members present.

CONSIDER REQUEST FROM COUNCIL MEMBER FARIA FOR STAFF TO CREATE AN OPERATIONS/STAFFING/PROGRAM PLAN FOR THE COMMUNITY CENTER PROJECT. Council Member Faria spoke regarding his request and wanting to see a committee created to come up with a plan.

There was Council Member discussion regarding wanting to see hard numbers on the project, staffing, and costs for ongoing maintenance because we will need to plan for it in the budget, wanting to table this item because we have already done a needs assessment and we do not know what the final configuration will be and what parts of Phase 2 might be included.

City Manager Rath stated that staff will be bringing design back to the City Council for approval, the consultant is working on facility design and, using current estimates for future budgets, will need to budget for six (6) months of maintenance of operations in the Fiscal Year 2009/2010 budget, current Parks & Recreation staff will move into the Community Center building, staff will look into the programming aspect, Parks & Recreation staff is doing an analysis of all recreational activities to see which programs are self supporting and try to get them to be self supporting, plans for the Community Center to open June 2010, and ideas for partnering with other agencies to offer programming services.

There was additional Council Member discussion regarding how staff is already planning and calculating numbers to be included in the 2010/2011 fiscal year budget, putting a more concrete amount to put away in the budget, and looking at energy savings costs.

Motion by Sousa, second by Faria to table this item, Consider Request from Council Member Faria for Staff to Create an Operations/Staffing/Program Plan for the Community Center Project. The motion carried by the affirmative action of all City Council/Redevelopment Agency Members present.

REDEVELOPMENT AGENCY UPDATE. Redevelopment Manager Post stated that the City is again the owners of the US Land & Cattle building on 6th Street and she will bring
back to the City Council at a future meeting a Request for Proposals for the building. She spoke regarding the recent Street Naming Committee meeting and updated list of names, the recent Economic Development Committee meeting and how staff will be putting together a pamphlet to showcase Los Banos, she will be attending a MCEDCO event in Merced on March 25, 2008, and the upcoming workshop to be held on May 8, 2008.

**ADVISEMENT OF PUBLIC NOTICES (THREE REPORT)** Public Works Director/City Engineer Chisam reported that a public hearing will he held to consider a Vesting Tentative Tract Map for Canal Farm Court on Canal Farm Lane. The 3.7 acre site is located on Canal Farm Lane, west of Miller Lane, east of Jeffrey Road, and north of Pacheco Boulevard; APN 428-150-001 and 428-150-002.

Public Works Director/City Engineer Chisam reported that a public hearing will be held to consider a Use Permit for a Type 41 alcohol license in conjunction with a restaurant located at 265 Mercey Springs Road, Suite J, APN 025-121-012.

Public Works Director/City Engineer Chisam reported that a public hearing will be held to consider allowing a size variance for exterior wall signage at the Pacheco Retail Center. The project site is located at 1060 Pacheco Boulevard, APN 026-132-015.

**CITY MANAGER/EXECUTIVE DIRECTOR REPORT.** No report

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

**JOE SOUSA:** Stated that he recently attended the Henry Miller Ag Days where 4H members were showing their projects and thanked the principal for that, attending a St. Patrick’s Day dinner at the senior community east of town which was very enjoyable; attended the Child Development Center Ribbon Cutting event and was very proud to see the kids occupying the facility and how proud he is that it is named Martin Luther King Jr. Child Development Center; how great the Arbor Day event was; he attended the recent Parks & Recreation Commission meeting and it was noted that they are planting 1000 trees in the community; congratulated the Girl Scouts on their proclamation and recognition tonight; spoke regarding the park basin that was approved earlier on the consent agenda; and spoke to the Department Operational Objectives packets from the city manager on all the projects the different departments are working on he thanked staff for all heir hard work.

**MIKE VILLALTA:** Stated that he was honored to attend the Child Development Center Ribbon Cutting event and thanked all involved, he is so happy to have a paperless agenda and encouraged all to try the paperless agenda; encouraged all to please call the Police Department if you see vandalism in our parks; how he would like to meet with City staff to discuss the sign ordinance and to see what is enforced and what is not enforced and to look at ways to make it clear to everyone, Council Member Brooks stated that she would like to be involved; the St. John’s Sunrise Easter Service being held at the Forebay next to the boat dock at 7:00 a.m.; the Rotary Crab Feed
being held on April 4, 2008; hoped everyone will have a nice Easter; and to his daughter to take care of herself, as he and wife are we are going to be grandparents.

**ANNA BROOKS:** Stated how she looks forward to being involved in the discussion and review of the sign ordinance; how she was invited as a guest to the recent Rotary lunch meeting; how she loves the paperless agenda too; thanked the Girl Scouts for the cookies they handed out tonight; how great the Arbor Day event was; thanked staff for the new “doggie clean up” area and inquired as to if we could add more garbage cans so people do not have to carry their waste too long for the next garbage can.

**TOMMY JONES:** Spoke regarding the History Club fundraiser being held at Los Banos High School and encouraged all to participate; thanked the Girl Scouts for the cookies tonight; spoke regarding the upcoming foreclosure workshops being held on April 19, 2008 and May 3, 2008 here in Los Banos; he read from a prepared statement regarding home equity loans he received from Greg and Cathy Hostetler while he was a private citizen; when he accepted the loans he had no idea he would one day become Mayor; he thanked his wife for all her support, he continues to serve because it is the right thing to do, he stated that he has always done what is the right thing for the community and he will continued to try to do what is right, how he loves this town and this country.

**TOM FARIA:** Spoke regarding the upcoming Knights of Columbus linguicia & bean dinner being held on April 13, 2008; how he received a poem from Pasquale Mandivi after he heard that Mr. Faria’s father is ill; the Child Development Center Ribbon Cutting ceremony and how the choir also performed; the Arbor Day event was a beautiful event and thanked SHOUT for singing; the recent Street Naming Committee meeting and the importance of placing the right name with the right location; the sign ordinance review; God bless Michelle Villalanta and her new baby, and a happy Easter everybody.

**MISCELLANEOUS INFORMATION IN COUNCIL PACKET, NO ACTION NECESSARY.**

**ADJOURNMENT.** The meeting was adjourned at the hour of 9:38 p.m.

APPROVED:

_____________________________
Tommy Jones, Mayor

ATTEST:

_____________________________
Lucille L. Mallonee, City Clerk
CALL TO ORDER: Mayor Jones called the City Council Meeting to order at the hour of 3:35 p.m.

PLEDGE OF ALLEGIANCE. The pledge of allegiance was recited.

ROLL CALL – MEMBERS OF THE CITY COUNCIL PRESENT: Council Members Brooks, Faria Sousa, Villalta (left at 4:28 p.m.) and Mayor Jones; ABSENT: Council Member Sousa

CONSIDERATION OF APPROVAL OF AGENDA. Motion by Villalta, seconded by Faria to approve the agenda as submitted. The motion carried by the affirmative action of all Council Members present, Sousa absent.

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 THREE (3) MINUTE PRESENTATION. DETAILED GUIDELINES ARE POSTED ON THE COUNCIL CHAMBER INFORMATIONAL TABLE. No one came forward to speak and the public forum was closed.

GEOGRAPHICAL INFORMATION SYSTEM (GIS) WEBINAR PRESENTED BY DIGITAL MAPS PRODUCTS. No action taken, informational item only.

ADJOURNMENT. The meeting was adjourned at the hour of 5:00 p.m.

APPROVED:

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Tommy Jones, Mayor

ATTEST:

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Lucille L. Mallonee, City Clerk
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**FINAL REPORT** 00294 CHECKS TO 00294 VENDORS FOR 894520.71
REPORT DATE 04/07/2008
SYSTEM DATE 04/07/2008
FILES ID  B

ERRORS DETECTED:  0

END OF REPORT
Agenda Staff Report

TO: Mayor and City Council Members
FROM: Steve Hath, City Manager
DATE: April 2, 2008
SUBJECT: 2008 Sponsorship for the Merced County Spring Fair – Los Banos
TYPE OF REPORT: Consent Agenda

Recommendation:
Approve the sponsorship.

Discussion:
Staff has met with representatives from the Merced County Spring Fair – Los Banos to discuss their request for City sponsorship of the upcoming fair event.

Fiscal Impact:
The cost of the City Sponsorship would be $10,000 and be allocated out of the Community Promotion, 100-410400-259, for Fiscal Year 2007/2008.

Reviewed By:

Melinda J. Wall, Chief Financial Officer

Attachments:
Sponsorship Invoice
Sponsorship Invoice

Bill to: City of Los Banos
520 J Street
Los Banos, CA 93635
Attn: Steve Rath

Date: March 27, 2008

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TOTAL AMOUNT DUE: $ 10,000.00

THANK YOU FOR YOUR SUPPORT OF THE
MERCED COUNTY SPRING FAIR

RECEIVED
CITY OF LOS BANOS
MAR 28 2008

☐ CC ☐ 7S ☐ MGR
☐ PD ☐ PW ☐ CLK
☐ FD ☐ FIN ☐ ATY
☐ PLN ☐ HR ☐ FILE
☐ FOLLOW UP
To: Los Banos City Council

From: Negotiating Committee

Date: April 8, 2008

RE: City Manager Salary Negotiations

As per the direction of the Los Banos City Council, the salary negotiating committee consisting of Mayor Jones and Mayor Pro Tem Sousa has concluded its assigned task.

The committee reached agreement with City Manager Steve Rath, having to do with salary increase. It was agreed that the salary for the City Manager should be increased to $13,250.00 per month and that the proposed increase would be retro active to January 1, 2008.

Submitted by: Los Banos City Council
Negotiating Committee

[Signatures]

Tommy Jones, Mayor

Joe H. Sousa, Mayor Pro Tem
TO: Honorable Mayor & City Council Members
FROM: Stacy Souza, Assistant Planner
DATE: April 16, 2008
SUBJECT: Waiver of Business License Fee for TSI – Total Self Insight, Inc.

TYPE OF REPORT: Consent Agenda

Recommendation:
That the City Council waive the business license fee for TSI – Total Self Insight, Inc. so they may open a domestic violence treatment center, and direct staff to issue the business license.

Discussion:
TSI – Total Self Insight, Inc. has applied for a business license with the City of Los Banos. Their functions are going to remain the same, and will be serving the community as a domestic violence treatment center. They are requesting that the City Council waive the business license fee for the treatment center, due to their non-profit status.

Attachments:
Business License Application (Attachment 1)
TSI – Total Self Insight, Inc. Request Letter (Attachment 2)
Non-Profit Status 501 (c) (3) (Attachment 3)
BUSINESS LICENSE APPLICATION
520 J Street Los Banos, CA 93635 – Main Phone (209) 827-7000 Ext. 149

Anticipated Start Date: 4-7-08

BUSINESS: (Type or Legible Printing) Forms must be filled out completely.

Business Name: TSI - Total Self Insight, Inc
(If a fictitious name is used, attach a copy of the Fictitious Name Statement)

Business Location: 702 J Street City/State/Zip: Los Banos, CA 93635
(Physical address is required. No PO Boxes)

Mailing Address: (only if different from above): 1525 Nest Main

City/State/Zip: Merced, CA 95340

Facsimile: (209) 384-7606 Business Telephone: (209) 384-3988 Cellular: (209) 499-520

Web: www.totalsefinsight.org E-mail: tsi@clearwire.net

(Check one) □ Sole Proprietor □ Partnership □ Limited Liability □ Corporation □ Trust

BUSINESS OWNER INFORMATION:

Name/Title: ____________________________
Address: ____________________________
City/State/Zip: ____________________________
Facsimile: (____) __________________ Telephone: (____) __________________ Cellular (____): __________________

SSN: __________________

PROPERTY OWNER INFORMATION (information/signature is required, if different from Business Owner):

Name: Drew Neugauer
Address: P.O. Box 1351 City/State/Zip: San Juan Bautista (CA 95045
Telephone: (831) 628-8007

NOTE: All new, relocated or altered (structurally expanded) Business License requests require inspection, prior to license issuance.

IDENTIFICATION: (list all that apply)

Resale: ND Other: N/A

Contractor's: Class: N/A License No: N/A Date of Expiration: N/A

DRE License No. N/A Date of Expiration: ______
BEAR No. N/A Date of Expiration: ______

□ I am an owner/operator (no employees); or
□ I have employees and understand that valid Worker's Compensation is required prior to conducting business/work.

ABC License: Class ______ License No. ______ Date of Expiration: ______

Other: (License of: Bureau of Auto Repair/Health/Doctor/Dentist, ect.): N/A

I HEREBY CERTIFY UNDER PENALTY OF PERJURY THAT THE ABOVE INFORMATION IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

Print Name/Title ____________________________
Signature ____________________________
Date 4/14/08
OFFICIAL USE ONLY

THE CITY OF LOS BANOS IS A REGULATORY MUNICIPALITY (3-1.1201). THE FOLLOWING DEPARTMENTS/AGENCIES HAVE BEEN NOTIFIED OF THE APPLICANTS INTENTION TO CONDUCT BUSINESS AT THE STATED ADDRESS. THE FOLLOWING MUST BE COMPLETED PRIOR TO ISSUING A BUSINESS LICENSE.

NOTE: Depending upon the type of License request, additional Department and/or Agency approvals may be necessary.

PLANNING DEPARTMENT:
Zone: [ ] Use Permitted [ ] Use NOT Permitted
[ ] Use requires PRIOR approval of: ____________________________
[ ] Redevelopment Project Area: ____________________________

Title ____________________________ Signature ____________________________ Date __________

FIRE DEPARTMENT:
The business, site and fire related building issues described in this application have been inspected and conform to Fire Regulations: [ ] Yes [ ] No
Conditions: _______________________________________________________________________

Title ____________________________ Signature ____________________________ Date __________

POLICE DEPARTMENT:
It is recommended that a Business License be issued to the applicant named on the reverse. [ ] Yes [ ] No

Title ____________________________ Signature ____________________________ Date __________

HEALTH DEPARTMENT:
The business described in this application has been inspected and [ ] meets or [ ] does not meet all requirements for the business uses listed on the reverse.

Title ____________________________ Signature ____________________________ Date __________

BUILDING DEPARTMENT:
[ ] The building(s) do not include tenant improvements.

[ ] All tenant improvements have been permitted, inspected and conform to building, electrical, plumbing, gas and applicable building code requirements.

Title ____________________________ Signature ____________________________ Date __________

CODE ENFORCEMENT:
The above comments, Municipal and applicable State and Federal Codes have been investigated.
[ ] The requested Business License is Approved;
[ ] or Code violations and/or department/agency approvals are outstanding and the license is Denied.
Conditions of approval/or reasons for denial are as follows:
____________________________________________________________________________________
____________________________________________________________________________________
____________________________________________________________________________________

Title ____________________________ Signature ____________________________ Date __________

NAICS CODE: ______________________ DESCRIPTION: __________________________

ADMINISTRATIVE FEE: $ ______ REC #: __________ [ ] Check # ______ [ ] Cash

BUSINESS LICENSE FEE: $ ______ REC #: __________ [ ] Check # ______ [ ] Cash
BUSINESS LICENSE OPERATIONAL STATEMENT

It is important that the operational statement provides for a complete understanding of your business.

1. Please provide the following information:
   Applicant(s) Name(s): Valerie Anthony
   Business Name: TSI - Total Self Insight, Inc
   Address: 702 J Street
   Los Banos, CA
   Phone Number(s): 209-384-3988

2. What is the existing use of the property?
   Bottom floor - real estate office

3. What is the size of the property?
   500 sq. ft

4. Describe the nature of the proposed business.
   Provide batterer's treatment program
   Domestic violence services

5. Will products be produced by the business? Yes ☐ No X
   Will they be produced on site or at some other location? N/A
BUSINESS LICENSE OPERATIONAL STATEMENT

6. What are the proposed hours of operation?
   Months (if seasonal): 
   Days per week: Tues - Sat
   Hours: From: Noon To: 8:30 pm
   Total hours per day: 7 - 8

7. Will there be any employees?  ☑ Yes  ☐ No
   If so, how many?  Full-Time:  Part-Time: 2

8. What equipment, materials, or supplies will be used and how will they be stored?
   Normal Office equipment - Telephone,
   Fax, Office Supplies

9. Estimate the number of vehicle trips per day that will be generated by the proposed business.

<table>
<thead>
<tr>
<th></th>
<th>Trips Per Day</th>
</tr>
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<tbody>
<tr>
<td>Customer Traffic</td>
<td>3 - 5</td>
</tr>
<tr>
<td>Service Vehicle (UPS/Delivery, etc)</td>
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</tbody>
</table>

I HEREBY CERTIFY UNDER PENALTY OF PERJURY THAT THE ABOVE INFORMATION IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

Signature: [Signature]
Date: 4/4/08
April 4, 2008

Request Waiver for Business License Fee

TO: City Council of Los Banos

TSI – Total Self Insight, Inc. is a 501 (c) 3 organization that provides a court/probation approved domestic violence batterer's treatment program for Merced County. We are expanding our services to cover the Los Banos area and respectfully request a waiver of the business license fee. See attached verification of our tax exempt status.

Respectfully submitted,

Valerie Anthony, MA
Executive Director
Dear Applicant:

Our letter dated September 2003, stated you would be exempt from Federal income tax under section 501(c)(3) of the Internal Revenue Code, and you would be treated as a public charity, rather than as a private foundation, during an advance ruling period.

Based on the information you submitted, you are classified as a public charity under the Code section listed in the heading of this letter. Since your exempt status was not under consideration, you continue to be classified as an organization exempt from Federal income tax under section 501(c)(3) of the Code.

Publication 557, Tax-Exempt Status for Your Organization, provides detailed information about your rights and responsibilities as an exempt organization. You may request a copy by calling the toll-free number for forms, (800) 829-3676. Information is also available on our Internet Web Site at www.irs.gov.

If you have general questions about exempt organizations, please call our toll-free number shown in the heading.

Please keep this letter in your permanent records.

Sincerely yours,

Robert Choi
Director, Exempt Organizations Rulings and Agreements
Dear Applicant:

Based on information you supplied, and assuming your operations will be as stated in your application for recognition of exemption, we have determined you are exempt from federal income tax under section 501(a) of the Internal Revenue Code as an organization described in section 501(c)(3).

Because you are a newly created organization, we are not now making a final determination of your foundation status under section 509(a) of the Code. However, we have determined that you can reasonably expect to be a publicly supported organization described in section 509(a)(2).

Accordingly, during an advance ruling period you will be treated as a publicly supported organization, and not as a private foundation. This advance ruling period begins and ends on the dates shown above.

Within 90 days after the end of your advance ruling period, you must send us the information needed to determine whether you have met the requirements of the applicable support test during the advance ruling period. If you establish that you have been a publicly supported organization, we will classify you as a section 509(a)(1) or 509(a)(2) organization as long as you continue to meet the requirements of the applicable support test. If you do not meet the public support requirements during the advance ruling period, we will classify you as a private foundation for future periods. Also, if we classify you as a private foundation, we will treat you as a private foundation from your beginning date for purposes of section 507(d) and 4940.

Grantors and contributors may rely on our determination that you are not a private foundation until 90 days after the end of your advance ruling period. If you send us the required information within the 90 days, grantors and contributors may continue to rely on the advance determination until we make
a final determination of your foundation status.

If we publish a notice in the Internal Revenue Bulletin stating that we will no longer treat you as a publicly supported organization, grantors and contributors may not rely on this determination after the date we publish the notice. In addition, if you lose your status as a publicly supported organization, and a grantor or contributor was responsible for, or was aware of, the act or failure to act, that resulted in your loss of such status, that person may not rely on this determination from the date of the act or failure to act. Also, if a grantor or contributor learned that we had given notice that you would be removed from classification as a publicly supported organization, then that person may not rely on this determination as of the date he or she acquired such knowledge.

If you change your sources of support, your purposes, character, or method of operation, please let us know so we can consider the effect of the change on your exempt status and foundation status. If you amend your organizational document or bylaws, please send us a copy of the amended document or bylaws. Also, let us know all changes in your name or address.

As of January 1, 1964, you are liable for social security taxes under the Federal Insurance Contributions Act on amounts of $100 or more you pay to each of your employees during a calendar year. You are not liable for the tax imposed under the Federal Unemployment Tax Act (FUTA).

Organizations that are not private foundations are not subject to the private foundation excise taxes under chapter 42 of the Internal Revenue Code. However, you are not automatically exempt from other federal excise taxes. If you have any questions about excise, employment, or other federal taxes, please let us know.

Donors may deduct contributions to you as provided in section 170 of the Internal Revenue Code. Bequests, legacies, devises, transfers, or gifts to you or for your use are deductible for Federal estate and gift tax purposes if they meet the applicable provisions of sections 2055, 2106, and 222 of the code.

Donors may deduct contributions to you only to the extent that their contributions are gifts, with no consideration received. Ticket purchases and similar payments in conjunction with fundraising events may not necessarily qualify as deductible contributions, depending on the circumstances. Revenue Ruling 67-240, published in Cumulative Bulletin 1967-2, on page 104, gives guidelines regarding when taxpayers may deduct payments for admission to, or other participation in, fundraising activities for charity.

You are not required to file Form 990, Return of Organization Exempt From Income Tax, if your gross receipts each year are normally $25,000 or less. If you receive a Form 990 package in the mail, simply attach the label provided. Check the box in the heading to indicate that your annual gross receipts are normally $25,000 or less, and sign the return. Because you will be treated as a public charity for return filing purposes during your entire advance ruling period, you should file Form 990 for each year in your advance ruling period.
THI TOLL SELL INSGHT

If a return is required, it must be filed by the 15th day of the fifth month after the end of your annual accounting period. A penalty of $20 a day is charged when a return is filed late, unless there is reasonable cause for the delay. However, the maximum penalty charged cannot exceed $10,000 or 5 percent of your gross receipts for the year, whichever is less. For organizations with gross receipts exceeding $1,000,000 in any year, the penalty is $100 per day per return, unless there is reasonable cause for the delay. The maximum penalty for an organization with gross receipts exceeding $1,000,000 shall not exceed $50,000. This penalty may also be charged if a return is not complete. So, please be sure your return is complete before you file it.

You are not required to file federal income tax returns unless you are subject to the tax on unrelated business income under section 511 of the Code. If you are subject to this tax, you must file an income tax return on Form 990-T, Exempt Organization Business Income Tax Return. In this letter we are not determining whether any of your present or proposed activities are unrelated trade or business as defined in section 513 of the Code.

You are required to make your annual information return, Form 990 or Form 990-EZ, available for public inspection for three years after the later of the due date of the return or the date the return is filed. You are also required to make available for public inspection your exemption application, any supporting documents, and your exemption letter. Copies of these documents are also required to be provided to any individual upon written or in person request without charge other than reasonable fees for copying and postage. You may fulfill this requirement by placing these documents on the Internet. Penalties may be imposed for failure to comply with these requirements. Additional information is available in Publication 557, Tax-Exempt Status for Your Organization, or you may call our toll free number shown above.

You need an employer identification number even if you have no employees. If an employer identification number was not entered on your application, we will assign a number to you and advise you of it. Please use that number on all returns you file and in all correspondence with the Internal Revenue Service.

If we said in the heading of this letter that an addendum applies, the addendum enclosed in an integral part of this letter.

Because this letter could help us resolve any questions about your exempt status and foundation status, you should keep it in your permanent records.

We have sent a copy of this letter to your representative as indicated in your power of attorney.
July 17, 2007

TSI - TOTAL SELF INSIGHT
VALERIE ANTHONY
1575 W MAIN ST
MERCED CA 95340-4415

Purpose : CHARITABLE
Code Section : 23701d
Form of Organization : Corporation
Accounting Period Ending: June 30
Organization Number : 2477189

You are exempt from state franchise or income tax under the section of the Revenue and Taxation Code indicated above.

This decision is based on information you submitted and assumes that your present operations continue unchanged or conform to those proposed in your application. Any change in operation, character, or purpose of the organization must be reported immediately to this office so that we may determine the effect on your exempt status. Any change of name or address must also be reported.

In the event of a change in relevant statutory, administrative, judicial case law, a change in federal interpretation of federal law in cases where our opinion is based upon such an interpretation, or a change in the material facts or circumstances relating to your application upon which this opinion is based, this opinion may no longer be applicable. It is your responsibility to be aware of these changes should they occur. This paragraph constitutes written advice, other than a chief counsel ruling, within the meaning of Revenue and Taxation Code Section 21012(a)(2).

You may be required to file Form 199 (Exempt Organization Annual Information Return) on or before the 15th day of the 5th month (4 1/2 months) after the close of your accounting period. Please see annual instructions with forms for requirements.

You are not required to file state franchise or income tax returns unless you have income subject to the unrelated business income tax
under Section 23731 of the Code. In this event, you are required to file Form 109 (Exempt Organization Business Income Tax Return) by the 15th day of the 5th month (4 1/2 months) after the close of your annual accounting period.

Please note that an exemption from federal income or other taxes and other state taxes requires separate applications.

A copy of this letter has been sent to the Registry of Charitable Trusts.

J AMAYA
EXEMPT ORGANIZATIONS
BUSINESS ENTITIES SECTION
TELEPHONE (916) 845-6644
FAX NUMBER (916) 843-2071

EO:
Agenda Staff Report

TO: Honorable Mayor & City Council Members

FROM: Stacy Souza, Assistant Planner

DATE: April 16, 2008

SUBJECT: Waiver of Business License Fee for Calvary Baptist Church

TYPE OF REPORT: Consent Agenda

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Recommendation:
That the City Council waive the business license fee for Calvary Baptist Church so they may obtain a temporary sales business license to operate a fireworks stand.

Discussion:
Calvary Baptist Church has applied for a business license with the City of Los Banos. Their functions are going to remain the same, and will be serving the community as a church. They are requesting that the City Council waive the business license fee for the church, due to their non-profit status.

Attachments:
Business License Application (Attachment 1)
Calvary Baptist Church Request Letter (Attachment 2)
Receipt (Attachment 3)
Exemption From Franchise Tax (Attachment 4)
Temporary Seller's Permit (Attachment 5)
BUSINESS LICENSE APPLICATION
520 J Street Los Banos, CA 93635 – Main Phone (209) 827-7000 Ext. 149

Anticipated Start Date: 6/28/08

BUSINESS: (Type or Legible Printing) Forms must be filled out completely.
Business Name: Calvary Baptist Church
Business Location: 302 W. K Street City/State/Zip: Los Banos CA 93635

Mailing Address: (only if different from above):
City/State/Zip:
Facsimile: Business Telephone: (209) 826-3682 Cellular: (209) 704-4841
Web:

BUSINESS OWNER INFORMATION:
Name/Title: Jamie Haag - Administrative Assistant
Address: 302 W. K Street Los Banos CA 93635
Facsimile: ( ) Telephone: (209) 826-3682 Cellular: (209) 704-4841
SSN:

PROPERTY OWNER INFORMATION (information/signature is required, if different from Business Owner):
Name: Calvary Baptist Church
Address: 302 W. K Street City/State/Zip: Los Banos CA 93635
Telephone: (209) 826-3682

NOTE: All new, relocated or altered (structurally expanded) Business License requests require inspection, prior to license issuance.

IDENTIFICATION: (list all that apply)
Resale: SRKH 1018S206 Other:
Contractor's: Class: License No: Date of Expiration:
DRE License No. Date of Expiration:
BEAR No. Date of Expiration:

☐ I am an owner/operator (no employees); or
☐ I have employees and understand that valid Worker's Compensation is required prior to conducting business/work.

ABC License: Class License No. Date of Expiration:
Other: (License of: Bureau of Auto Repair/Health/Doctor/Dentist, ect.):

I HEREBY CERTIFY UNDER PENALTY OF PERJURY THAT THE ABOVE INFORMATION IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

Print Name/Title
Signature
Date
OFFICIAL USE ONLY

THE CITY OF LOS BANOS IS A REGULATORY MUNICIPALITY (3-1.1201). THE FOLLOWING DEPARTMENTS/AGENCIES HAVE BEEN NOTIFIED OF THE APPLICANTS INTENTION TO CONDUCT BUSINESS AT THE STATED ADDRESS. THE FOLLOWING MUST BE COMPLETED PRIOR TO ISSUING A BUSINESS LICENSE.

NOTE: Depending upon the type of License request, additional Department and/or Agency approvals may be necessary.

PLANNING DEPARTMENT:
Zone: □ Use Permitted ☐ Use NOT Permitted
☐ Use requires PRIOR approval of: ____________________________
☐ Redevelopment Project Area: ____________________________

Title ____________________________ Signature ____________________________ Date _____________

FIRE DEPARTMENT:
The business, site and fire related building issues described in this application have been inspected and conform to Fire Regulations: ☐ Yes ☐ No
Conditions: ____________________________

Title ____________________________ Signature ____________________________ Date _____________

POLICE DEPARTMENT:
It is recommended that a Business License be issued to the applicant named on the reverse. ☐ Yes ☐ No

Title ____________________________ Signature ____________________________ Date _____________

HEALTH DEPARTMENT:
The business described in this application has been inspected and ☐ meets or ☐ does not meet all requirements for the business uses listed on the reverse.

Title ____________________________ Signature ____________________________ Date _____________

BUILDING DEPARTMENT:
☐ The building(s) do not include tenant improvements.
☐ All tenant improvements have been permitted, inspected and conform to building, electrical, plumbing, gas and applicable building code requirements.

Title ____________________________ Signature ____________________________ Date _____________

CODE ENFORCEMENT:
The above comments, Municipal and applicable State and Federal Codes have been investigated. ☐ The requested Business License is Approved;
☐ or Code violations and/or department /agency approvals are outstanding and the license is Denied.
Conditions of approval/or reasons for denial are as follows:

Title ____________________________ Signature ____________________________ Date _____________

NAICS CODE: 413990 DESCRIPTION: Fireworks Sales - Temporary

ADMINISTRATIVE FEE: $ ____________________________ REC #: ____________________________ ☐ Check # ____________________________ ☐ Cash

BUSINESS LICENSE FEE: $ ____________________________ REC #: 00520559 FIN # ____________________________ ☐ Check # ____________________________ ☐ Cash
COMMUNITY DEVELOPMENT DEPARTMENT

- 520 J Street
- Los Banos CA 93635
- Phone: (209) 827-7000 Ext 149
- Fax: (209) 827-7006

BUSINESS LICENSE OPERATIONAL STATEMENT

It is important that the operational statement provides for a complete understanding of your business.

1. Please provide the following information:
   Applicant(s) Name(s): Jamie Haug
   Business Name: Calvary Baptist Church
   Address: 302 W. "K" St.
   Los Banos, CA 93635
   Phone Number(s): 209-826-3682

2. What is the existing use of the property?
   Vacant lot

3. What is the size of the property?
   0.50 acres

4. Describe the nature of the proposed business.
   Fireworks

5. Will products be produced by the business?  □ Yes  □ No
   Will they be produced on site or at some other location?
   No

(OVER)
6. What are the proposed hours of operation?
   - Months (if seasonal): 10/28 - 7/4/08
   - Days per week: 7
   - Hours: From: 8 a.m. To: 8 p.m.
   - Total hours per day: 12

7. Will there be any employees?  □ Yes  □ No
   If so, how many? Full-Time: ______ Part-Time: ______

8. What equipment, materials, or supplies will be used and how will they be stored?
   N/A

9. Estimate the number of vehicle trips per day that will be generated by the proposed business.

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<td>Service Vehicle (UPS/Delivery, etc)</td>
<td>2</td>
</tr>
</tbody>
</table>

I HEREBY CERTIFY UNDER PENALTY OF PERJURY THAT THE ABOVE INFORMATION IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

[Signature]  
[Date] 3/30/08
March 31, 2008

TO THE LOS BANOS CITY COUNCIL:

Re: Business License Fee of $75.00

Dear Council Members:

This letter is to request reimbursement of the $75.00 business license fee paid to obtain a business license for the sale of fireworks. The fee was paid on March 31, 2008, on behalf of Calvary Baptist Church. Attached is a copy of the receipt for the fee.

Thank you for your attention to this matter.

Sincerely,

JAMIE HAUG,
Administrative Assistant
CITY OF LOS BANOS
520 J STREET
LOS BANOS, CA 93635

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CALVARY BAPTIST CHURCH
NEW BUS LIC
202 NEW K STREET
LOS BANOS, CA 93635
STATE OF CALIFORNIA
OFFICE OF
Franchise Tax Commissioner
SACRAMENTO 14

June 21, 1949

Calvary Baptist Church of
Los Banos, California
o/o Marshall J. Rowe
Rt. 1, Box 461
Los Banos, California

Gentlemen:

RE: Exemption From Franchise Tax

The claim submitted by your organization for exemption from taxation under the Bank and Corporation Franchise Tax Act is approved. Annual franchise tax returns need not be filed unless the character of the organization, its purposes, methods of operation, sources of income, or methods of distribution of its income, be changed. Changes in any of these particulars must be reported promptly to this department.

Very truly yours

CHAS. J. McCOLGAN
Franchise Tax Commissioner

By
Milton A. Hunt
Associate Tax Counsel

MAH:no
cc - Sec. of State
cc - Russell
CALIFORNIA STATE BOARD OF EQUALIZATION

TEMPORARY SELLER'S PERMIT
Valid 6/28/2008 through 7/5/2008

ACCOUNT NUMBER
SR KH 101-058206

CALVARY BAPTIST CHURCH
1420 E PACHECO BLVD
LOS BANOS, CA 93635-4901

IS HEREBY AUTHORIZED PURSUANT TO SALES AND USE TAX LAW TO ENGAGE IN THE BUSINESS OF SELLING TANGIBLE PERSONAL PROPERTY AT THE ABOVE LOCATION. THIS PERMIT IS VALID FOR THE PERIODS SHOWN AND IS NOT TRANSFERABLE.

For general tax questions, please call our Information Center at 800-400-7115.
For information on your rights, contact the Taxpayers' Rights Advocate Office at 888-324-2798 or 916-324-2798.

BOE-442-ST REV. 4 (2-06)

A MESSAGE TO OUR NEW PERMIT HOLDER

As a seller, you have rights and responsibilities under the Sales and Use Tax Law. In order to assist you in your endeavor and to better understand the law, we offer the following sources of help:

- Visiting our website at www.boe.ca.gov
- Visiting a district office
- Attending a Basic Sales and Use Tax Law class offered at one of our district offices
- Sending your questions in writing to any one of our offices
- Calling our toll-free Information Center at 800-400-7115

As a seller, you have the right to issue resale certificates for merchandise that you intend to resell. Conversely, you have the responsibility of not misusing resale certificates. While the sales tax is imposed upon the retailer,

- You have the right to seek reimbursement of the tax from your customer
- You are responsible for filing and paying your sales and use tax returns timely
- You have the right to be treated in a fair and equitable manner by the employees of the Board
- You are responsible for following the regulations set forth by the Board

As a seller, you are expected to maintain the normal books and records of a prudent businessperson. You are required to maintain these books and records for no less than four years, and make them available for inspection by a Board representative when requested. You are also expected to notify us if you are buying, selling, adding a location, or discontinuing your business, adding or dropping a partner, officer, or member, or when you are moving any or all of your business locations. If it becomes necessary to surrender this permit, you should only do so by mailing it to a Board office, or giving it to a Board representative.

If you would like to know more about your rights as a taxpayer, or if you are unable to resolve an issue with the Board, please contact the Taxpayers' Rights Advocate Office for help by calling toll-free: 888-324-2798 or 916-324-2798. Their fax number is 916-323-3319.

Please post this permit at the address for which it was issued and at a location visible to your customers.

STATE BOARD OF EQUALIZATION
Sales and Use Tax Department
TO: Mayor and City Council Members
FROM: Chris Gallagher, Chief of Police
DATE: April 16, 2008
SUBJECT: Street (Alley) Closure Request – All Angels Pre-School Daycare – Ribbon Cutting Ceremony

TYPE OF REPORT: Consent Agenda

Recommendation:
Authorize alley closure.

Background:
The All Angels Pre-School Daycare is requesting the following partial alley closure for their ribbon cutting ceremony which will be held on April 17, 2008. The request is to have a portion of the alley between J and I Street closed to through traffic, which would affect the 900-1000 block of J and I Street. The hours requested for the closure are from 2:00 p.m. to 6:00 p.m. on April 17, 2008. Please reference the attached petition of support signed by the home owners and businesses affected by this alley closure.

Discussion:
The All Angels Pre-School Daycare is a newly established business in our City. This particular event is for their ribbon cutting ceremony, a traditional celebration for new businesses in our City. The business requests the support of the City of Los Banos by allowing this alley closure.

Fiscal Impact:
A $250 Administrative Fee has been charge for this event application.

Reviewed By: Steve Rath, City Manager

Attachments:
Signature Page and Insurance Letter
Dear Neighbor,

On April 17, 2008, All Angels Pre-school/Daycare located at 966 J. Street will be honored by the City of Los Banos with a ribbon cutting ceremony. In accordance with the policies of the City of Los Banos, we are required to obtain your agreement to close a portion of the alleyway between the hours of 2:00 – 6:00 pm while the festivities commence. We would greatly appreciate you signifying your support for this special occasion by signing below.

It is our mission to share in the commitment to offer quality service to the community of Los Banos and we thank you in advance for your cooperation.

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<th>Address</th>
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<td>1011 JSt.</td>
<td></td>
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<td>Security By Design</td>
<td>1011 J St. unit C</td>
<td>Susan Jones</td>
</tr>
<tr>
<td>Genoveva Perez</td>
<td>964 1/2 J St.</td>
<td>Genoveva Perez</td>
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<tr>
<td>Lina Fabello</td>
<td>958 J St.</td>
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<td>Rick Bajada</td>
<td>950 J St.</td>
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<td>Beverly Orr</td>
<td>962 J St.</td>
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<td>Esteban Iniguez</td>
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Resident/ Business Name       | Address         | Signature |
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</table>
Dear Neighbor,

On April 17, 2008, All Angels Pre-school/Daycare located at 966 J. Street will be honored by the City of Los Banos with a ribbon cutting ceremony. In accordance with the policies of the City of Los Banos, we are required to obtain your agreement to close a portion of the alleyway between the hours of 2:00 – 6:00 pm while the festivities commence. We would greatly appreciate you signifying your support for this special occasion by signing below.

It is our mission to share in the commitment to offer quality service to the community of Los Banos and we thank you in advance for your cooperation.

<table>
<thead>
<tr>
<th>Resident/Business Name</th>
<th>Address</th>
<th>Signature</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dark Reflection</td>
<td>1011 I St</td>
<td></td>
</tr>
<tr>
<td>Security By Design</td>
<td>1011 I St unit C</td>
<td></td>
</tr>
<tr>
<td>the Glass Shop</td>
<td>1017 I St</td>
<td></td>
</tr>
<tr>
<td>To:</td>
<td>Chief Gallagher</td>
<td>From:</td>
</tr>
<tr>
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</tr>
<tr>
<td>Co:</td>
<td>Los Banos Police Dept.</td>
<td>Pages:</td>
</tr>
<tr>
<td>Fax:</td>
<td>827-7085</td>
<td>Date:</td>
</tr>
<tr>
<td>Phone:</td>
<td>827-7070</td>
<td>CC:</td>
</tr>
<tr>
<td>Re:</td>
<td>All Angels Pre-School/Day Care Policy # CP2134401A</td>
<td></td>
</tr>
</tbody>
</table>

Please be advised that we have requested the City of Los Banos, The Glass Shop and DRC be added as additional insured April 17, 2008 as respects the carnival our insured will be having between the hours 2pm to 6pm. We should have the endorsement to fax to you tomorrow.
Agenda Staff Report

TO: Mayor & City Council Members
FROM: Chris Gallagher, Chief of Police
DATE: 4/16/2008
SUBJECT: Request for Closure of I St. between 8th and 9th
TYPE OF REPORT: Consent Agenda

Recommendation:

Staff recommends that I Street between 8th and 9th be temporarily closed on April 19, 2008 between the hours of 3:00 PM and 6:00 PM.

Discussion:

On April 19, 2008 Rev Tune Cycles, located at 804 I St., is requesting permission to conduct a special motor cycle riding/stunt event, and are asking that I St. between 8th and 9th St. be closed for this presentation. There will be a free Bar-B-Que and soft drinks served at the event. NO ALCOHOL WILL BE SERVED. All riders participating in the show are professional stunt riders and the business will be obtaining a certificate of insurance for the day naming the City as additionally insured.

Staff will be needed to put up and take down barricades and redirect traffic in the area.

Fiscal Impact:

A $250 Administrative Fee has been charge for this event application.

Reviewed by:

Steve Rath, City Manager

Attachments:

Community Development Department Administrative Permit Application
Attached is an Administrative Permit application that has been added as a discussion item for review.
Thank you 😊
Community Development Department

PROJECT APPLICATION

For Office Use Only

Receipt Number: 2740
Check Number: Admin P 2008
Total Fee: $800

For Office Use Only

APPLICANT: Rev Tune Cycles
ADDRESS: 804 J Street
CITY: Los Banos STATE: CA ZIP: 93635
AREA CODE/PHONE NUMBER: (209) 827-5937

PROPERTY OWNER: Joseph L Archutowski
ADDRESS: 1171 Oat Grass Way
CITY: Los Banos STATE: CA ZIP: 93635
AREA CODE/PHONE NUMBER: (209) 827-3642

PROJECT INFORMATION

Assessor's Parcel No(s): 0216-143-001
Street Address or Location of Property: 804 J Street

Size of Parcel: Acres/Sq. Ft.

Existing Use of Property: Motorcycle Shop

Surrounding Uses: North: South:
East: West:

Proposed Use of Property/Project Description: Special Event Permit/Stunt Snow

APPLICATION INFORMATION

FEE: $850

CHECK TYPE OF APPLICATION

Administrative Permit
To permit:

Annexation

To reclassify the property from:

Environmental Review Fee

General Plan Amendment
To reclassify the property from:

MINOR SUBDIVISION

Lot Merger
Parcel Map
Lot Line Adjustment
Other

Proposed number of lots:

Ordinance Amendment

Section:

Subdivision

Final Map
Tentative Map
Proposed No. of Lots:

Sign Review

Site Plan Review

To permit:

Use Permit

To permit:

Variance

Allow:

Zone Change/Pre-Zone

Existing Zone:

Proposed Zone:

No.

TOTAL APPLICATION FEE - (Additional fees will be charged after the project has been approved by PC and or CC.)

ALL OWNERS MUST SIGN, PLEASE ATTACH ADDITIONAL SIGNATURES AS NECESSARY.

The foregoing information is true and correct to the best of my knowledge and belief. The applicant and property owner hereby acknowledge the requirements as set forth in the Los Banos Zoning Ordinance and agree to comply with all County and State Laws. (BOTH MUST SIGN)
It is important that the operational statement provides for a complete understanding of your proposal. Your operational statement must be typed or written in a legible manner.

1. Please provide the following information:
   - Assessor’s Parcel Number: 0810-143-007
   - Applicant(s) Name: RevTune Cycles
   - Address: 804 J St.
   - Phone Number: 827-5937

2. Describe the nature of your proposal/operation (please be specific).

3. What is the existing use of the property?

4. What products will be produced by the operation? Will they be produced on-site or at some other location? Are these products to be sold on site? Explain.

5. What are the proposed operational time limits?
   - Months (if seasonal): one day event April 19th
   - Days per week: 3 - 6
   - Hours:
   - Total hours per day:

6. Will there be any special activities or events?
   - Frequency:
   - Hours: 3 - 6 pm Stunt Show
   - Are these activities indoors or outdoors? Outdoors

7. How many customers or visitors are expected?
   - Average number per day: 1 day varies between 75 - 150
   - Maximum number per day:
   - What hours will customers/visitors be there? Shop hours 9 - 4 Event 3 - 6 pm

8. How many employees will there be?
   - Current: 3
   - Hours they work: 40 week
   - Future:
   - Do any live on-site? If so, in what capacity (i.e. caretaker)? No
9. What equipment, materials, or supplies will be used and how will they be stored? If appropriate, provide pictures or brochures.

10. Will there be any service and delivery vehicles?
   Number:
   Type:
   Frequency:

11. Number of parking spaces for employees, customers, and service/delivery vehicles.

12. How will access be provided to the property/project? (street name):
    FOOT TRAFFIC OFF OF 9TH-8TH STREET

13. Estimate the number and type (i.e. cars, trucks) of vehicle trips per day that will be generated by the proposed development.
    [Street to be blocked between 8th, 9th St.]

14. Describe any proposed advertising including size, appearance and placement.

15. Will existing buildings be used or will new buildings be constructed? Indicate which building(s) or portion(s) of will be utilized and describe the type of construction materials, height, color, etc. Provide floor plan and elevations.

16. Is there any landscaping or fencing proposed? Describe type and location.

17. What are the surrounding land uses to the north, south, east, and west boundaries of the property.
   North: Empty Building
   South: Valinwicke Distributing then empty lot
   East: House
   West: Apartment Building then green space
City of Los Banos
COMMUNITY DEVELOPMENT DEPARTMENT

ENIRONMENTAL STATEMENT

520 J Street
Los Banos CA 93635
Phone: (209) 827-7000 Ext. 18
Fax: (209) 827-7006

It is important that the environmental statement provides for a complete understanding of your proposal. Your environmental statement must be typed or written in a legible manner.

1. Will this operation or equipment used generate noise above existing parcels in the area.
   Yes, there will be quite a few motorcycles at the event coming and going at different times.

2. On a daily or annual basis, estimate how much water will be used by the proposed development, and how is water to be supplied to the proposed development? (Please be specific).
   / / / / / /

3. On a daily or weekly basis, how much wastewater will be generated by the proposed project and how will it be disposed of?
   / / / / / /

4. On a daily or weekly basis, how much solid waste (garbage) will be generated by the proposed project and how will it be disposed of?
   Our dumpster will handle all garbage generated.

5. Will there be any grading? Tree removal? (Please state the purpose, i.e. for roads, building pads, drainage, etc.)
   / / / / / /

6. Are there any archaeological or historically significant sites located on this property? If so, describe and show location on site plan.
   / / / / / /
7. Locate and show all bodies of water on application plot plan or attached map.

8. Show any ravines, gullies, an natural drainage courses on the property on the plot plan.

9. Will hazardous materials or waste be produced as part of this project? If so, how will they be shipped or disposed of?

10. Will your proposal require use of any public services or facilities? (i.e. schools, parks, fire and police protection or special districts?)

11. How do you see this development impacting the surrounding area?

12. How do you see this development impacting schools, parks, fire and police protection or special districts?

13. If your proposal is for commercial or industrial development, please complete the following:
   - Proposed Use(s):
   - Square Fee or Building Area(s):
   - Total Number of Employees:
   - Building Height(s):

14. If your proposal is for a land division(s), show any sloped over 10% on the map or on an attached map.
# ACORD Certificate of Liability Insurance

**PRODUCER**  
ADVANTAGE INSURANCE  
1764 U Street  
Merced, CA 95340  
(209) 724-0214

**INSURED**  
RevTune  
840 I St.  
Los Banos, CA 93635  
(209) 827-5937

## COVERAGES

The policies of insurance listed below have been issued to the insured named above for the policy period indicated. Notwithstanding any requirement, term or condition of any contract or other document with respect to which this certificate may be issued or may pertain, the insurance afforded by the policies described herein is subject to all the terms, exclusions and conditions of such policies. Aggregate limits shown may have been reduced by paid claims.

### NEW Risks Added

<table>
<thead>
<tr>
<th>Type of Insurance</th>
<th>Policy Number</th>
<th>Policy Effective Date (MM/DD/YYYY)</th>
<th>Policy Expiration Date (MM/DD/YYYY)</th>
<th>Limits</th>
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</thead>
<tbody>
<tr>
<td>General Liability</td>
<td>AGP0612978</td>
<td>3/14/08</td>
<td>3/14/09</td>
<td></td>
</tr>
</tbody>
</table>

### General Liability

- **Claims Made**
  - Property Damage: $1,000,000
  - Bodily Injury: $1,000,000

### Aggregate Liability

- **Each Occurrence**: $1,000,000
- **Premises**: $100,000
- **Med Exp**: $5,000

### Personal & Advertising Injury

- **Personal & Advertising Injury**: $1,000,000

### Employers Liability

- **Bodily Injury**: $0
- **Property Damage**: $0

### Excess/umbrella Liability

- **Auto-Only**: $1,000,000
- **Other Than Auto-Only**: $0

### Workers' Compensation and Employers' Liability

- **Workers' Compensation**: $0
- **Employers' Liability**: $0

### Workers' Compensation and Employers' Liability

- **Workers' Compensation**: $0
- **Employers' Liability**: $0

### CANCELLATION

Should any of the above described policies be cancelled before the expiration date thereof, the issuing insurer will endeavor to mail notice to the certificate holder named to the left, but failure to do so shall impose no obligation or liability of any kind upon the insurer, its agents or representatives.

**Certificate Holder**  
City of Los Banos  
520 J Street  
Los Banos

**Cancellation**  
City of Los Banos  
520 J Street  
Los Banos

**ACORD 25 (2001/08)**

©ACORD CORPORATION 1988
BIKE NIGHT AT REUTUNE CYCLE'S 804 1ST
LOS BANOS APRIL 19TH 3 PM - 6 PM
SIGNATURES FROM SURROUNDING RESIDENTS OR
BUSINESSES THAT AGREE TO MY PROPOSAL
OF CLOSING STREET AND STUNT BIKE SHOW.

ADDRESS                      SIGNATURE
820 1st St. BCU               Rodelle Capez
821 1st St.                   Leisa Bond
827 1st St.                   Mass Rodrigues
609-4072-841                   Helen Salas
863 1st St. Ste A             Mama Dusi
830 1st Street               Jan Ann Duda Prieto
Attention Mayor and Council members,

I am requesting permission to close 1 street between from the corner of 8th thru the corner of 9th street on April 19th from 3pm -6pm for a stunt show, There will be no food vendors( except our selves) We will be having a free Bar-B-Que and free drinks for customer appreciation. THERE WILL BE NO ALCOHOL on premises... All riders that will be participating in the stunt show are professional stunt riders. There will be part reps on site to answer customer ?s This event is open to the public and is family friendly.

Thank you very much for considering our request.
Revtune Cycle

Joseph Archutowsk

[Signature]

Date 4/8/08

Revtune Cycles
804 I street
Los Banos Ca. 93635
(209) 827-5937
City of Los Banos
520 J Street
Los Banos, CA 93635
209-827-7000

04/09/2008  2:03 PM
Receipt No:  0000238

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
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<tbody>
<tr>
<td>Zoning &amp; Planning Fee</td>
<td>250.00</td>
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<tr>
<td>Total</td>
<td>250.00</td>
</tr>
<tr>
<td>Cash</td>
<td>0.00</td>
</tr>
<tr>
<td>Check</td>
<td>2740</td>
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<tr>
<td>Change</td>
<td>0.00</td>
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Joseph Archutowski Jr
804 1st
Los Banos, CA 93635

Cashier: Almkee
Station: FRONTCASH
Community Development Fees
Project Application Fees/Business License Fees

**PLANNING FEES** (Resolution #4026)

<table>
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<tr>
<th>Service</th>
<th>Fee</th>
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<tr>
<td>Annexation Review</td>
<td>$1,000.00</td>
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<tr>
<td>Annexation Processing</td>
<td>$1,000.00 + 100. per acre/plus cost from other agencies (LAFCO, State, etc.)</td>
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<tr>
<td>General Plan Amendment</td>
<td>$1,000.00</td>
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<tr>
<td>Zone Change/Pre-Zone</td>
<td>$750.00</td>
</tr>
<tr>
<td>Ordinance Amendment (text)</td>
<td>$750.00</td>
</tr>
<tr>
<td>General Development Plan</td>
<td>$150.00</td>
</tr>
<tr>
<td>Final Development Plan</td>
<td>$250.00</td>
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<tr>
<td>Site Plan Review</td>
<td>$650.00</td>
</tr>
<tr>
<td>Use Permit</td>
<td>$550.00</td>
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<tr>
<td>Variance</td>
<td>$500.00</td>
</tr>
<tr>
<td>Administrative Permit (FFA/4H/Sidewalk Sale)</td>
<td>$25.00</td>
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<tr>
<td>Master Sign Plan</td>
<td>$50.00</td>
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<tr>
<td>Sign Review</td>
<td>$25.00</td>
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<tr>
<td>Appeals (Applicant Only)</td>
<td>$150.00</td>
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<tr>
<td>Time Extension</td>
<td>$200.00</td>
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<tr>
<td>Tentative Subdivision Map</td>
<td>$2,000.00</td>
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<tr>
<td>Revised Tentative Map</td>
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<tr>
<td>Final Subdivision Map</td>
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<tr>
<td>Revised Final Map</td>
<td>$500.00</td>
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<tr>
<td>Minor Subdivision/Parcel Map</td>
<td>$350.00</td>
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<tr>
<td>Lot Line Adjustment/Parcel Merger</td>
<td>$250.00</td>
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<tr>
<td>Map Engineering, Review and Inspection</td>
<td>$5% of Final Cost Estimate (including contingency)</td>
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<td>Planned Development</td>
<td>$1,000.00</td>
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<td>Development Agreement</td>
<td>$1,000.00</td>
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<tr>
<td>Revision</td>
<td>$500.00</td>
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<tr>
<td>Reimbursement Agreement</td>
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<td>Environmental Review/Category Exempt</td>
<td>$100.00</td>
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<tr>
<td>Neg Dec/Initial Study</td>
<td>$250.00, fee or Cost plus 20%</td>
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<tr>
<td>Environmental Impact Report</td>
<td>$Cost plus 51%</td>
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**NOTE:** Please be aware that the application fee is solely for review of the application. Applicants will be billed for the project once it has been approved by the Planning Commission and/or City Council.

**SCHOOL FEES**

<table>
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<tr>
<th>Type</th>
<th>Fee</th>
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<tbody>
<tr>
<td>Single Family Dwelling (habitable space only)</td>
<td>$3.69 sq. ft. (June 2006)</td>
</tr>
<tr>
<td>Commercial/Industrial</td>
<td>$0.42 per sq. ft. (June 2006)</td>
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</tbody>
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**NOTE:** School fees must be paid to the school district prior to issuance of building permits. Check with school district for any current changes (209) 826-3801.

**BUSINESS LICENSE FEES** (Ordinance #1037)

<table>
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<tr>
<th>Type</th>
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<tbody>
<tr>
<td>Retail/Professional</td>
<td>$75.00 per year + Administrative Fees</td>
</tr>
<tr>
<td>Home Occupation</td>
<td>$75.00 per year + Administrative Fees</td>
</tr>
<tr>
<td>Out of Town</td>
<td>$75.00 per year + Administrative Fees</td>
</tr>
<tr>
<td>All Other Types</td>
<td>$75.00 per year + Administrative Fees</td>
</tr>
<tr>
<td>Day Sales</td>
<td>$75.00 per day</td>
</tr>
</tbody>
</table>

Most Business Licenses are valid for one year.
There are no refunds for business licenses once the paperwork has been processed. Business Licenses are non-transferable.

**NOTE:** FEES ARE SUBJECT TO CHANGE
City of Los Banos
Planning Department

Mailing List

Please list the names and addresses of all firm (architect, engineer, landscape architect, etc.) and individuals who are to receive copies of:

1. Staff Reports

2. Conditions of Approval

Note: Only the applicant will receive the...
Agenda Staff Report

TO: Mayor & City Council Members
FROM: Chris Gallagher, Chief of Police
DATE: 4/16/2008
SUBJECT: Temporary road closure
TYPE OF REPORT: Consent Agenda

Recommendation:
Staff recommends that 11th street between Madison Avenue and Page road be temporarily closed on April 22, 2008 between the hours of 5:00 AM and 5:00 PM.

Discussion:
On April 22, 2008 the Los Banos High School will be conducting an “every 15 minutes” presentation located on 11th street. The presentation is targeted to create a further awareness of DUI accidents for the teen demographic. A mock crash site will be set up on 11th street around 5:00 AM and will remain in the roadway until later in the afternoon.

Fiscal Impact:
There will be no fiscal impact for this road closure.

Reviewed by:
Steve Rath, City Manager

Attachments:
None
Agenda Staff Report

TO: Mayor & City Council Members
FROM: Elaine Post, RDA Manager
DATE: April 16, 2008
SUBJECT: MCAG Transportation Planning Work Program and Comprehensive Planning

TYPE OF REPORT: Consent Agenda

Recommendation:

Approve the 2008/09 Transportation Planning Work Program and Comprehensive Planning Work Program and Budget for MCAG and allocate $45,998 to the 2008/09 fiscal year for the annual MCAG Contract

Background:

The City of Los Banos contracts with the Merced County Association of Governments (MCAG) on an annual basis to provide a variety of services ranging from overseeing transportation funds to grant research and writing.

As the Regional Transportation Planning Agency and Metropolitan Planning Organization, MCAG is the primary transportation facilitator in Merced County. Responsibilities range from acquiring priority projects to assuring money accepted for transportation has been properly utilized. MCAG must also be in the forefront of coordinated regional transportation planning activities and to do so, requires program support. Work elements of the Transportation Planning Work Program seek to maintain a quality improvement program and provide additional means to successfully accomplish the goals and objectives established by the MCAG Governing Board.
The Comprehensive Planning Work Program deals with those elements of the MCAG operation not directly related to transportation, although transportation may be involved in each of the Comprehensive Planning Work Elements.

Los Banos joins the other incorporated cities within Merced County in contracting with MCAG to provide services under these Work Programs. Contributions are based upon a formula using each city's population. With a population of 35,211, the City of Los Banos' contribution would be 14% of the overall cost for service. This amounts to $11,508 for regular activities; $18,670 for transportation services; and $15,820 for the city's One Voice contribution. Total for this contract would be $45,998. Last year's contract was $50,423.

Approval is requested of the 08/09 Work Programs and budget as submitted by MCAG.

**Discussion:**

In contracting with MCAG, the City of Los Banos would receive the following major services:

1. Transportation services including
   a. One Voice
   b. San Joaquin Valley Blueprint
   c. San Joaquin Valley Express Transit Study
2. Geographic Information System & Website
3. Grant Administration Program
4. Solid Waste Policy Board
5. Transit Policy Board

These items are defined in the MCAG Program Summaries included in this packet. In addition, other services are defined under each of the Work Program summaries.

**Fiscal Impact:**

Funding for this contract would be allocated in the Membership Dues section of the Administrative Budget FY 08/09.
Reviewed by:

Melinda J. Wall, Chief Financial Officer

Steve Rath, City Manager

Attachments:

Letter from the MCAG Executive Director Jesse Brown
Work Program Transportation Planning
Work Program Comprehensive Planning
February 25, 2008

Steve Rath, City Manager
City of Los Banos
520 J Street
Los Banos, CA 93635

Dear Mr. Rath,

At their February 21, 2008 meeting, the MCAG Governing Board authorized the transmittal of the FY 2008/2009 Work Program to each member jurisdiction for ratification. The work program is scheduled for adoption by the MCAG Governing Board at their May 15, 2008 meeting. Action by your City Council/Board of Supervisors is requested by April 30, 2008. Please notify Terrie Hagins at (209) 723-3153 ext 317, MCAG Staff, of OWP ratification date and action by your City Council/Board of Supervisors.

Enclosed for submittal to your City Council/Board of Supervisors is a draft summary of the MCAG work program, budget, and membership dues schedule for FY 2008/2009.

The work program identifies each element’s objective, personnel and funding requirements, and funding source. The major emphasis area of this year’s work program are described below:

TRANSPORTATION

Atwater-Merced Expressway Project: Consultants will complete CEQA environmental documents in early spring 2008. Project selection is scheduled for early summer 2008. The project is consistent with the Regional Transportation Plan and is included in the Regional Transportation Impact Fee Program.

SR 99 Atwater Project Study Report (PSR): The City of Atwater City Council and the MCAG Governing Board approved an agreement to prepare this PSR. Under this agreement, $500,000 is provided by the City of Atwater for consultant services and $45,000 of Regional Improvement Program Funds in the MCAG Work Program and Budget is available for MCAG staff support (Work Element 1987). The work will occur over a two-year period, commencing on or about January 2008 once the project consultants have been selected. MCAG will assume the lead agency administrative role. Caltrans will provide oversight and assign a project manager.

One-Voice Legislative Strategy: Our State and Federal legislative program will be entering its 5th year. Workshops will be held in the fall with the Governing Board, Technical Review Board, and our private sector partners to revise and update the strategies. Our One-Voice delegation will present the state and federal legislative programs to our respective delegations in Sacramento and Washington D.C.
**San Joaquin Valley Blueprint**: The Blueprint program will be entering its 3rd year. MCAG continues to act as the administrative lead coordinating the efforts of the eight-valley councils-of-government through this process. The goal is a unified vision and strategy for achieving a valley-wide plan for regional land use, transportation, economic development, and other key components important to valley residents through the year 2050.

**San Joaquin Valley Express Transit Study**: On behalf of the San Joaquin Valley Regional Transportation Planning Agencies (SJIVTPA), the Merced County Association of Governments submitted a Partnership Planning grant application last year to prepare a San Joaquin Valley Express Transit Study for $200,000 of federal funds to be matched with $50,000 of in-kind match shared among the eight SJVRPAs. Recognizing the substantial growth that is currently taking place and the need for relieving traffic congestion, the study will inventory and assess current transit service and evaluate future need for transit services throughout the San Joaquin region.

**Yosemite Area Regional Transportation System (YARTS)**: YARTS has transitioned from a planning function to a three-county transit service Joint Powers Authority. YARTS has contracted with MCAG for staff and administrative support. MCAG is fully reimbursed for its personnel and support costs. YARTS currently does not have a secure on-going source of operating funds other than funds provided by Mariposa County.

**Geographic Information System (GIS)**

Under agreements with each member jurisdiction, MDSS will maintain the parcel, general plan, and zoning maps as an element of the work program funded with federal, state, and local transportation funds. There will be no separate maintenance cost for MCAG member jurisdictions for these maps or thematic layers. This program also maintains an interactive website that is accessible to the public.

Each jurisdiction may contract with MCAG to provide additional services as they may require.

**Grant Administration Program**

The grant writing and administration program provides these services to member agencies. The program has a staff of 3.5 regular positions; a program manager and 2.5 grant writer/administrators. Past policy is funding the equivalent of the program manager position with member contributions, Local Transportation Fund (LTF) planning, and Solid Waste Enterprise funds. The remaining positions are funded through contracts with member jurisdictions. These contracts include CDBG (housing rehabilitation) and other program administration.

**Solid Waste Policy Board (SWPB)**

Continuation of the countywide public information and education will cover both non-hazardous and hazardous materials. This program also administers resource recovery projects funded by the State on behalf of the cities and county.
Transit Policy Board (TPB)

The MCAG Governing Board serves as the Policy Board for the Joint Powers Authority directing transit services in Merced County. MCAG staff prepares and administers federal transit grants for the transit system and secretarial support to the Transit Joint Powers Authority for Merced County Board.

BUDGET

The budget assumes 21 equivalent regular employees compared with 22 currently. With the retirement of one employee, their job responsibilities will be absorbed by existing staff. A 3% cost of living adjustment is proposed for the salary schedule. Merit pay increases are budgeted and may be awarded if personnel performance merits.

Federal Transportation Planning funds, ($656,000-FHWA, $59,000-FTA) available through TEA-LU, provides the majority of funding for the transportation program. Project, Programming and Monitoring funds from MCAG’s Regional Improvement Program (RIP) apportionments are also being used to fund Transportation Planning Programming activities.

Local Transportation Funds, required for match and to fund federally non-eligible costs, are proposed $133,360, a reduction of $50,000. Transportation Development Act Administrative funding is proposed to remain the same as last year at $62,100.

Past policy is that the Grant Program Manager is fully funded from member contributions, LTF, and Solid Waste Enterprise funds to support one full-time equivalent staff to write grants for member agencies. The budget has not seen an increase for the past six years. As a result, the proposed budget includes an increase of local contributions from $67,200 to $82,200. The Governing Board, through their approval retreat goals and objectives, has reconfirmed the importance of grant writing services. While this increase leaves the Grant Program at 9.5 person months, short of a full-time equivalent grant writer, the additional funds will “buy” another two months of staff time.

The One Voice Legislative Program is funded through local contributions on a per capita basis, no change from the current year. No State or Federal funds may be used for the lobbyist or associated staff time or travel costs.

The Regional Waste Management Public Education and Transit Authority Administration work elements are proposed at their current levels with no increase in funding.

No other significant changes in other budget line items are proposed, other than those noted above. A summary of each work element, line item budget, and member contribution schedule are attached.
APPROVAL SCHEDULE

This document has been submitted to State, Federal, and Regional Transportation and Air Quality Agencies. This group will meet with MCAG staff April 1, 2008 to provide their comments.

Each City and Merced County is requested to approve the FY 08/09 MCAG Budget and Work Program during March /April.

The Draft FY 08/09 Work Program and Budget are scheduled for submittal to the MCAG Board at their May 15, 2008 meeting.

Jesse B. Brown
Executive Director
MERCED COUNTY ASSOCIATION OF GOVERNMENTS
FY 2008/2009
OVERALL WORK PROGRAM
TRANSPORTATION PLANNING

Summary: As Regional Transportation Planning Agency and Metropolitan Planning Organization, MCAG is the primary transportation facilitator in Merced County. Responsibilities are many, from acquiring priority projects to assuring money accepted for improving transportation has been properly utilized. MCAG must also be in the forefront of coordinated regional transportation planning activities, and to do so effectively requires the correct tools and program support. Work elements of the Transportation Planning Work Program seek to maintain a quality improvement program and provide additional means to successfully accomplish the goals and objectives established by the MCAG Governing Board.

1200 CITIZEN PARTICIPATION/INTERGOVERNMENTAL COORDINATION

Purpose: To expand citizen participation in the planning process by publicly communicating the service, financial and institutional issues facing the regional transportation system; as well as acting as a liaison between government agencies and member entities.

Staff Time: 12.75 Person Months

Funding: FHWA PL Carryover, FTA Sec. 5303, LTF Planning, MCAG Other- $189,566

1210 PUBLIC RELATIONS/EDUCATION

Purpose: To expand resident understanding of the issues and processes that effect the planning and implementation of the regional transportation system in Merced County. To inform and report to residents throughout the county, along with other interested parties, of the services and products that MCAG provides.

Staff Time: 10.25 Person Months

Funding: FHWA PL Carryover, LTF Planning - $120,000

1460 REGIONAL TRANSPORTATION PLAN (RTP)

Purpose: To promote a coordinated regional transportation planning process through the development and implementation of a Regional Transportation Plan.

Staff Time: 2 Person Months

Funding: FHWA PL Carryover, RIP, LTF Planning - $42,000
1470  **AIR QUALITY PLANNING**

*Purpose:* To inform and advise MCAG and member agencies on air quality issues and policies; to ensure that MCAG's transportation plans, programs, and projects conform to the most recent air quality requirements; and to coordinate effectively with other government agencies on these matters.

*Staff Time:* 2.75 Person Months

*Funding:* FTA Sec. 5303, RIP, LTF Planning - $29,950

1520  **FEDERAL TRANSPORTATION IMPROVEMENT PROGRAM (FTIP)**

*Purpose:* To maintain a Federal Transportation Improvement Program (FTIP) based on an objective project selection prioritization process and to program for funding the most cost-effective and environmentally sound transportation projects based upon policies and actions identified in the Regional Transportation Plan.

*Staff Time:* 3.5 Person Months

*Funding:* RIP - $39,000

1530  **TRAFFIC MODELING**

*Purpose:* To maintain and update the traffic model used for the transportation planning programs.

*Staff Time:* 4.25 Person Months

*Funding:* FHWA PL Carryover, RIP, LTF Planning, - $55,000

1538  **HIGH SPEED RAIL COORDINATION**

*Purpose:* To monitor high speed rail planning activities within the San Joaquin Valley to further the achievement of the goals, objectives and regulations of the Federal Transportation Act, in coordination and cooperation with regional and state transportation agencies.

*Staff Time:* .5 Person Months

*Funding:* FTA Sec. 5303, LTF Planning - $6,700
1548 PAVEMENT MANAGEMENT SYSTEM

**Purpose:** To implement and maintain a countywide Pavement Management System

**Staff Time:** 2.5 Person Months

**Funding:** FHWA PL Carryover, LTF Planning - $30,000

1560 SAN JOAQUIN VALLEY TRANSPORTATION COORDINATION

**Purpose:** To coordinate the transportation and air quality planning activities within the San Joaquin Valley Nonattainment Area to further the achievement of the goals, objectives and regulations of the federal Transportation Act and the federal Clean Air Act, in coordination and cooperation with regional and state transportation and air quality planning and regulatory agencies.

**Staff Time:** 2.5 Person Months

**Funding:** FTA Sec. 5303, LTF Planning - $49,760

1563 SAN JOAQUIN VALLEY EXPRESS TRANSIT STUDY

**Purpose:** To identify the markets that can support intercounty transit service within the San Joaquin Valley region, and between the San Joaquin Valley Region and its neighbors. To prepare new transit services operating plan and define an institutional and financial structure for the new service.

**Staff Time:** 1.5 Person Months

**Funding:** SP&R Grant, RIP, In-kind - $250,000

1565 ONE VOICE EDUCATION PROGRAM

**Purpose:** To educate local public and private sector personnel and regarding state and federal legislative issues, projects, and programs that may affect the city and county residents of Merced County.

**Staff Time:** 5.5 Person Months

**Funding:** FHWA PL Carryover, LTF Planning - $68,500
1610  **GEOGRAPHIC INFORMATION SYSTEM (GIS) MAINTENANCE**

*Purpose:* The purpose of the GIS Maintenance element is the annual collection, editing and maintenance of GIS data from various sources to support MCAG's transportation planning elements. This data is vital for maps and analysis for the Regional Transportation Plan, Regional Transportation Impact Fee, Federal and State Transportation Improvement Plans, and other transportation related projects. The data is also used to update the Traffic Model and Pavement Management System.

*Staff Time:* 31 Person Months

*Funding:* FHWA PL Carryover, MCAG Other- $260,300

1630  **GIS WEB PAGE/INTERNET APPLICATION**

*Purpose:* To maintain a GIS Website for downloading and displaying maps produced by MCAG and to increase functionality of the GIS Maps Online application. This application utilizes MDSS data and is usable by all member jurisdictions and the public.

*Staff Time:* 6 Person Months

*Funding:* FHWA PL Carryover, MCAG Other- $60,455

1645  **SAN JOAQUIN VALLEY BLUERPINT**

*Purpose:* The San Joaquin Valley Regional Blueprint will provide a planning process and products to support long-range planning for the eight San Joaquin Valley MPO's and compliment the work of the San Joaquin Valley Partnership.

*Staff Time:* 32 Person Months

*Funding:* Blueprint Planning Grant, RIP, MCAG Other - $2,000,000

1655  **REGIONAL TRANSPORTATION IMPACT FEE (RTIF)**

*Purpose:* To administer a regional transportation impact fee (RTIF) program consistent with state law (Government Code 66000) that will mitigate new development's impact upon the regional transportation system.

*Staff Time:* 3.25 Person months

*Funding:* RTIF - $36,000
1665  REGIONAL TRANSPORTATION IMPROVEMENT PROGRAM (RTIP)

Purpose: To coordinate local planning efforts with other regional, State, and Federal agencies, and to monitor and respond to policies that will affect the development and the implementation of the Regional Transportation Plan and the Regional Transportation Improvement Program. To monitor the implementation of State Transportation Improvement Program projects in Merced County, including project delivery, timely use of funds, and compliance with State law and the California Transportation Commission’s guidelines.

Staff Time: 5.75 Person Months

Funding: RIP - $100,100

1670 TRANSPORTATION DEMAND MANAGEMENT/ALTERNATIVE MODES PROGRAM

Purpose: To encourage and promote improved air quality, congestion reduction and energy conservation by the reduction of single-occupancy vehicle trips through the implementation of programs designed to provide alternatives for commuters within Merced County.

To increase bicycle ridership throughout Merced County by providing assistance in planning bike facilities and seeking funding for the development of bicycle facilities and to incorporate pedestrian walkways in plans and programs when appropriate.

To increase bicycle ridership throughout Merced County by promoting bicycling riding as a mode of transportation.

Staff Time: 11 Person Months

Funding: CMAQ, LTF Planning - $100,516

1680  TRANSPORTATION EXPENDITURE PROGRAM

Purpose: Update the Transportation Expenditure Plan for Merced County through an aggressive public participation process.

Staff Time: 1.5 Person Months

Funding: LTF Planning - $49,000
1685  TRANSPORTATION DEVELOPMENT ACT FUND ADMINISTRATION

Purpose: To administer the allocation of monies from the Local Transportation Fund (LTF) and State Transit Assistance Fund (STAF) to member entities.

Staff Time: 3 Person Months

Funding: TDA Admin - $62,100
Summary: The Comprehensive Planning Work Program deals with those work elements of the MCAG operation not directly related to transportation, although transportation may be involved in each of the Comprehensive Planning Work Elements.

1810 GRANT DEVELOPMENT

Purpose: To provide grant writing services to MCAG member jurisdictions, other public agencies, and the Recycling Market Development Zone. To provide a directory of grant resources through the MCAG website.

Staff Time: 8 Person Months

Funding: Solid Waste Enterprise, LTF Planning, MCAG Other - $82,200

1815 GRANT ADMINISTRATION

Purpose: To assist in the implementation of MCAG’s Grant Development Program. This Work Element also provides funding for the management of all other grant-related services provided by MCAG to member jurisdictions.

Staff Time: 3.25 Person Months

Funding: MCAG Other - $40,000

1824 CONTINUUM OF CARE PLAN UPDATE

Purpose: To provide comprehensive planning services to the region to attract resources with which to create economic self-sufficiency for Merced County homeless persons.

Staff Time: 6 Person Months

Funding: Merced County, City of Merced - $60,000

1955 LOS BANOS CDBG MICROENTERPRISE LOAN ADMINISTRATION

Purpose: To administer and implement Los Banos’ Community Development Block Grant (CDBG) funded microenterprise training and business loan program, and to fulfill reporting requirements to the State Department of Housing and Community Development (HCD).

Staff Time: 1.5 Person Months

Funding: City of Los Banos - $46,700
1961 LOS BANOS HOME HOUSING ADMINISTRATION - 07

**Purpose:** To administer and implement Los Banos’ Home Investment Partnerships (HOME) award for a housing rehabilitation and first-time homebuyer loan program.

**Staff Time:** 8 Person Months

**Funding:** City of Los Banos - $101,900

1970 GIS MAPPING

**Purpose:** To provide GIS related services to MCAG member jurisdictions on an as needed basis.

**Staff Time:** 2 Person Months

**Funding:** MCAG Other - $16,000

1980 SERVICE AUTHORITY FOR FREEWAY EMERGENCIES (SAFE)

**Purpose:** To maintain and upgrade a Service Authority for Freeway Emergencies (SAFE) call box program in Merced County; also, to participate in a San Joaquin Valley plan to establish 511 call service for travelers.

**Staff Time:** 2 Person Months

**Funding:** SAFE - $145,643

1984 HIGHWAY 165/99 PROJECT STUDY REPORT

**Purpose:** To prepare a Project Study Report for the SR 165/99 connection and corridor in accordance with the regulations and guidelines espoused in the Transportation Equity Act for the 21st Century.

**Staff Time:** .5 Person Months

**Funding:** TEA III, RIP, MCAG Other - $513,500
1986  ATWATER/MERCED EXPRESSWAY PROJECT

**Purpose:** The purpose of the Atwater/Merced Expressway (aka Castle Highway) Project Approval and Environmental Document is to preserve a transportation corridor for a possible realignment of SR 59 to the north of SR 99 to Bellevue Road and tie into SR 140 to the south of State Route 99.

**Staff Time:** 1.5 Person Months

**Funding:** RTIF, RIP - $2,533,000

1987  HIGHWAY 99 ATWATER FREEWAY PROJECT STUDY REPORT

**Purpose:** To prepare a Project Study Report for the SR 99 from milepost 21.3 to 24.0 through the City of Atwater in accordance with the regulations and guidelines espoused in the Transportation Equity Act for the 21st Century.

**Staff Time:** 1.5 Person Months

**Funding:** City of Atwater, RIP - $545,000

1990  ONE VOICE LEGISLATIVE PROGRAM

**Purpose:** To advocate for or against state and federal legislative projects, programs, and policies that would affect the residents of Merced County.

**Staff Time:** 1.25 Person Months

**Funding:** Member Contributions, MCAG Other - $122,500

2100  SOLID WASTE POLICY BOARD ADMINISTRATION

**Purpose:** To assist in the implementation of the Merced County Integrated Waste Management Plan and the Source Reduction and Recycling Elements, through the provision of administrative and planning assistance to the Solid Waste Advisory Board and the Solid Waste Enterprise.

**Staff Time:** 2.75 Person Months

**Funding:** Solid Waste Enterprise - $26,000
2200 SOLID WASTE POLICY BOARD REGIONAL RECYCLING AND PUBLIC EDUCATION PROGRAM

Purpose: Initiated in 1991, this element provides a county wide public education program that promotes awareness and education to residents of Merced County regarding the importance of participation in source reduction, recycling, and other diversion efforts. The element also follows guidelines for these activities as outlined in each jurisdiction’s Source Reduction and Recycling Element (SRRE), on file with the California Integrated Waste Management Board (CIWMB). The SRRE is required as a result of the 1989 Integrated Waste Management Act, which requires each jurisdiction to reduce the amount of tonnage going to the landfill by 50%. This diversion goal was to be reached by 2000. The tonnage amount is adjusted annually for population increase, sales tax revenues, and employment figures. For 2004, the reported diversion rate for Merced County was 42%. In 2005, it was 51%. CIWMB data for 2006 is not yet available.

The Solid Waste Policy Board Regional Recycling and Public Education Program provides outreach services appropriate to all segments of the community and jurisdictions. In addition, the program provides technical support, as requested by jurisdictions and public agencies, in the promotion of new and existing programs related to the establishment and administration of recycling, hauling contracts, and proper disposal of unwanted materials.

Staff Time: 13 Person Months

Funding: Solid Waste Enterprise, Solid Waste Enterprise Carryover $112,700

2210 – CRV RECYCLING – DOC GRANT FUNDED – JURISDICTION PROJECTS

Purpose: To assist in the implementation of DOC grant funded programs, with measurable results, selected by member jurisdictions, meant to promote the recycling of CRV containers and to reduce littering.

Staff Time: 1.75 Person Months

Funding: DOC - $73,404

3100 TRANSIT JOINT POWERS AUTHORITY FOR MERCED COUNTY TRANSIT ADMINISTRATION

Purpose: To provide administrative assistance, grant preparation, and quarterly reporting to the Federal Transit Administration and Caltrans on behalf of the Transit Policy Board and the Transit Joint Powers Authority for Merced County (TJPAMC).

Staff Time: 4.5 Person Months

Funding: TJPAMC - $55,000
4100  **MERCED DATA SPECIAL SERVICES (MDSS) ACTIVITIES**

*Purpose:* Provide mapping and administrative services, through contract, to the Merced Data Special Services (MDSS), including oversight of all of the day-to-day operations of the Yosemite.com.

*Staff Time:* 5.5 Person Months

*Funding:* MDSS - $50,000

6100  **YOSEMITE AREA REGIONAL TRANSPORTATION SYSTEM (YARTS) MANAGEMENT ACTIVITIES**

*Purpose:* Provide planning and administrative services, through contract, to the Yosemite Area Regional Transportation System (YARTS) Joint Powers Authority, including oversight of all of the day-to-day operations of the transit system.

*Staff Time:* 14.25 Person Months

*Funding:* YARTS - $141,348
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<thead>
<tr>
<th>Income Source</th>
<th>FY 2007/08 Budgeted</th>
<th>FY 2008/09 Budgeted</th>
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<td>CMAQ</td>
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<td>Regional Improvement Program (RIP)</td>
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<td>Transportation Development Act - Admin. and Audits (99233.1 Public Utilities Code)</td>
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<td>Transportation Development Act - Planning Allocations (Cities &amp; County for Planning) (includes $11,296 carryover funds)</td>
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<td>California Department of Conservation</td>
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<td>Blueprint Planning Grant</td>
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<td>Merced County Transit</td>
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<tr>
<td>In-kind</td>
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OVERALL BUDGET
Fiscal Year 2008/2009
Merced County Association of Governments

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<tr>
<th>INCOME</th>
<th>FY 2007/08 BUDGETED</th>
<th>FY 2008/09 BUDGETED</th>
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<td>Contributions</td>
<td>1-1-07 Percent</td>
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<td>Atwater</td>
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<td>Dos Palos</td>
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<td>Gustine</td>
<td>2.05</td>
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<td>Livingston</td>
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<th>One Voice Contributions</th>
<th>1-1-07 Percent</th>
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<th>FY 08/09</th>
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<td>Atwater</td>
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| Local Other             | 1,558,454      | 525,500  |
| County Transit LTF      | 7,370          | -0-      |
| MDSS, Inc.              | 92,354         | 50,000   |
| YARTS Authority         | 135,279        | 141,348  |
| TOTAL                   | $10,436,346    | $ 8,213,842 |

13
## OVERALL BUDGET

**Fiscal Year 2008/2009**

**Merced County Association of Governments**

### EXPENDITURES

<table>
<thead>
<tr>
<th>EXPENDITURES</th>
<th>FY 2007/08</th>
<th>FY 2008/09</th>
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<tr>
<td>10000 Salaries &amp; Employee Benefits</td>
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<tr>
<td>10110 Salaries &amp; Wages-Permanent</td>
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<td>10111 Overtime-Permanent Employees</td>
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<td>10360 Insurance-Workman’s Comp.</td>
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<td><strong>Subtotal</strong></td>
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<td><strong>$2,346,000</strong></td>
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| 20000 Services & Supplies           |            |            |
| 20600 Communications                | 24,500     | 24,500     |
| 20940 Household Expense-Janitorial  | 9,000      | 9,500      |
| 21000 Insurance-Other               | 28,500     | 28,500     |
| 21200 Maintenance-Equipment         | 6,000      | 6,000      |
| 21210 Maintenance-Equipment-Auto    | 500        | 500        |
| 21300 Maintenance-Structure         | 1,000      | 2,000      |
| 21500 Membership                    | 8,000      | 8,000      |
| 21700 Office Expense-General        | 52,000     | 52,000     |
| 21701 Office Expense-Equipment      | 1,000      | 1,000      |
| 21800 Professional & Special Services| 7,598,015  | 5,362,323  |
| 21805 Professional & Special Services-Audit | 32,500 | 33,000 |
| 21900 Publications & Legal Notices  | 6,250      | 6,250      |
| 22000 Rents & Leases-Equipment      | 14,650     | 14,650     |
| 22100 Rents & Leases-Structure & Grounds | 19,394 | 19,394 |
| 22305 Special Department Expense    | 218,200    | 200,205    |
| 22500 Transportation & Travel       | 69,870     | 66,020     |
| 22600 Utilities                     | 12,000     | 12,000     |
| **Subtotal**                        | **$8,101,379** | **$5,845,842** |

| 70000 Contingencies                 |            |            |
| 74000 Provision for Contingencies   | $6,000     | $6,000     |

<p>| 80000 Fixed Assets                  |            |            |
| 83700 Equipment                     | $31,000    | 16,000     |
| <strong>Total Budget Unit 91100</strong>         | <strong>$10,436,346</strong> | <strong>$8,213,842</strong> |</p>
<table>
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<tr>
<th>Work Element</th>
<th>Total</th>
<th>FHWA PL</th>
<th>FTA Sec 5303</th>
<th>TDA Admin</th>
<th>LTF Planning</th>
<th>SAFE Blueprint Planning Grant</th>
<th>RIP</th>
<th>RTIF</th>
<th>CMAQ</th>
<th>TEA III</th>
<th>City of Los Banos</th>
<th>MCGAG</th>
<th>OTHER</th>
<th>Staff Months</th>
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<tr>
<td><strong>TRANSPORTATION PLANNING</strong> (includes Care Coordination)</td>
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<td>1200 Citizen Empowerment &amp; Coordination</td>
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Subtotal Comprehensive Planning | $1,348,947 | $1,168,000 | $150,000 | $200,000 | $82,100 | $123,500 | $8,000 | $1,600,000 | $263,500 | $38,000 | $88,987 | $0 | $0 | $486,000 | 141.00 |

**TOTAL MCGAG PROGRAM** | $8,215,842 | $599,000 | $59,000 | $220,000 | $82,100 | $123,500 | $8,000 | $1,600,000 | $263,500 | $38,000 | $88,987 | $0 | $0 | $486,000 | 141.00 |
# MERCED COUNTY ASSOCIATION OF GOVERNMENTS

**FY 2008/2009**

**MEMBER CONTRIBUTION SCHEDULE**

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<td>251510</td>
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* Dept of Finance as of 1-1-07, Report E-1
** LTF includes $10,000 for Grant Writing Support.
Agenda Staff Report

TO: Honorable Mayor & City Council Members

FROM: Dwayne Chisam, P.E., Public Works Director/City Engineer

DATE: April 16, 2008

SUBJECT: Televising Local Agency Formation Commission (LAFCO) Meetings

TYPE OF REPORT: Consent Agenda

Recommendation:
That the City Council approve supporting LAFCO's proposal for the six cities and Merced County to fund the cost of televising the LAFCO meetings.

Discussion:
LAFCO is considering televising their meetings, at the request of the County Board of Supervisors. Broadcasting would be provided under an arrangement with the Merced County Superintendent of Schools. In order to televise the meetings, there would be an initial set-up fee of $100.29. It is estimated that the cost to televise a two hour meeting would be $519.45, and assuming 11 meetings are held per year, the annual cost is $5,714. The six cities within the County and Merced County fund LAFCO operations except for the application processing costs which are covered by application processing fees (approximately 30% of annual revenues). LAFCO is proposing that the cities within the County support televising the LAFCO meetings, and each city pay their proportional share of the cost.

Fiscal Impact:
The annual cost to the City is estimated to be $1,000. This amount, if approved, would be included in the 2008/09 Fiscal Year Budget.
Reviewed by:

Melinda J. Wall, Chief Financial Officer

Steve Rath, City Manager

Attachments:
Resolution
LAFCO's Proposal Letter
RESOLUTION NO. ___

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOS BANOS APPROVING FUNDING THE COST OF TELEVISIONING THE LOCAL AGENCY FORMATION COMMISSION (LAFCO) MEETINGS

WHEREAS, the City of Los Banos, along with the five other cities within the County and Merced County fund LAFCO operations; and

WHEREAS, LAFCO is proposing that the six cities within Merced County support televising the LAFCO meetings, and each City pay their proportional share of the cost; and

WHEREAS, the City Council of the City of Los Banos has reviewed LAFCO’s proposal for funding the cost to televise the LAFCO meetings.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Los Banos does hereby approve funding the cost of televising the LAFCO meetings.

The foregoing Resolution was introduced at a regular meeting of the City Council of the City of Los Banos held on the 16th day of April 2008, by Council Member ______ who moved its adoption, which motion was duly seconded by Council Member ______ and the Resolution adopted by the following vote:

AYES: 
NOES: 
ABSENT: 

APPROVED:

__________________________
Tommy Jones, Mayor

ATTEST:

__________________________
Lucille L. Mallonee, City Clerk
February 11, 2008

Steve Rath, City Manager  
City of Los Banos  
520 J Street  
Los Banos, CA 93635

RE: Consideration of Televising LAFCO Meetings

Dear Mr. Rath:

The Local Agency Formation Commission is considering televising their meetings and public hearings at the request of the County Board of Supervisors. The Commission requested that each City be contacted to determine whether there is support for this proposal since it will require an annual cost which would become part of the Commission's Budget. Broadcasting would be provided under an arrangement with the Merced County Superintendent of Schools, similar to how Supervisor's meetings are broadcast.

As you are aware, the six cities within the County and Merced County fund LAFCO operations except for the application processing costs which are covered by application processing fees (approximately 30% of annual revenues). In order to televise the meetings, there would be an initial set-up fee of $100.29. It is estimated that the cost to televise a two hour meeting would be $519.45, and assuming 11 meetings are held per year, the annual cost is $5,714.

The Commission would like to know whether the cities within the County are willing to support televising the LAFCO meetings, and paying your City's proportional share of these costs. This can be added as a line item in the proposed 2008/09 Fiscal Year Budget, but if the Cities are interested, we can implement it during the current fiscal year by transferring funds from the contingencies account.

Sincerely,

Bill Nicholson,  
Executive Officer

cc: Bill Ingram, LAFCO Chairman
Agenda Staff Report

TO: Mayor & City Council Members
FROM: Chris Gallagher, Chief of Police
Danny O'Day, Police Officer (IT)
DATE: April 16, 2008
SUBJECT: Consideration of the purchase of new Server Hardware for the Computer Aided Dispatch System for Police and Fire.
TYPE OF REPORT: Consent Agenda

Recommendation:
Consider Resolution # for purchase and associated costs of a new server for the Police and Fire Computer Aided Dispatch (CAD) System, not to exceed $55,000.

Background:
The Los Banos Police Department's CAD server system is in need of upgrades in order to accommodate the full functionality of computers mounted in Police and Fire service vehicles. It has been determined additional server hardware and maintenance tasks are necessary to complete the critical infrastructure.

Discussion:
The Los Banos Police Department currently provides dispatch services for the local Police and Fire Departments. Due to the critical mission of each department, several computer servers were installed at the Police Department for Computer Aided Dispatch (CAD). The CAD system is a vital component for tracking, response and record keeping for both Police and Fire.

At the time of the initial installation of CAD, two servers specific to CAD were purchased and installed. The reason for two servers to be in place is CAD to assure no down time for CAD due to equipment failures. These two machines were purchased in June 2002, and are no longer able to be covered under a maintenance agreement.
During the past year, several upgrades have been made to the computer systems which assist in the functionality of dispatching services. With the implementation of the Mobile Digital Computers (MDC's), it has been discovered additional servers will be required to implement full functionality to both Police and Fire vehicles.

Staff has evaluated the requirements for the system expansion as well as the implementation of the additional servers at a minimal cost level. This plan includes the purchase and installation of a new redundant server for CAD functionality. The two servers previously assigned to the CAD functions will then be reconditioned by internal staff and assigned to new functions to support the MDC and Police Department Records Division.

The server selected for this implementation is built by Stratus Technologies. This new system is commonly used in Police, Fire and other installations where server availability is key to life and death situations. The one computer actually houses two computers running simultaneously. Should one of the systems fail, the other will kick in to operate at 100% efficiency. It also reduces the amount of configuration and troubleshooting necessary when two separate servers are installed for fail-over situations. The Stratus Technologies solution is also recommended and fully supported by our CAD vendor, Visionair Public Safety Software.

Staff has researched several other options which, while lower in initial costs, the cost impact over time would be greater due to the more complex configuration and upkeep. Staff has researched the purchase of this hardware directly from Stratus Technologies, as well as through authorized Stratus resellers, one of which is our CAD vendor, Visionair. Based on the scope of current projects for the MDC implementation, it appears acquisition of this hardware from Visionair, and allowing their staff to implement the project along with the re-tasking of the present hardware is the most prudent and cost effective solution. There are two quotes; one for hardware and the other for services.

**Fiscal Impact:**

Sufficient funds exist in the Police Capital Improvement Fund. $55,000 will have to be allocated to the Computer Equipment line item from the Building/Structure Improvement line item.

**Reviewed by:**

Melinda J. Wall, Chief Financial Officer

Steve Rath, City Manager

**Attachments:**

Bids from Dell, IBM, Stratus, VisionAir.
RESOLUTION NO. ________

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOS BANOS APPROVING THE PURCHASE AND ASSOCIATED COSTS OF A NEW SERVER FOR THE POLICE AND FIRE COMPUTER AIDED DISPATCH (CAD) SYSTEM, NOT TO EXCEED $55,000.

WHEREAS, due to the critical nature of police and fire dispatch, it is necessary to have computer aided dispatch (CAD) equipment that is functional twenty four hours a day, seven days a week (24X7); and

WHEREAS, the current CAD servers were purchased in June 2002 and no longer are supported by a manufacturer warranty; and

WHEREAS, Stratus Computers has a redundant server that would provide the needed 24X7 functionality required for our critical CAD system, and

WHEREAS, VisionAir, our current CAD software provider, is a value added retailer for Stratus and can provide the hardware, maintenance, software and services needed to complete the install and changeover.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Los Banos that it does hereby approve the purchase of the Stratus server for CAD and associated costs for the installation, maintenance, services and software. Sufficient money exists in Fund 245 to pay for this upgrade, not to exceed $55,000.

The foregoing Resolution was introduced at a regular meeting of the City Council of the City of Los Banos held on the 16th day of April 2008, by Council Member ________, who moved its adoption, which motion was duly seconded by Council Member ________, and the Resolution was adopted by the following vote:

AYES: Council Members
NOES:
ABSENT:

APPROVED:

Tommy Jones, Mayor

ATTEST:

Lucille L. Mallonee, City Clerk
## Third Party Products and Services

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**Third Party Products and Services Sub Total:** $27,287.00

**Quote Sub Total:** $27,287.00

**CA Tax:** $2,114.74

**Quote Total Price:** $29,401.74

**Agency:** Los Banos Police Department  
**Agency State:** CA  
**Sales Representative:** Angela Shepherd 800-882-2108

* Taxes not included.  
* Pricing is based on VisionAIR's pricing guidelines.  
* This quote expires in 45 days and may be extended by mutual agreement of both parties.  
* Please submit an itemized purchase order for each product and/or service purchased.  
* Maintenance: 24 X 7 is 365 days per year. 8 X 5 is 8:00AM to 5:00PM Monday through Friday.  
* Pricing may not include shipping. Shipping fees can be provided prior to ordering.  
* Please contact your Sales Representative for a shipping estimate when you are ready to purchase.

* Payment Terms: Payment for VisionAIR items (products and services) is due upon delivery. Third-party products, including hardware and software, will be invoiced when VisionAIR places an order with the third-party. Third-party services are due upon delivery. These payment terms will govern this order unless agreed to in writing at the time order is placed by VisionAIR and Client.
**Vision Professional Services**

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**Vision Professional Services Sub Total:** $6,000.00

**Vision Implementation**

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**Vision Implementation Sub Total:** $1,600.00

**Third Party Products and Services**

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**Third Party Products and Services Sub Total:** $150.00

**Hardware**

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**Hardware Sub Total:** $16,422.00

**Quote Sub Total:** $24,172.00
**CA Tax:** 1,272.71
**Quote Total Price:** $25,444.71

**Agency:** Los Banos Police Department

**Sales Representative:** Angela Shepherd 800-882-2108

**Agency State:** CA

* Taxes not included.

* Pricing is based on VisionAIR's pricing guidelines.

* This quote expires in 45 days and may be extended by mutual agreement of both parties.

* Please submit an itemized purchase order for each product and/or service purchased.

* Maintenance: 24 X 7 is 365 days per year. 8 X 5 is 8:00AM to 5:00PM Monday through Friday.

* Pricing may not include shipping. Shipping fees can be provided prior to ordering.

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* Payment Terms: Payment for VisionAIR items (products and services) is due upon delivery. Third-party products, including hardware and software, will be invoiced when VisionAIR places an order with the third-party. Third-party services are due upon delivery. These payment terms will govern this order unless agreed to in writing at the time order is placed by VisionAIR and Client.
### Stratus Technologies

**Quote ID:** 85712  
**Quote Name:** LOS BANOS 4400  
**Effective Date:** 21-Feb-08  
*All prices are in US Dollar*

**Quote Creator:** gsabol

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<td>BS0101F</td>
<td>US/JP 115V/100V-15A NEMA 5-15P 7 feet, single cord (Price included in base model)</td>
<td>2</td>
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<td>BS0502F</td>
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**Total Product Price:** 31,286.00

### One-Time Services Fees

**Installation**

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<td>CSIN0093</td>
<td>ftServer 4400 Jumpstart System Installation (M-F, local business hours, within Stratus service radius.)</td>
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<td>CSIN0097</td>
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**Total One-Time Services Price:** 3,795.00

**Total Configuration Selling Price:** 35,081.00

**Quantity of this configuration to be ordered:** 1

**Total Selling Price for 1 Configuration(s):** 35,081.00

### Recurring Services

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Service Level Chosen: Assured Availability ftService [AAS3000]

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<td>23</td>
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<td>240.00</td>
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<td>24</td>
<td>S0426F Rapid Disk Resync</td>
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1 Year Services Total 8,628.00

1 Year Services Total for 1 Configuration(s) 8,628.00

Comments:

This quote is valid for 30 days.

Please refer to the ftServer Site Planning Guide Web Page http://www.stratus.com/support/ftserver/siteplan/ for installation requirements including power, rack mounting, and other site planning information.

Unless you already have a current, signed master agreement in place with Stratus or one of its affiliates, your placement of an order for the products referenced herein constitutes your acceptance of the attached terms and conditions (the "Terms and Conditions"), which may also be found at https://ftquote.stratus.com/ftserver/TandC.pdf. The "Terms and Conditions" constitute the entire agreement between Stratus and you and it specifically supersedes all prior or contemporaneous agreements, arrangements, representations and communications, whether oral or written. Stratus hereby objects to any terms proposed by you in your purchase order which add to, vary from or conflict with the Terms and Conditions. Any such proposed terms shall not operate as a rejection of this offer but are deemed a material alteration, and this offer shall be deemed accepted by you without said additional or different terms. If this document shall be deemed an acceptance of a prior offer by you, such acceptance is expressly limited to the terms contained within the Terms and Conditions.

Stratus’ ftServer standard service terms and conditions may be found at https://ftquote.stratus.com/ftservice TC.pdf.

Stratus reserves the right to change prices if the exchange rate (quoted currency to U.S. dollar) varies by more than 3% from the published rate applicable as of the close of business on the day preceding the date of this quote. Stratus is not responsible for typographical errors or incorrect product configurations contained in this quotation. Stratus shall not be obligated to honor a quotation that contains such an error or incorrect product configuration.
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<th>Item#</th>
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<td>XX IBM x3650 Xeon X5355 2.66GHz QC 2x2GB 0GB SAS RPS</td>
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<td>P 01588713</td>
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<td>73GB 15K Hot Swap SAS</td>
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<td>W 01563900 L VOL</td>
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Sub-Total: $8,392.69
Sales Tax: $850.43
Shipping: $87.00
Grand Total: $9,130.12

24 Mo. FMV lease for $366.15 per month
36 Mo. FMV lease for $264.40 per month

Please Note: Lease Amounts Exclude Tax

We appreciate this opportunity to earn your business, and look forward to serving you soon! Thank you!
Rock-solid, long-life business-critical application server for data-dense environments

IBM System x3650

Highlights

- Get superior performance with new dual-core processors and faster memory
- Use new integrated solutions to manage your resources
- Protect IT investments with scalable memory, I/O and storage on a long-life server platform

New levels of speed and performance
For constrained data center environments, the IBM System x3650 offers unprecedented performance and reliability. Optimized for up to four-core processor performance, the x3650 delivers rack-dense, dual-core computing power, an impressive 12 DIMM memory design and super-efficient network communication.

Integrated enterprise-class management
Innovation comes standard on the x3650. Anywhere/anytime management keeps assets under control. Power Executive delivers advanced control, monitoring power consumption while achieving decreased cooling costs. The optional RSA II SlimLine card keeps slots free while expanding systems management functionality.

Protect your IT investment
Scalable memory and I/O design satisfy high-speed processing and reliability requirements, while integrated RAID safeguards data. Hot-swap power and cooling with Calibrated Vectored Cooling and IBM PowerExecutive help keep your server cool. The result? Run two different workloads on a two-socket server—without running out of IT funds.

Select configurations of the x3650 are part of the IBM Express Portfolio™ designed and priced to meet the needs of midsized businesses. Reliable and easy to manage, Express models/configurations vary by country.

Get it now
go to ibm.com/systems/x or call 1 888 ShopIBM to buy direct or to locate an IBM reseller
<table>
<thead>
<tr>
<th>IBM System x3650 at a glance</th>
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<tbody>
<tr>
<td><strong>Form factor/height</strong></td>
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<tr>
<td><strong>Processor (max)</strong></td>
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<tr>
<td><strong>Number of processors (std/max)</strong></td>
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<tr>
<td><strong>L2 cache</strong></td>
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<tr>
<td><strong>Memory1 (std/max)</strong></td>
</tr>
<tr>
<td><strong>Expansion slots</strong></td>
</tr>
<tr>
<td><strong>Disk bays (total/hot-swap)</strong></td>
</tr>
<tr>
<td><strong>Maximum internal storage</strong></td>
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<tr>
<td><strong>Network Interface</strong></td>
</tr>
<tr>
<td><strong>Power supply (std/max)</strong></td>
</tr>
<tr>
<td><strong>Hot-swap components</strong></td>
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<tr>
<td><strong>RAID support</strong></td>
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<tr>
<td><strong>Systems management</strong></td>
</tr>
<tr>
<td><strong>Operating systems supported</strong></td>
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<tr>
<td><strong>Limited warranty</strong></td>
</tr>
</tbody>
</table>

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1 Maximum internal hard disk and memory capacities may require the replacement of any standard hard drives and/or memory and the population of all hard disk bays and memory slots with the largest currently supported drives available. When referring to variable speed CD-ROMs, CD-Rs, CD-RWs and DVDs, actual playback speed will vary and is often less than the maximum possible.

2 IBM hardware products are made from new parts, or new and serviceable used parts. Regardless, our warranty terms apply. For a copy of applicable product warranties, write to: Warranty Information, P.O. Box 12195, RTP, NC 27709, Attn: Dept. JDJ-A1B203. IBM makes no representation or warranty regarding third-party products or services including those designated as ServerProven® or ClusterProven®.

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Microsoft and Windows server are trademarks of Microsoft Corporation in the United States, other countries, or both.

Other company, product and service names may be trademarks or service marks of others.
**DELL QUOTATION**

QUOTE #: 417701140  
Customer #: 3229781  
Contract #: N39913654  
Customer Agreement #: NASPOWSCA # A63307  
Date: 3/3/08  
Customer Name: CITY OF LOS BANOS

---

**TOTAL QUOTE AMOUNT:** $5,653.07

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<td><strong>Tax:</strong></td>
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<td><strong>Shipping &amp; Handling:</strong></td>
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**GROUP: 1  QUANTITY: 1  SYSTEM PRICE: $5,357.00  GROUP TOTAL: $5,357.00**

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<td>2GB 667MHz (4X512MB), Single Ranked DIMMs (311-6153)</td>
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<td><strong>Video Card:</strong></td>
<td>Broadcom TCP/IP Offload EngineNot Enabled (430-1765)</td>
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<td><strong>Video Memory:</strong></td>
<td>Riser with 3 PCIe Slots for PowerEdge 2950 (320-4607)</td>
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<td><strong>Hard Drive Controller:</strong></td>
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<td><strong>Mouse:</strong></td>
<td>Mouse Option None (310-0024)</td>
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<td><strong>NIC:</strong></td>
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<td><strong>Modem:</strong></td>
<td>Dell Remote Access Card, 5th Generation for PowerEdge Remote Management (313-3923)</td>
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<td><strong>CD-ROM or DVD-ROM Drive:</strong></td>
<td>24X IDE CD-RW/DVD ROM Drive for PowerEdge 2950 (313-3934)</td>
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<td><strong>Sound Card:</strong></td>
<td>Bezel for PE 2950 (313-3920)</td>
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<td><strong>Speakers:</strong></td>
<td>1x8 Backplane for 2.5-Inch Hard Drives, PE2950 III (311-7934)</td>
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<td><strong>Documentation Diskette:</strong></td>
<td>Electronic Documentation and OpenManage CD Kit, PE2950 (310-7415)</td>
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<td><strong>Feature:</strong></td>
<td>Integrated SAS/SATA RAID 1/RAID 10, PERC 6/i Integrated (341-5728)</td>
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<td><strong>Feature:</strong></td>
<td>Unified Sliding Rapid/Versa Rails, includes Cable Management Arm (310-7412)</td>
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<td>Dell Hardware Warranty Onsite Service Initial YR (984-1399)</td>
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<td>Mission Critical Package: 4-Hour 7x24 On-Site Service with Emergency Dispatch, Initial Year (987-2830)</td>
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<tr>
<td><strong>Service:</strong></td>
<td>Thank you choosing Dell ProSupport. For tech support, visit <a href="http://support.dell.com/ProSupport">http://support.dell.com/ProSupport</a> or call 1-800-945-33 (989-3439)</td>
</tr>
<tr>
<td><strong>Service:</strong></td>
<td>MISSION CRITICAL PACKAGE: Enhanced Services, 3 Year (989-9238)</td>
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<td><strong>Installation:</strong></td>
<td>On-Site Installation Declined (900-9997)</td>
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<tr>
<td><strong>Misc:</strong></td>
<td>Redundant Power Supply with Y-Cord (310-9897)</td>
</tr>
</tbody>
</table>
For your convenience, your sales representative, quote number and customer number have been included to provide you with faster service when you are ready to place your order. Orders may be faxed to the attention of your sales representative to 1-866-607-6914. You may also place your order online at www.dell.com/qto

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TO: Mayor & City Council Members
FROM: Dwayne Chisam, P.E., Public Works Director/City Engineer
DATE: April 16, 2008

SUBJECT: Acceptance of Grant Deed and Dedication of the Lot "D" Park to the City of Los Banos from Ranchwood Residential, Inc.

TYPE OF REPORT: Non-Consent Agenda

Recommendation:

Staff requests that the City Council make the appropriate finding and adopt a Resolution to accept the Grant Deed and dedication of Lot "D" Park.

Background:

Lot "D" Park is a 4.61 acre park. The Park is located in the Regency Park Estates Subdivision east of Fairmont Drive and south of Regency Drive. The park has lighting, parking lot, tot lot, hardscape, and large green areas. The Regency Park Subdivision consists of seven phases with a total of 347 single family dwellings. All subdivision improvements associated with phases 1-5 have been accepted by the City of Los Banos. Phases 6 and 7 have not yet been completed. Street pavement around the park has been completed. Ranchwood Residential, Inc. is responsible for the development of the Regency Park Estates Subdivision and the park.

Discussion:

Ranchwood Residential, Inc. has completed the park improvements. The park improvements have been accepted and are being maintained by the City of Los Banos.
Typically when park improvements are completed the developer requests that the area be deeded over to the City and become City property. With the acceptance of the Grant Deed the Park will officially become City of Los Banos property.

**Fiscal Impact:**

Maintenance for this area has been ongoing and paid for by funds provided through Assessment District # 14.

**Reviewed by:**

Melinda J. Wall, Chief Financial Officer

Steve Rath, City Manager

**Attachments:**

Letter from Ranchwood Residential, Inc. (Exhibit A)

Site Location Map (Exhibit B)

Grant Deed Transfer Copy (Exhibit C)
RESOLUTION NO. ____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOS BANOS
ACCEPTING THE GRANT DEED AND DEDICATION OF LOT “D” PARK

WHEREAS, there has been submitted to the City Council of the City of Los Banos a Grant Deed from Ranchwood Residential, Inc.; and

WHEREAS, the City of Los Banos is desirous of accepting said deed for purposes of acquiring a park, known as the Lot “D” Park at the Regency Park Estates Subdivision; and

WHEREAS, said Grant Deed, as presented has been reviewed and examined by the City Council of the City of Los Banos.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Los Banos does hereby accept said Grant Deed for that real property described in the Attachments for APN # 082-120-041(portion).

The foregoing Resolution was introduced at a regular meeting of the City Council of the City of Los Banos held on the 16th day of April 2008, by Council Member ______ who moved its adoption, which motion was duly seconded by Council Member ______ and the Resolution adopted by the following vote:

AYES:
NOES:
ABSENT:

APPROVED:

______________________
Tommy Jones, Mayor

ATTEST:

______________________
Lucille L. Mallonee, City Clerk
Tuesday, March 11, 2008

Gary Hutsell  
Assistant Public Works Director  
City of Los Banos

Re: Regeny Lot “D” Park

Dear Gary,

With the Lot “D” Park improvements accepted by the city of Los Banos, please accept this letter as a formal request for the acceptance and recording of the Grant Deed for the said Park to the City of Los Banos. I would also like to request the item be placed on the City Council Meeting Agenda of April 2, 2008.

If you have any questions or require any additional information, please contact me at any time.

Thank you,

Pat Johnson  
Director of Residential Operations
Park Location Map
Lot "D" Park

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http://maps.digitalmapcentral.com/production/CityGIS/v07_01_036/indexA.html

3/25/2008
RECORDING REQUESTED BY:
Fidelity National Title Company of California

Title No.: Accommodation

When Recorded Mail Document and Tax Statement To:
City of Los Banos
520 "J" Street
Los Banos, CA 93635

APN: 082 120 041 (portion)

The undersigned grantor(s) declare(s)

Documentary transfer tax is $ [ x ] computed on full value of property conveyed, or
[ ] computed on full value less value of liens or encumbrances remaining at time of sale,
[ ] Unincorporated Area City of Los Banos,

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, Regency Park Estates 1-4, LLC, a California Limited Liability Company

hereby GRANT(S) to CITY OF LOS BANOS

the following described real property in the City of Los Banos, County of Merced, State of California:

a Fee Estate in and to the following: A PORTION OF Lot "D" of Regency Park Estates Unit No. 6 described more particularly on EXHIBIT "A" & "B" ATTACHED HERETO AND MADE A PART HEREOF


DATED: February 20, 2008

See attached Notary

Regency Park Estates 1-4, LLC, a California Limited Liability Co.

By: Ranchwood Homes Corp., a California Corp., Manager

By: Greg Hostetler, President

See Accommodation Recording instructions incorporated on the back of this document.
On March 10, 2008, before me, Nancy Massey, Notary Public (here insert name and title of the officer), personally appeared Greg Hostetter, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Nancy Massey (Seal)
EXHIBIT A

Legal Description

All that real property as shown as “LOT D” on that map of “Regency Park Estates Unit No.6” filed for record at Volume 69 of Official Plats at Pages 29-33, Merced County Records, situate in Section 12, Township 10 South, Range 10 East, Mount Diablo Base and Meridian, City of Merced, State of California, being more particularly described as follows:

Beginning at the northwesterly corner of said “LOT D” also being on the south line of the 28.00 foot half width of Regency Drive; thence along said south line and also being the northerly line of said “LOT D” South 89°05’46” East 258.71 feet to the beginning of a curve concave southwesterly having a radius of 372.00 feet; thence southeasterly 288.57 feet along said curve through a central angle of 44°26’42”; thence South 44°39’04” East 70.81 feet; thence South 03°03’01” West 22.19 feet to the northwest line of the 28.00 foot half width of Rockport Drive and also being the southeasterly line of said “LOT D”; thence along said northwest line South 50°45’06” West 522.06 feet; thence North 84°14’54” West 21.21 feet to the northeasterly line of the 28.00 foot half width of Fairmont Drive and also being the southwesterly line of said “LOT D”; thence along said northeasterly line North 39°14’54” West 154.54 feet to the beginning of a curve concave northeasterly having a radius of 272.00 feet; thence northwesterly 190.62 feet along said curve through a central angle of 40°09’09”; thence North 00°54’14” East 204.51 feet; thence North 45°54’14” East 21.21 feet to the Point of Beginning all as shown on attached “EXHIBIT B” and made a part hereof and containing 4.61 acres, more or less.

END DESCRIPTION

[Signature]

7/10/07
LOT D
PARK
69—O.P.—29
M.C.R.

AREA= 4.61±ACRES

<table>
<thead>
<tr>
<th>LINE</th>
<th>BEARING</th>
<th>LENGTH</th>
</tr>
</thead>
<tbody>
<tr>
<td>L1</td>
<td>N 45°54'11&quot; E</td>
<td>21.21'</td>
</tr>
<tr>
<td>L2</td>
<td>S 44°39'04&quot; E</td>
<td>70.81'</td>
</tr>
<tr>
<td>L3</td>
<td>S 03°03'01&quot; W</td>
<td>22.19'</td>
</tr>
<tr>
<td>L4</td>
<td>N 84°14'54&quot; W</td>
<td>21.21'</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>CURVE</th>
<th>RADIUS</th>
<th>LENGTH</th>
<th>DELTA</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>372.00'</td>
<td>288.57'</td>
<td>44°26'42&quot;</td>
</tr>
<tr>
<td>2</td>
<td>272.00'</td>
<td>190.62'</td>
<td>40°09'09&quot;</td>
</tr>
</tbody>
</table>

DRAWN BY: DREW A THOMPSON
FILE: 5079LEG_LOTD.dwg
DATE: 6/01/07

1165 Scenic Drive, Suite A Modesto, CA 95350
Ph 209.571.1765 Fax 209.571.2466

EXHIBIT B
Agenda Staff Report

TO: Mayor Jones and City Council Members
FROM: Dwayne Chisam, P.E., Interim Planning Director
DATE: April 16, 2008

SUBJECT: H & H Indian Cuisine Use Permit #2008-01 for the on-sale of beer and wine in conjunction with a restaurant at 265 Mercey Springs Road, Suite J.

TYPE OF REPORT: Public Hearing

Recommendation:

That the City Council consider making the appropriate findings to approve Use Permit #2008-01 for the use of a Type 41 license for the on sale of beer and wine in conjunction with a restaurant at 265 Mercey Springs Road, Suite J.

Background:

The proposed use permit is to authorize a Type 41 Alcohol License for the on sale of beer and wine in conjunction with an Indian restaurant. The restaurant is currently open and serving the public seven days a week, from 11:30am to 10:00pm. H & H Indian Cuisine serves both lunch and dinner and is operated by the Singh family. The restaurant is a part of a commercial center, which consists of various tenants in the Premiere Cinema Plaza.

The applicant is seeking to operate a family oriented restaurant for the community. The requested use will strictly be to compliment dining at this location.
Discussion:

LOCATION:
The project site is located at 265 Mercey Springs Road, Suite J, more specifically described as Assessor’s Parcel Number: 025-121-012

EXISTING LAND USE:

<table>
<thead>
<tr>
<th>Property</th>
<th>Land Use</th>
<th>Zone</th>
<th>General Plan</th>
</tr>
</thead>
<tbody>
<tr>
<td>Subject Site</td>
<td>Restaurant</td>
<td>PD</td>
<td>Commercial</td>
</tr>
<tr>
<td>North</td>
<td>Commercial</td>
<td>C-2</td>
<td>Industrial</td>
</tr>
<tr>
<td>East</td>
<td>Cinemas</td>
<td>PD</td>
<td>Commercial</td>
</tr>
<tr>
<td>West</td>
<td>School</td>
<td>R-3</td>
<td>Public Facility</td>
</tr>
<tr>
<td>South</td>
<td>Commercial</td>
<td>C-2</td>
<td>Industrial</td>
</tr>
</tbody>
</table>

PD = Planned Development      R-3 = High Density Residential
C-2 = General Commercial

ENVIRONMENTAL ASSESSMENT:
Pursuant to the California Environmental Quality Act (CEQA) and the City of Los Banos Environmental Quality Guidelines, it has been determined that this project is categorically exempt from the provisions of CEQA – Article 5, Section 15301 Existing Facilities.
CODE REQUIREMENTS:

Use Permit
A use permit, as specified in the Los Banos Municipal Code Section 9-3.2222, is required for any establishment dispensing for sale or other consideration alcoholic beverages, including beer and wine, for on-sale or off-sale. A use permit may be granted if the proposal is conforming to the following criteria:

1. That the proposal will not contribute to undue proliferation of such uses in an area where additional ones would be undesirable with consideration given to the area's function and character, problems of crime and loitering, and traffic problems and capacity;
2. That the proposal will not adversely affect adjacent or nearby churches, temples, or synagogues; public, parochial, or private elementary, junior high, or high schools; public parks or recreation centers; or public or parochial playgrounds;
3. That the proposal will not interfere with the movement of people along an important pedestrian street; and
4. That where the proposed use is in close proximity to residential uses, and especially to bedroom windows, the use will be limited in hours of operation, or designed operated so as to avoid the disruption of residents' sleep between the hours of 10:00pm and 7:00am.

Staff believes that the proposed use permit is conforming to the criteria set forth in the Los Banos Municipal Code. The project will not contribute to proliferation of alcohol in the area or cause an increase in crime in that it is a family oriented restaurant, with alcohol being an auxiliary use. The proposal is in close proximity to places of worship or schools, but City staff has received a letter from the Los Banos Unified School District and the Los Banos Police Department reporting no issues with the proposed use at the project site. Staff believes that the proposal will not have any affect with the movement of people in that the location of the restaurant is setback away from public streets and sidewalks. Residential dwellings are not in direct proximity with the restaurant; however, conditions have been added to restrict hours of operation to avoid disruption of any residential sleep.

Alcoholic Beverage Control
The Alcoholic Beverage Control Board (ABC) has the authority according to Section 23801 of the Business and Professions Code to exercise certain conditions under the license, the personal qualifications of the licensee, the conduct of the business or the condition of the premises, which will protect the public welfare and morals, including, but not limited to, the following:
   a) Restrictions as to hours of sale.
   b) Display of signs.
   c) Employment of designated persons.
   d) Types and strengths of alcoholic beverages to be served where such types or strengths are otherwise limited by law.
   e) The portion of the privileges to be exercised under the license.
   f) The personal conduct of the licensee.
ABC may also refuse to issue a license to any person who has violated the ACT, has a disqualifying criminal record, or is otherwise disqualified.

As stated in Section 23789 of the Business and Professions Code, ABC is authorized to refuse the issuance of any retail license located with the immediate vicinity of churches and hospitals or within at least 600 feet of schools, playgrounds and nonprofit youth facilities. Generally, ABC will deny a license in the above situations when there is evidence that normal operation of the licensed premises will be opposing to public welfare and morals. According to ABC the issue of mere proximity by itself is not sufficient to deny the license. ABC will not license a new retail location within 100 feet of a residence unless the applicant can establish that the operation of the proposed premises will not interfere with the quiet enjoyment of the property by residents.

**Census Tract**
The project site is located in census tract 22.01. As of the date of this report there are 9 Type 41 licenses currently in use in this specific census tract. According to Section 23817.5 of the Business and Professions Code there are no limitations to how many “on-sale” beer and wine licenses may be issued in a census tract. There are only limitations specified for “off-sale” of beer and wine and “off-sale” general licenses. Census tract 22.01 consists of the following active licenses:

<table>
<thead>
<tr>
<th>License Type</th>
<th>Business Name</th>
<th>Premises Address</th>
</tr>
</thead>
<tbody>
<tr>
<td>41</td>
<td>6th Street Diner</td>
<td>925 Sixth Street</td>
</tr>
<tr>
<td>41</td>
<td>M &amp; M Italian Food</td>
<td>225 Seventh Street, Ste. B</td>
</tr>
<tr>
<td>41</td>
<td>Las Palmas Restaurant &amp; Taqueria</td>
<td>639 Ninth Street</td>
</tr>
<tr>
<td>41</td>
<td>El Grullense Jal</td>
<td>1024 E. Pacheco Blvd.</td>
</tr>
<tr>
<td>41</td>
<td>Cecilias Market &amp; Deli</td>
<td>455 H Street</td>
</tr>
<tr>
<td>41</td>
<td>Jesus Mexican Restaurant</td>
<td>631 H Street</td>
</tr>
<tr>
<td>41</td>
<td>Mikalinos Pizzeria</td>
<td>650 I Street</td>
</tr>
<tr>
<td>41</td>
<td>El Paisan</td>
<td>651 I Street</td>
</tr>
<tr>
<td>41</td>
<td>Me &amp; Eds Pizzeria</td>
<td>846 W. Pacheco Blvd.</td>
</tr>
</tbody>
</table>

**Circulation**
Access to the restaurant is available from two access points via Romero Street and Mercey Springs Road.

**PUBLIC COMMENT:**
A public hearing notice was published in the Los Banos Enterprise and notices were provided to adjacent property owners within 300 foot radius of the subject property on April 4, 2008. As of the date of this staff report, no comments have been received.

---

1 California Department of Alcoholic Beverage Control
http://www.abc.ca.gov/datport/AHCityRep.asp
CONCLUSION:
The proposed use permit will conditionally authorize the use of a Type 41 alcohol license for the on-sale of beer and wine in conjunction with a restaurant at 265 Mercey Springs Road, Suite J. Staff believes the requested use is in conformance with the Los Banos Municipal Code and the Los Banos General Plan.

Attachments:
1. City Council Resolution Approving Use Permit #2008-01
   - Exhibit A – CEQA findings
   - Exhibit B – Project Findings
   - Exhibit C – Conditions of Approval

1. Site Plan
2. Site Specific Zoning Map
3. Operational and Environmental Statement
4. Use Permit Findings of Fact.
5. Letters (Police Department, School District, and Property Owner)
RESOLUTION NO. ____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOS BANOS APPROVING USE PERMIT #2008-01 FOR THE ON-SALE OF BEER AND WINE IN CONJUNCTION WITH A RESTAURANT AT 265 MERCEY SPRINGS ROAD, SUITE J.

WHEREAS, the applicant has requested that the City of Los Banos consider a Use Permit to allow the use of a Type 41 alcohol license for the on-sale of beer and wine in conjunction with an Indian restaurant located at 265 Mercey Springs Road, Suite J; further identified as Assessor's Parcel Number: 025-121-012; and

WHEREAS, Use Permit #2008-01 has been determined to be categorically exempt from the provisions of CEQA per Article 5, Section 15301 -Existing Facilities.

WHEREAS, a public hearing notice was advertised in the Los Banos Enterprise on April 4, 2008 and mailed to property owners within 300 feet of the site as required by the Los Banos Municipal Code and Government Code Section 65091; and

WHEREAS, the Los Banos City Council has held a public hearing, reviewed said Conditional Use Permit request and the staff report, has studied the compatibility of the applicant's request with adjacent land uses and has considered this request in accordance with the Use Permit criteria established in Section 9-3.2222 of the Los Banos Municipal Code; and

WHEREAS, the City Council of the City of Los Banos hereby makes the appropriate findings set forth in Exhibit A (California Environmental Quality Act (CEQA) Findings), and Exhibit B (Findings for Approval), attached hereto and incorporated herein by this reference.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Los Banos does hereby approve Use Permit #2008-01 to permit the use of a Type 41 alcohol license for the on-sale of beer and wine in conjunction with a restaurant at 265 Mercey Springs Road, Suite J, subject to the Conditions of Approval set forth in Exhibit C, attached hereto and incorporated herein by this reference.

The foregoing Resolution was introduced at a regular meeting of the City Council of the City of Los Banos held on the 16th day of April 2008, by Council Member _____ who moved its adoption, which motion was duly seconded by Council Member _____ and the Resolution adopted by the following vote:
EXHIBIT A

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) FINDINGS FOR
USE PERMIT #2008-01 (H & H Indian Cuisine)

Pursuant to the requirements of California Public Resources Code Section 21000 et seq. (CEQA) and Title 14, California Code of Regulations 15000 et seq. (the CEQA Guidelines), the City as Lead Agency under CEQA adopts the following findings required by CEQA, along with the facts and evidence upon which each finding is based.

The City Council of the City of Los Banos hereby finds as follows:

1. Pursuant to CEQA, the CEQA Guidelines, and the City of Los Banos Environmental Guidelines, the project was evaluated within the context of those guidelines and found to be categorically exempt from the provisions of CEQA – Article 5, Section 15301 Existing Facilities.

2. Use Permit #2008-01 was adequately noticed and considered at a public meeting on April 16, 2008.

3. No further environmental documentation is required as the Use Permit was contemplated and adequately analyzed in the initial review.

4. The proposal is consistent with the Los Banos General Plan as it meets the use and density standards specified within.

5. The proposal is consistent with the Los Banos Zoning Ordinance as it meets the use and development standards specified within.
The City Council of the City of Los Banos hereby finds as follows:

1. The project is consistent with the City of Los Banos General Plan "Commercial" designation in that the project meets the use and density standards specified within.

2. The proposal is consistent with the Los Banos Municipal Code in that it meets the criteria and required findings as specified in Section 9-3.2222 of the Code.

3. The proposed use will not be a nuisance or detrimental to the public health, safety, morals, comfort, and general welfare of the persons residing or working in the neighborhood of such proposed use in that the proposed use will be conducted within a commercial restaurant and will not result in significant operational changes to the existing commercial area.

4. The proposed Use Permit is compatible with the adjacent uses, properties and neighborhoods and will not be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City in that the project is consistent with the existing and planned land uses around the subject site.

5. The proposal will not contribute to undue proliferation of alcohol sales in an area where additional ones would be undesirable with consideration given to the area's function and character, problems of crime and loitering and traffic problems and capacity in that the operational characteristics of the restaurant will not contribute to an increase in crime and the use of alcohol will be strictly supervised as stated by the applicant in the Findings of Fact on record with the Planning Department.

6. The proposal will not adversely affect adjacent or nearby churches, temples, or synagogues; public, parochial, or private elementary, junior high, or high schools; public parks or recreation centers; or public or parochial playgrounds in that the service of alcohol will be provided as a secondary amenity to compliment dining. Furthermore, provisions have been added to the Conditions of Approval (Exhibit C) to ensure that all nearby uses will not be adversely affected by the proposed use.

7. The proposed use will not interfere with the movement of people along an important pedestrian street in that the restaurant is set back away from any major arterial roads. Public streets and sidewalks a not in immediate proximity of the restaurant.

8. The proposed use is not in close proximity to any residential uses or bedroom windows; therefore, the requested use will not disrupt the sleep of residents.
EXHIBIT C

CONDITIONS OF APPROVAL FOR USE PERMIT #2008-01 (H & H Indian Cuisine)

Planning:

1. The Use Permit is for a restaurant located at 265 Mercey Springs Road, Suite J; more specifically identified as Assessor's Parcel Number: 025-121-012 and the use shall expire after one (1) year unless implemented. The City for cause may revoke this Use Permit.

2. The applicant shall comply with all other requirements, laws and policies of other governmental agencies in the conduct and operation of said business.

3. The applicant shall obtain a Type 41 “On Sale Beer and Wine – Eating Place” license as defined by the Department of Alcoholic Beverage Control and shall provide a copy of said license upon issuance by the Alcoholic Beverage Control to the Planning Department prior to the sale of alcohol on the premises.

4. A copy of these Conditions of Approval and the California Department of Alcoholic Beverage Control license are required to be kept on the premises and presented to any law enforcement officer or authorized City official upon request.

5. The applicant shall be responsible for maintaining the property free of litter at all times in the parking lot area and the areas adjacent to the premises over which they have control.

6. Interior signage shall indicate no alcoholic beverages outside.

7. Hours of operation shall be limited to only the hours between 11:30am to 10:00pm as specified by the applicant on the operational statement.

8. The City Council reserves the right to review and/or revoke this permit should the City receive complaints or should the applicant not adhere to the Conditions of Approval. The City may amend or impose new conditions to mitigate adverse affects in the neighborhood resulting from the use of alcohol.

9. The use of the subject site shall not be inconsistent with the conditions of approval and shall not be operated in a manner that deviates from the approved use permit or filed operational statement, which shall constitute a violation and may result in the revocation or modification of the permit upon written notice to the owner of the subject site.
10. The developer agrees to indemnify, hold harmless, and defend the City of Los Banos, its officers, agents and employees from any and all liability or claims that may be brought against the City of Los Banos arising out of its approval of this permit, or the environmental determination rendered in connection with the permit approval, or arising out of the operation of the use or uses allowed under the permit, save and except that caused solely by the City's active negligence.

11. The premises of the subject site shall not be inconsistent with the Conditions of Approval and shall not be operated in a manner that deviates from the approved use permit or filed operational statement, which shall constitute a violation and may result in the revocation or modification of the permit upon written notice to the owner of the subject site.

12. Authorization of a Use Permit granted pursuant to the provisions of Section 9-3.2222 of the Los Banos Municipal Code shall run with the land and shall continue to be valid upon change of ownership of the site or structure which was the subject of the use permit application provided the use shall be limited to all provisions of the Municipal Code and all conditions placed on approval of the Conditional Use Permit are continually met.
SITE SPECIFIC ZONING MAP: H&H INDIAN CUISINE

- Planned Development
- High Density Residential
- General Commercial
- Low Density Residential
- Medium Density Residential

Street names: B ST, ROMERO ST, D ST

The map indicates the zoning for the area with the highlighted location for H&H Indian Cuisine.
City of Los Banos
COMMUNITY DEVELOPMENT DEPARTMENT

OPERATIONAL STATEMENT

It is important that the operational statement provides for a complete understanding of your proposal. Your operational statement must be typed or written in a legible manner.

1. Please provide the following information:
   - Assessor's Parcel Number: X 25-120-12
   - Applicant(s) Name: MANDIP SINGH
   - Address: 265 MERCER SPRINGS RD. STE. 3
   - Phone Number: 209-827-4084

2. Describe the nature of your proposal/operation (please be specific).
   RESTAURANT FOOD

3. What is the existing use of the property?
   RESTAURANT DINING

4. What products will be produced by the operation? Will they be produced on-site or at some other location? Are these products to be sold on site? Explain.
   FOOD YES ON SITE
   SOLD ON SITE

5. What are the proposed operational time limits?
   - Months (if seasonal): 12 months
   - Days per week: 7 days
   - Hours: 11:30 am to 10 pm
   - Total hours per day: 10 and half hours

6. Will there be any special activities or events?
   - Frequency: NO
   - Hours:
   - Are these activities indoors or outdoors? N/A

7. How many customers or visitors are expected?
   - Average number per day: 30
   - Maximum number per day: 35
   - What hours will customers/visitors be there? 11:30 am to 10:00 pm

8. How many employees will there be?
   - Current: 2
   - Future: 
   - Hours they work: 11:30 am to 10:00 pm
   - Do any live on-site? If so, in what capacity (i.e. caretaker)? NO
9. What equipment, materials, or supplies will be used and how will they be stored? If appropriate, provide pictures or brochures.

   **FREEZER, CANS & BOTTLES**

10. Will there be any service and delivery vehicles?

    Number:  
    Type:  
    Frequency:  

11. Number of parking spaces for employees, customers, and service/delivery vehicles.

    50

    Type of surfacing on parking area?  

12. How will access be provided to the property/project? (street name):

    MERCED SPRINGS RD

13. Estimate the number and type (i.e. cars, trucks) of vehicle trips per day that will be generated by the proposed development.

    RETAIL CENTER

14. Describe any proposed advertising including size, appearance and placement.

    NO

15. Will existing buildings be used or will new buildings be constructed? Indicate which building(s) or portion(s) of will be utilized and describe the type of construction materials, height, color, etc. Provide floor plan and elevations.

    **EXISTING**

16. Is there any landscaping or fencing proposed? Describe type and location.

    NO

17. What are the surrounding land uses to the north, south, east, and west boundaries of the property.

    North: RESIDENTIAL  
    South: RETAIL BUSINESS  
    East: RESIDENTIAL  
    West: APARTMENTS
It is important that the environmental statement provides for a complete understanding of your proposal. Your environmental statement must be typed or written in a legible manner.

1. Will this operation or equipment used generate noise above existing parcels in the area.
   
   NO

2. On a daily or annual basis, estimate how much water will be used by the proposed development, and how is water to be supplied to the proposed development? (Please be specific).
   
   50 gallons

3. On a daily or weekly basis, how much wastewater will be generated by the proposed project and how will it be disposed of?
   
   60 gallons

4. On a daily or weekly basis, how much solid waste (garbage) will be generated by the proposed project and how will it be disposed of?
   
   25 lbs. per day.

5. Will there be any grading? Tree removal? (Please state the purpose, i.e. for roads, building pads, drainage, etc.)
   
   NO

6. Are there any archeological or historically significant sites located on this property? If so, describe and show location on site plan.
   
   NO
7. Locate and show all bodies of water on application plot plan or attached map.

   NONE

8. Show any ravines, gullies, an natural drainage courses on the property on the plot plan.

   NO

9. Will hazardous materials or waste be produced as part of this project? If so, how will they be shipped or disposed of?

   NO

10. Will your proposal require use of any public services or facilities? (i.e. schools, parks, fire and police protection or special districts?)

    NO

11. How do you see this development impacting the surrounding area?

    BRINGING BUSINESS TO THE LOS BANOS COMMUNITY

12. How do you see this development impacting schools, parks, fire and police protection or special districts?

    BRINGING CULTURAL UNITY TO THE COMMUNITY

13. If your proposal is for commercial or industrial development, please complete the following:

    Proposed Use(s): __________
    Square Fee or Building Area(s): __________
    Total Number of Employees: __________
    Building Height(s): __________

14. If your proposal is for a land division(s), show any sloped over 10% on the map or on an attached map.

    N/A
0. Yes it is consistent.
1. Will not be a nuisance or detrimental to the public health, served in a confined space with confirmed hours.
2. Proposed use is compatible and will not be detrimental or injurious.
3. Will not contribute, due to the serving only being during business hours and under strict observation.
4. Will not adversely effect any surrounding public buildings or general public.
5. Will not interfere with the movement of people; restaurant is inside corner of mall strip, pedestrian street is far away.
6. The use will be between restaurant hours only 11:30am to 10:00pm.
I have reviewed the application for an on sale beer and wine license at H & H Indian Cuisine on Mercey Springs.

As you know, the Business and Professions Code 23789 allows the ABC to refuse to issue a retail liquor license for a premises within 600 feet of a school or public playground. This applicant is well within that zone near Miano School. Normally, the department would protest any applicant that is within that zone if it felt that students could have access to alcohol as a result of the applicant’s presence. However, in this case, the way the shopping center is oriented to the school and its lack of direct access by roadway or path, it is the opinion of the Police Department that sufficient barriers exist for this type of license to exist within the proximity of the school. This does not mean that we would be in support of an off sale alcohol establishment in the same area. An on sale restaurant license will not pose the same alcohol access issues that an off sale establishment would.

We are also aware that the school district has written a letter of support for this alcohol license as well.

The police department feels that due to the shopping center orientation to Mercey Springs and the lack of access from the Miano School area, this on sale license is appropriate for the area.
January 23, 2008

City of Los Banos
Planning Department
520 J Street
Los Banos, CA 93635

Re: Restaurant Liquor License

To Whom It May Concern:

It has come to my attention that a restaurant, in the Premiere Cinema Shopping Center, is pursuing a wine and beer license. The restaurant is within a 500 foot zone of an elementary school, but there is no direct access afforded between the school site and the petitioning restaurant. Pedestrian traffic would have to walk well over the limit to reach the restaurant from the school. Therefore, the application in question will find no objection forthcoming from the school district.

Please feel free to contact me if you have any questions, or require additional information.

Sincerely,

[Signature]

Steve M. Tietjen, Superintendent

Board of Trustees
Mrs. Andrée Soares, President
Mr. Jack Vasquez, Vice President
Mr. Dennis Acierno
Mr. Aaron Barcellos
Mr. Don Goin
Mrs. Colleen Menefee, Clerk
Mr. Mario A. Gonzalez

Administration
Steve M. Tietjen, Ed.D., Superintendent
Dean Bubar, Assistant Superintendent-Administrative Services
Charles B. Martin, Ed.D., Assistant Superintendent-Educational Services
Wednesday, January 23, 2008

City Of Los Banos
Attn.: Planning Department
520 J Street
Los Banos, CA 93635

Re: Beer & Wine License
265 N. Mercey Springs Rd, Ste J

Dear Planner;

I am the owner of the above described property as trustee for my family. We have no objection to Mandip Singh obtaining a Beer & Wine License for his new Indian Cuisine Restaurant. We have eaten at his facility several times and have been extremely impressed with the quality of his food. This establishment is a fine addition to our city.

Sincerely,

[Signature]

Thomas E. Kaljian
C. T. Kaljian Ranches
Date: April 4, 2008

Regarding: Notice of Public Hearing

Proposal: Use Permit No. 2008-01 for an Alcohol License

NOTICE IS HEREBY GIVEN THAT a Public Hearing will be held to consider a Use Permit for a Type 41 alcohol license in conjunction with a restaurant located at 265 Mercey Springs Road, Suite J more specifically described as Assessor's Parcel Number: 025-121-012.

A PUBLIC HEARING on this matter will be held at the next regular meeting of the City Council on Wednesday, April 16, 2008 at 7:00pm in the Council Chambers of Los Banos City Hall located at 520 "J" Street. Questions regarding the above-referenced item may be directed to Stacy Souza, Assistant Planner at City Hall or at (209) 827-7000, Ext. 133.

Persons wishing to provide oral comments on the described proposal may do so at this meeting or may provide written comments on this matter prior to or during the public hearing. Written comments may be sent by U.S. Mail or hand delivered to the City of Los Banos City Hall at 520 "J" Street, Los Banos, California 93635. If no comments are received prior to or on the above dates, it will be assumed that no comments are being offered. The public is also informed that should this matter, at some future date go to court, testimony shall be limited to only those issues raised at the public hearing or in written correspondence delivered to the City prior to, or at, the public hearing per Government Code Section 65009.

THE CITY OF LOS BANOS

Stacy Souza
Assistant Planner
Recommendation:

That the City Council consider approving Final Development Plan #2007-04 to modify the previously approved medium density residential project for the Villages at Los Banos which has been partially developed.

Background:

The proposed Final Development Plan is a request to modify the existing Final Development Plan to allow 99 one-story cluster units, 36 two-story/one-story units in the gated senior community and 12 single-family units south of the gated community.

The previous Final Development Plan was approved by the City Council on April 21, 2004. This project was for the construction of 185 two-story and single-story dwellings within a gated senior community (active adults 55 years and older) and included a recreation center, recreation amenities, and a storm water detention basin. In addition, it also included the development of 12 single-family dwellings south of the gated community which have been developed. Thirty six of the two-story/single-story units have been constructed. All other amenities of the existing approved project, which has been partially built (streets, utilities, some residential units, landscaping and common areas), will remain unchanged with the modified Final Development Plan including the
clubhouse, tennis court, swimming pool, and other recreation amenities described on the previously approved Final Development Plan.

The proposed modification will reduce the number of lots with a 20.51-acre portion of the senior community to allow 99 one-story dwellings in addition to the 36 two-story/one-story units that have been completed. The redesigned residential units will have a larger footprint and include two bedrooms and a two-car garage. Utility connections such as water, sewer, gas and electrical lines will be reconfigured within the existing private driveways to accommodate the redesigned dwellings.

A declaration of Covenants, Conditions and Restrictions was recorded for The Villages at Los Banos Unit 2 (Senior Housing Development) on March 22, 2006 by the Merced County Recorder. The modification to the Planned Development will not alter this document or its age restricted guidelines specified within.

Discussion:

LOCATION:
The property is located on the south side of H Street and on the east side of Colorado Avenue.
ENVIRONMENTAL ASSESSMENT:

A mitigated negative declaration was prepared as part of the review for the original project and adopted by the City Council on April 21, 2004. Impacts addressed in the environmental document include aesthetics, air quality, hydrology and water quality, noise, traffic and transportation. Subsequent to the application for modifications to the originally-approved project, staff prepared an initial study, and pursuant to CEQA Guidelines section 15162, finds that no substantial changes are proposed that require major revisions to the prior mitigated negative declaration, and that no new information or evidence has been presented that indicates the modified project will have a significant effect not discussed in the adopted mitigated negative declaration. Staff review has also determined that the proposed modifications reduce the intensity of development on the site and correspondingly, reduce the magnitude of the environmental effects of the project, but not to an extent that would invalidate the mitigation measures agreed to by the project proponent and adopted by the City as conditions of approval. Therefore, the required mitigation measures adopted for the originally approved project remain in effect with approval of the modified plans (Exhibit D).

An addendum has been prepared to the adopted mitigated negative declaration, in the form of findings, in accordance with CEQA Guidelines section 15164.

ANALYSIS:

The objectives of the originally approved project remain unchanged: the proposed reduction in density is consistent with General Plan policies that strive to balance orderly growth with the housing needs of all segments of the City's population. All required off-site and on-site improvements infrastructure improvement plans including storm water drainage, water and sanitary sewer mains, street design, masonry walls, sidewalks and landscaping were completed and accepted by the City Council on February 21, 2007. Other than the proposed reduction in the number of buildable lots and the change from two-story to one-story dwellings, all originally approved infrastructure improvements and building design features remain substantially unchanged. A number of features have already been constructed.

PUBLIC COMMENT:

A public hearing notice was published in the Los Banos Enterprise and notices were provided to adjacent property owners within 300 foot radius of the subject property on April 4, 2008. As of the date of this staff report, no comments have been received.

CONCLUSION:

The proposed modifications to the previously approved Villages at Los Banos Final Development Plan are consistent with the Los Banos General Plan and the Los Banos Zoning Ordinance. The changes to the project do not result in adverse environmental effects beyond those analyzed in the initial study and mitigated negative declaration.
prepared for the original project. The modified Final Development will allow the gated community to attract the age specific residence and allow the age restricted community to aggressively compete with similar developments in the area.

**Attachments:**

1. City Council Resolution approving Final Development Plan #2007-04 for the Villages at Los Banos
   
   Exhibit A – CEQA Findings  
   Exhibit B – Project Findings

2. Final Development Plan #2007-04 (Provided Under Separate Cover)

3. Four Pack Architectural Renderings
   a. Elevations
   b. Floor Plans
   c. Landscape
RESOLUTION NO. ___

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOS BANOS APPROVING FINAL DEVELOPMENT PLAN #2007-04 FOR THE VILLAGES AT LOS BANOS

WHEREAS, the Los Banos General Plan was adopted by the City of Los Banos City Council on May 19, 1999; and,

WHEREAS, Title 9, Article 4 – Planned Development District of the Los Banos Municipal Code (LBMC) outlines the procedure for establishing development standards for PD zone districts; and

WHEREAS, The Villages at Los Banos Mitigated Negative Declaration was adopted by the City of Los Banos City Council on April 21, 2004; and

WHEREAS, the City Council having reviewed the proposal and having reviewed any written or verbal comments received prior to the public hearing; including the recommendations of City Staff and the Planning Commission and having heard oral comments received during the City Council public hearing, does hereby find and declare that the proposal is consistent with the land use designations and development densities of the Los Banos General Plan; and

WHEREAS, the City Council of the City of Los Banos hereby makes the appropriate findings set forth in Exhibit A (California Environmental Quality Act (CEQA) Findings), and Exhibit B (Findings for Approval), attached hereto and incorporated herein by this reference.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Los Banos does hereby approve Final Development Plan #2007-04 for the Villages at Los Banos.

The foregoing Resolution was introduced at a regular meeting of the City Council of the City of Los Banos held on the 16th day of April 2008, by Council Member _____ who moved its adoption, which motion was duly seconded by Council Member _____ and the Resolution adopted by the following vote:

AYES: 
NOES: 
ABSENT: 

APPROVED:
ATTEST:

Lucille L. Mallonee, City Clerk

Tommy Jones, Mayor
EXHIBIT A

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) FINDINGS FOR FINAL DEVELOPMENT PLAN #2007-04 FOR THE VILLAGES AT LOS BANOS

Pursuant to the requirements of California Public Resources Code Section 21000 et seq. ("CEQA") and Title 14, California Code of Regulations Section 15000 et seq. (the "CEQA Guidelines"), the City as Lead Agency under CEQA adopts the following findings required by CEQA, along with the facts and evidence upon which each finding is based.

The City of Los Banos City Council hereby finds as follows:

1. Pursuant to CEQA, the CEQA Guidelines, and the City of Los Banos Environmental Quality Guidelines, the project was evaluated within the context of the Village at Los Banos Mitigated Negative Declaration, which was adopted by the City on April 21, 2004;

2. The proposed project was adequately described, examined, and evaluated in the mitigated negative declaration;

3. On September 10, 2007 the applicant submitted changes to the project design, specifically requesting to modify the existing Planned Development for the site by establishing a new Final Development Plan;

4. The City prepared an initial study, and pursuant to CEQA Guidelines section 15162 finds that no substantial changes are proposed in the project that require major revisions to the prior mitigated negative declaration, that no substantial changes have occurred with respect to the circumstances under which the project is undertaken that require major revisions of the prior mitigated negative declaration, and that no new information of substantial importance shows that the project will have a significant effect not discussed in the prior mitigated negative declaration, a more severe environmental effect than discussed in the prior mitigated negative declaration, or that new mitigation measures, or mitigation measures previously determined to be infeasible, are now feasible and would substantially reduce significant effects but will not be implemented;

5. The Project could have significant impacts on aesthetics, air quality, hydrology and water quality, noise, and traffic, however, all potentially significant effects were analyzed adequately in the adopted mitigated negative declaration, and mitigation measures presented in the mitigated negative declaration have been included as conditions of project approval, and will reduce potentially significant impacts to a less than significant level;

6. The City will monitor the implementation of mitigation measures in accordance with The Villages at Los Banos Mitigation Monitoring Program;

7. On the basis of the whole record before it, the City has prepared an addendum
to the adopted mitigated negative declaration, in the form of these findings, in accordance with CEQA Guidelines section 15164;

8. The City of Los Banos Planning Department, located at 520 J Street in Los Banos, is the custodian of the documents that constitute the record of proceedings upon which the determination to adopt this addendum to the mitigated negative declaration is based.
EXHIBIT B

PROJECT FINDINGS OF APPROVAL FOR FINAL DEVELOPMENT PLAN #2007-04
FOR THE VILLAGES AT LOS BANOS

1. The project will have fewer residential units; therefore, the traffic generated by the modified project will be less, and there will be no increase in traffic impacts.

2. The proposal will not be detrimental to the health, safety, comfort, or general welfare of the persons residing or working in the City of Los Banos, or injurious to property or improvements in the surrounding neighborhoods or within the City.

3. The project is consistent with the General Plan in that the design of the Final Development Plan, as amended, is consistent with the General Plan goals, policies and programs.

4. The proposal is consistent with the General Plan in that the proposed density and building reduction are consistent with the land use designation as submitted.

5. The development of the subdivision would provide additional residential development for active senior adults within the City for which there is a demand.

6. Government Code §65995 et. Seq. is the exclusive method of considering and mitigating impacts related to school facilities, and the project is determined to be consistent with the City General Plan objectives, policies and programs as they relate to school facilities in light of Government Code §65995 et. Seq.
Date: April 4th, 2008

Regarding: Notice of Public Hearing

Proposal: Final Development Plan #2007-04

NOTICE IS HEREBY GIVEN THAT a Public Hearing will be held to consider a Final Development Plan to develop 99 single family, single-story cluster units in a gated senior community along with the existing 36 single-story and two-story cluster homes located within the gated community. The 20.51 acre site is located at the south side of H Street and on the east side of Colorado Avenue.

A PUBLIC HEARING on this matter will be held at the next scheduled meeting of the City Council on Wednesday, April 16, 2008 at 7:00 p.m. in the Council Chambers of Los Banos City Hall located at 520 "J" Street. Questions regarding the above-referenced item may be directed to Stacy Souza, Assistant Planner at City Hall or at (209) 827-7000, Ext. 133.

Persons wishing to provide oral comments on the described matter may do so at this meeting or may provide written comments on this matter during or prior to the public hearing. Written comments may be sent by U.S. Mail or hand delivered to the City of Los Banos City Hall at 520 "J" Street, Los Banos, California 93635.

THE CITY OF LOS BANOS

Stacy Souza
Assistant Planner
The Villages at Los Banos
Final Development Plan

CITY OF LOS BANOS
INCORPORATED CITY

September 2007

BARRY VOLKMANARCHITECTS
September 10, 2007

John LeVan, Planning Manager
CITY OF LOS BANOS
520 J Street
Los Banos CA 93635

RE: “THE VILLAGES AT LOS BANOS” FINAL DEVELOPMENT PLAN & VESTING TENTATIVE TRACT MAP

Dear John,

Please find the attached documents comprising the proposed Final Development Plan (FDP) and Vesting Tentative Tract Map applications for “The Villages at Los Banos.” This letter is to describe the proposed project and list the individual components of the FDP document.

The purpose of the project is to modify the existing Planned Development for the site by establishing a new FDP. The proposed development maintains fundamentals of the existing approved project, which has been partially built (streets, utilities, some residential units, landscaping and common facilities) on the site. The project includes existing development (12 single-family homes south of Watt Drive & 36 “cluster-homes” within the gated neighborhood) and proposed development (99 new single-family, single-story cluster units).

The project is generally designed around and includes the existing clubhouse, tennis court, swimming pool, and other common / recreational facilities that were approved with the original project. Each new residence will include two bedrooms and a two-car garage. Existing water, sewer, gas and electric laterals will be reconfigured within the existing private driveways to accommodate the new design. Please refer to the enclosed conceptual development plan for a schematic view of the site plan.

The attached graphics and other application documents detail additional information regarding the proposed project design. Included in each three-ring binder you will find a copy of the City’s application forms, land use / vicinity map, site plan, conceptual development plan, floor plans, architecture, 3-D perspective exhibits, typical lot landscaping information, and a legal description for the project site. If you have any questions, or if you need additional information, please call me at 571-1765. Thank you.

Sincerely,

Brad Wall, AICP

C: David Agee, K. Hovnanian Forecast Homes, Northern Inc.

14640-P-APP FDP cover letter 091007

A California Corporation
City of Los Banos
COMMUNITY DEVELOPMENT DEPARTMENT
PROJECT APPLICATION

520 J Street
Los Banos CA 93635
Phone: (209) 827-7000, Ext. 18
Fax: (209) 827-7006

APPLICANT
K. Hovnanian Forecast Homes, Northern Inc.

PROPERTY OWNER
(Same)

ADDRESS
1375 Exhibition Blvd., Suite 300
Sacramento CA 95815

ADDRESS

CITY
Sacramento
STATE
CA
ZIP
95815

CITY
STATE
ZIP

PROJECT INFORMATION:
Assessor's Parcel No(s)

Street Address or Location of Property:
South side West H St, east side Colorado Ave.

Size of Parcel
Approximately 22 acres

Zoning/Designation
PD / MDR

Existing No. of Lots
108

Existing Use of Property
Residential

Surrounding Uses
North: Abandoned RR / trail
South: Residential
East: Residential
West: Agricultural

Proposed Use of Property/Project Description:
Planned Development, medium density residential, including common private recreational facilities (swimming pool, tennis court, clubhouse, and k / basin). The proposed project is a modification of a previous approval. Portions of the project site have already been developed.

APPLICATION INFORMATION:

FEE
$250
ENVIRONMENTAL REVIEW FEE

$2,000
SUBDIVISION

$1,000
ZONE CHANGE/PRE-ZONE

$3,250
TOTAL DEPOSIT - (Additional fees may be charged or a partial refund to be given, depending on the complexity of the project.)

CHECK TYPE OF APPLICATION
ADMINISTRATIVE PERMIT
To permit:

ANNEXATION
Acres:

GENERAL PLAN AMENDMENT
To reclassify the property from:

MINOR SUBDIVISION
Lot Merger
Parcel Map
Lot Line Adjustment
Other

ORDINANCE AMENDMENT
Section:

SUBDIVISION
Final Map
Tentative Map
Proposed No. of Lots: 48
Existing to remain, 99 proposed new

SIGN REVIEW

SITE PLAN REVIEW
To permit:

USE PERMIT
To permit:

VARIANCE
Allow:

OTHER

TOTAL FEE
Received By
Date

For Office Use Only

Receipt Number
Check Number
Application Number(s)

ALL OWNERS MUST SIGN. PLEASE ATTACH ADDITIONAL SIGNATURES AS NECESSARY.

The foregoing information is true and correct to the best of my knowledge and belief. The applicant and property owner hereby acknowledge the requirements as set forth in the Los Banos Zoning Ordinance and agree to comply with all County and State Laws. (BOTH MUST SIGN)

SIGNATURE OF APPLICANT

SIGNATURE OF PROPERTY OWNER
City of Los Banos
COMMUNITY DEVELOPMENT DEPARTMENT

OPERATIONAL STATEMENT

• 520 J Street
• Los Banos CA 93635
• Phone: (209) 827-7000 Ext. 18
• Fax: (209) 827-7006

It is important that the operational statement provides for a complete understanding of your proposal. Your operational statement must be typed or written in a legible manner.

1. Please provide the following information:
   Assessor's Parcel Number: ________________________________
   Applicant(s) Name: K. Hovnanian Forecast Homes, Northern Inc.
   Address: 1375 Exhibition Blvd. (Suite 300), Sacramento CA 95815
   Phone Number: (916) 920-0200

2. Describe the nature of your proposal/operation (please be specific).
   The proposed project is similar to the previously-approved medium-density residential project that has been partially developed on the site. The fundamental project layout / design (existing streets, utilities, etc.) will remain. The total unit count will be reduced.

3. What is the existing use of the property?
   Residential

4. What products will be produced by the operation? Will they be produced on-site or at some other location? Are these products to be sold on site? Explain.
   N/A

5. What are the proposed operational time limits?
   Months (if seasonal): ________________________________
   Days per week: ________________________________
   Hours: ________________________________
   Total hours per day: ________________________________

6. Will there be any special activities or events?
   Frequency: ________________________________
   Hours: ________________________________
   Are these activities indoors or outdoors? ________________________________

7. How many customers or visitors are expected?
   Average number per day: ________________________________
   Maximum number per day: ________________________________
   What hours will customers/visitors be there? ________________________________

8. How many employees will there be?
   Current: ________________________________ Future: ________________________________
   Hours they work: ________________________________
   Do any live on-site? If so, in what capacity (i.e. caretaker)? ________________________________
9. What equipment, materials, or supplies will be used and how will they be stored? If appropriate, provide pictures or brochures.

10. Will there be any service and delivery vehicles? No.
    Number: ________________________________
    Type: ________________________________
    Frequency: ________________________________

11. Number of parking spaces for employees, customers, and service/delivery vehicles.

12. How will access be provided to the property/project? (street name):
    Access will be provided via the existing gated entrances on the north and south sides of the project
    (West H Street provides access to the main entrance; secondary entrances are accessed from Watt Drive
    on the south side of the site).

13. Estimate the number and type (i.e. cars, trucks) of vehicle trips per day that will be generated by the proposed development. 930 average daily trips total.
    Total trips per day (medium density residential): 6 trips/day/d.u. x 135 d.u. = 810 vehicle trips per day.
    Total trips per day (single-family residential): 10 trips/day/d.u. x 12 d.u. = 120 vehicle trips per day.

14. Describe any proposed advertising including size, appearance and placement.
    N/A

15. Will existing buildings be used or will new buildings be constructed? Indicate which building(s) or portion(s) of will be utilized and describe the type of construction materials, height, color, etc. Provide floor plan and elevations.
    The proposed project will include new residential construction.
    See attached site plan, floor plans and building elevations.

16. Is there any landscaping or fencing proposed? Describe type and location.
    Yes, the project will be heavily landscaped and include a park / storm basin. In addition, fencing and walls
    will be utilized to enhance compatibility with the existing and future surrounding neighborhoods.

17. What are the surrounding land uses to the north, south, east, and west boundaries of the property.

    North: Abandoned RR / trail
    South: Residential
    East: Institutional (school)
    West: Agricultural
City of Los Banos
COMMUNITY DEVELOPMENT DEPARTMENT

ENVIRONMENTAL STATEMENT

- 520 J Street
- Los Banos  CA  93635
- Phone:  (209) 827-7000 Ext. 18
- Fax:  (209) 827-7006

It is important that the environmental statement provides for a complete understanding of your proposal. Your environmental statement must be typed or written in a legible manner.

1. Will this operation or equipment used generate noise above existing parcels in the area?
   Temporary construction noise only.

2. On a daily or annual basis, estimate how much water will be used by the proposed development, and how is water to be supplied to the proposed development? (Please be specific).
   Total water usage: 700 gals/day/d.u. x 147 d.u. = 103,000 gpd. The city-wide water supply and distribution system will serve the development.

3. On a daily or weekly basis, how much wastewater will be generated by the proposed project and how will it be disposed of?
   Total sewer generation: 354 gals/day/d.u. x 147 d.u. = 52,038 gpd. Wastewater will be disposed of through the city-wide sewer collection and disposal system.

4. On a daily or weekly basis, how much solid waste (garbage) will be generated by the proposed project and how will it be disposed of?
   Total solid waste generation: 11.2 lbs./day/d.u. x 147 d.u. = 1,645 lbs. per day.
   Hauling will be by a licensed, City-approved solid waste processing company.

5. Will there be any grading or tree removal? (Please state purpose – roads, building pads, drainage, etc.)
   The site has been graded for development. However, there may be some additional grading to accommodate the revised development plan. No trees will be removed.

6. Are there any archeological or historically significant sites located on this property? If so, describe and show location on site plan.
   No
7. Locate and show all bodies of water on application plot plan or attached map.
N/A

8. Show any ravines, gullies, and natural drainage courses on the property on the plot plan.
N/A

9. Will hazardous materials or waste be produced as part of this project? If so, how will they be shipped or disposed of?
No

10. Will your proposal require use of any public services or facilities? (i.e. schools, parks, fire and police protection or special districts?)
   Yes. The project includes residential development. However, the residential product type is developed for a mature adult population. Therefore, the demand for public services and facilities (i.e. schools, parks, police, fire, infrastructure, etc.) will be less than that for a standard or routine residential neighborhood.

11. How do you see this development impacting the surrounding area?
The development will have minimal impact on the surrounding area. The masonry walls and gated entries are existing improvements. All development associated with this proposal will occur within the interior of the site.

12. How do you see the development impacting schools, parks, fire and police protection or special districts?
The proposed project will pay all applicable City of Los Banos development fees, and will have a reduced impact on municipal service providers (see #10, above).

13. If your proposal is for commercial or industrial development, please complete the following:
   Proposed Use(s): _____________________________
   Square Fee or Building Area(s): _____________________________
   Total Number of Employees: _____________________________
   Building Height(s): _____________________________

14. If your proposal is for a land division(s), show any sloped over 10% on the map or on an attached map.
The park-basin has slopes exceeding 10%. Please reference the grading sheet within the previously-approved Vesting Tentative Subdivision Map for more information.
City of Los Banos
COMMUNITY DEVELOPMENT DEPARTMENT

MAILING LIST

Please list the names and addresses of all firms (architect, engineer, landscape architect, etc.) and individuals who are to receive copies of:

1. Staff Report

   K. Hovnanian Forecast Homes
   Attn: David Agee
   4701 Sisk Rd. (#104)
   Modesto CA 95356

   O'Dell Engineering
   Attn: Tamorah Bryant, P.E.
   1165 Scenic Drive (Suite A)
   Modesto CA 95350

2. Conditions of Approval

   Same as Above

Note: Only the applicant will receive the above items if no names are listed.
EXHIBIT A
Legal Description

All that portion of Section 15, Township 10 South, Range 10 East, Mount Diablo Base and Meridian, Merced County, State of California, being more particular described as follows:

Beginning at the northerly most northwest corner of that subdivision “The Village of Los Banos, Unit No. 2” as shown on that map filed for record at Volume 71 of Official Plats at Pages 44-50, Merced County Records, said point being on the southwesterly line of the 64.00 foot half width of “H” Street, thence along said southwesterly line South 60°29’20” East 813.15 feet to the northeast corner of said subdivision; thence along the east line of said subdivision South 00°59’27” West 1201.52 feet to the southeast corner of that subdivision “The Village of Los Banos, Unit No. 1” as shown on that map filed for record at Volume 71 of Official Plats at Pages 1-3, Merced County Records; thence along the south line of said subdivision North 89°53’04” West 814.73 feet the east line of the 30.00 foot half width of Colorado Avenue; thence along said east line North 01°00’23” East 1178.63 feet to the north line of said subdivision “The Village of Los Banos, Unit No. 2”; thence along said north line South 89°59’21” East 100.00 feet; thence North 01°00’23” East 423.62 feet to the Point of Beginning and containing 25.68 acres more or less.

END DESCRIPTION
THE VILLAGES AT LOS BANOS
LOS BANOS, CALIFORNIA

LEGEND: (LAND USE/ZONING)

- PROJECT SITE BOUNDARY
  (PROPOSED FINAL DEVELOPMENT PLAN)
- CITY LIMITS
- LOW DENSITY RESIDENTIAL
- MEDIUM DENSITY RESIDENTIAL
  PLANNED DEVELOPMENT
- HIGH DENSITY RESIDENTIAL
- COMMERCIAL
- OFFICE INDUSTRIAL
- INDUSTRIAL
- LIGHT INDUSTRIAL
- PARK
- OPEN SPACE
- PUBLIC FACILITY

SCALE 1"=300' DR. BY SR DATE 9/10/2007 REV 1454doc1.jpg
THE VILLAGES AT LOS BANOS - FOUR PACK

VIEW OF AUTO COURT FROM STREET
Agenda Staff Report

TO: Mayor & City Council Members
FROM: Chris Gallagher, Chief of Police
               Gary Brizzee, Patrol Commander
DATE: April 16, 2008
SUBJECT: The introduction and first reading of Ordinance #__________, prohibiting underage drinking on private property and assessing liability for those who host gatherings where minors possess or consume alcohol.

TYPE OF REPORT: Non Consent Agenda

Recommendation:

Waive the first reading and introduce the ordinance prohibiting underage drinking that allows police officers the ability to issue administrative citations to those responsible for hosting a gathering where minors possess or consume alcohol and to recover response costs associated with said activities.

Summary:

On March 19, 2008, the Police Department introduced an ordinance that would prohibit underage drinking on private property and assess civil liability for those who host gatherings where minors consume alcohol.

Council requested further research on two topics: 1). The availability of educational courses for parents and their children in the event either are issued a citation under this chapter, as an alternative penalty; and 2). The status of a similar Merced County ordinance.

Below you will find information concerning the above topics under a “Special Topics” section and the original staff report in its entirety.
**Special Topics:**

Regarding educational courses, the County of Merced offers alcohol and drug treatment programs for adults and juveniles however these courses are tailored for treatment rather than education and include random alcohol screening over a several month period. Currently, staff (in concurrence with County Health Personnel) does not believe that available courses meet our needs.

However, in the event an appropriate course becomes available, staff has redesigned the first offense penalty section, 5-10.04 (c) to include an alternative penalty, *for the first offense only*, to include a course approved by the Chief of Police. The alternative penalty reads as follows:

“(1). Alternative penalty for a first offense only: In the event a juvenile or one of his/her parents is found to be a responsible person as defined by this chapter, the juvenile and the juveniles parents may complete a course on alcohol education and prevention of underage drinking approved by the Chief of Police, as an alternative to paying the entire first offense penalty of Five Hundred and No/100ths ($500.00) Dollars. The cost of the course will be considered in the calculation of a reduced fine amount upon successful completion of the approved course. The intent of this alternative is to reduce but not eliminate the penalty for an administrative citation pursuant to this chapter and the alternative fine will be determined at the sole discretion of the Chief of Police.”

The County of Merced is negotiating a similar ordinance through its County partners. County staff anticipates reintroducing the ordinance in the next two to three months.

**Background:**

The City of Los Banos recognizes that the occurrence of gatherings hosted on private property where alcoholic beverages are served to, possessed or consumed by, underage persons is harmful to not only the underage person themselves, but is a threat to public safety, health and the quiet enjoyment of private property of other Los Banos residents. It is also realized that preventing and deterring gatherings on private property where underage persons possess or consume alcohol is difficult. The goal of this ordinance, with its administrative remedy, is to attempt to reduce the opportunity for activities that could endanger the safety of our community.

The Police Department requests City Council consideration of this ordinance that allows Police Officers the ability to issue Administrative Citations to those responsible for hosting a gathering where minors possess or consume alcohol and to recover response costs associated with said activities.
Discussion:

Alcohol consumption by underage persons is a serious problem nationwide. So much so, the American Medical Association studied the problem and found the following to be true:

1. Approximately 11 million American youth under the age of 21 drink alcohol. Nearly half of them drink to excess, consuming five or more drinks in a row, one or more times in a two week period.
2. Alcohol is the most frequently used drug by high school seniors, and its use is increasing. Boys usually try alcohol for the first time at just 11 years old, while the average age for American girls' first drink is 13. Consider the following:
   - Underage drinking is a factor in nearly half of all teen automobile crashes, the leading cause of death among teenagers.
   - Alcohol use contributes to youth suicides, homicides and fatal injuries, which are the leading cause of death among youth after auto accidents.
   - Alcohol abuse is linked to as many as two thirds of all sexual assaults and date rapes of teens and college students.
   - Alcohol is a major factor in unprotected sex among youth, increasing their risk of contracting HIV or other transmitted diseases.

In California during 2005 alone, 90 drivers between the ages 12-20 died and over 5,000 people were injured in alcohol involved collisions (CHP, SWITRS).

Locally, the Police Department responds to parties on private property every month where it's found that underage persons are being served and are consuming alcohol. Occasionally the Police Department is required to respond to these parties several times before cooperation from the resident is obtained or the gathering is otherwise concluded.

For example, in Los Banos during the calendar year 2007, the Police Department responded to over 120 calls for service relating to disturbances caused by parties. Of those, approximately 30 were confirmed to have been parties involving juveniles.

As required by State and Federal law the Los Banos Unified School District participates in “The Healthy Kids Survey” every two years where 7th, 9th and 11th graders are surveyed as to their alcohol and drug use. During the 2005-2006 school year, 428 7th graders, 286 9th graders and 280 11th graders participated in the survey.
The following are the results:

- Percent of students that used alcohol or drugs at least once in their lives: 29% (7th) 57% (9th) 68% (11th)
- Percent of students that used alcohol or other drugs in the past 30 days: 19% (7th) 34% (9th) 45% (11th)
- Ever been very drunk or sick after drinking: 12% (7th) 31% (9th) 46% (11th)
- Binge drank in the past 30 days: 10% (7th) 16% (9th) 29% (11th)
- How often they have driven or been driven by a friend under the influence: NA (7th) 30% (9th) 32% (11th)
- Percent of students who feel frequent use of alcohol, tobacco or drugs is harmful: Alcohol: 87% (7th) 87% (9th) 90% (11th)

Currently California law makes it a misdemeanor for parents/guardians or other adults to provide alcohol and/or drugs to those under 18 at the home of the parent or guardian (25658.2 Business & Professions Code) if all of the following occur:

1. The blood alcohol content of the minor is 0.05 percent or greater or is under the influence of a controlled substance
2. The parent knowingly permits the minor to drive a vehicle
3. That minor has been found to cause a traffic collision

California law also prohibits minors from possessing alcohol on any street or highway, or in any public place or in any place open to the public (25662 Business & Professions Code). However, California law does not currently allow the issuance of this type of citation on private property. This ordinance will.

In conjunction with our “Safe Summer” campaigns, the Police Department believes it can further impact juvenile/alcohol related criminal behavior through the creation of an ordinance that administratively prohibits the providing of alcohol to underage persons on private property. This ordinance will.

This ordinance will provide Police Department staff with an alternative to safely resolve a potentially dangerous situation to those involved, and the general public. The impact of this ordinance will also serve as a deterrent to others contemplating or allowing similar behavior by assessing a fine and other costs associated with a law enforcement response, to these types of calls for service.

The fine amount for a violation of the “Social Host” section will be $500/$1,500/$3,000 for a first through third citation within a 12 month period. Individuals contacted during a law enforcement response to an under-aged drinking call for service will be provided with an informational pamphlet which includes a warning clearly stating the implications of further violations.
The funds generated by this ordinance will be set aside in a special fund named “The Prevention of Underage Drinking Fund” which will support programs to prevent underage drinking, such as PAL’s Sober Graduation and our COP efforts within our Unified School District.

Currently, at least 29 cities have enacted a version of a Social Host Ordinance, some require the host to reasonably “know” the violation is occurring, others don’t. Some cities only charge for recovery of response costs, others recognize violations as criminal offenses and a percentage have created a civil, administrative remedy.

Staff believes that our approach, an assessed fine and recovery of response costs, is within legal standards and establishes a “No Tolerance” approach to underage drinking.

Since the inception of the City of Modesto’s Ordinance, (April 25, 2007) the Modesto Police has issued approximately 12 citations for violations of their Social Host ordinance. Modesto’s Police Chief, Roy Wasden stated; “this ordinance helps us prevent the tragedies that happen when youth and alcohol mix. With this ordinance we are able to hold adults accountable for their irresponsible behavior.” One of the Modesto detectives supervising their effort believes that this ordinance is another effective means for combating teenage drinking and it provides a means for safely resolving underage drinking parties.

Establishing a Social Host Ordinance helps fill the gap in current law by prohibiting underage consumption of alcohol in places not open to the public with a limited number of named exceptions.

**Fiscal Impact:**

The introduction of this ordinance will not cause any additional fiscal impact.

**Reviewed by:**

Steve Rath, City Manager

William Vaughn, City Attorney

**Attachments:**

1. Social Host Ordinance
2. Social Host Public Pamphlet
3. Social Host Resolution
ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF LOS BANOS ADDING A NEW
CHAPTER 10 TO TITLE 5 OF THE LOS BANOS MUNICIPAL CODE
RELATING TO HOSTING GATHERINGS OF UNDERAGE
DRINKERS AND AMENDING CHAPTER 11 OF TITLE 4 RELATING
TO ADMINISTRATIVE CITATIONS

WHEREAS, the City of Los Banos, pursuant to its police powers has the
authority to enact laws which promote the public health, safety and general welfare of its
residents; and

WHEREAS, underage persons often obtain alcoholic beverages at parties,
gatherings, or events held at private residences or at rented residential and commercial
premises that are under the control of a person who has failed to ensure that alcoholic
beverages are neither possessed nor consumed by minors; and

WHEREAS, the occurrence of such gatherings is harmful to the minor themselves
and a threat to public health, safety, quiet enjoyment of private property and general
welfare because the gatherings typically become loud and unruly which results in one or
more of the following: excessive noise, excessive traffic, obstruction of public streets
and property, public drunkenness, the service of alcohol to minors, fights, disturbances of
the peace, litter; and

WHEREAS, problems associated with such gatherings at which underage
drinking occurs are difficult to prevent and deter unless police officers acting on behalf of
the City have legal authority to direct the host to disperse the gathering.

WHEREAS, the City Council of the City of Los Banos finds and declares that the
purpose of this ordinance is:

(1) to protect public health, safety and general welfare;
(2) to enforce laws prohibiting the consumption of alcohol by minors;
(3) to reduce the costs of providing police services to parties, gatherings, or
   events requiring a response by requiring party hosts to ensure minors are not
   consuming alcoholic beverages;

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF LOS BANOS
DOES ORDAIN AS FOLLOWS;
Section 1. The City Council of the City of Los Banos does hereby add the following Chapter 10 to Title 5, to read as follows:

Chapter 10 HOSTING GATHERINGS OF UNDERAGE DRINKERS

5-10.01 Purpose and Intent.

5-10.02 Definitions.

5-10.03 Public nuisance.

5-10.04 Penalties for violation of the chapter.

5-10.05 Recovery of response costs.

5-10.06 Billing and collection of response costs.

5-10.07 Special fund.

5-10.08 Protected activities.

5-10.09 Severability.

5-10.01 Purpose and Intent.

(a) To enforce laws prohibiting the service to and consumption of alcoholic beverages by underage persons;

(b) To protect public health, safety, general welfare and quiet enjoyment of residential property and properties neighboring one of these gatherings; and

(c) To establish standards and controls of parties, gatherings or assemblages involving underage persons consuming alcoholic beverages on private property.

5-10.02 Definitions.

For the purposes of this chapter, the following definitions shall apply:

(a) “Alcoholic beverage” shall mean alcohol, spirits, liquor, wine, beer, and every liquid or solid containing alcohol, spirits, wine, or beer, and which contains one-half (1/2) of one percent or more of alcohol by volume and which is fit for beverage purposes either alone or when diluted, mixed, or combined with other substances.

(b) “Juvenile” means any person under eighteen (18) years of age.

(c) “Gathering of underage drinkers” shall mean a party, event or gathering where two
(2) or more underage persons are present at a residence or other private property in which alcoholic beverages are being consumed or possessed by any underage person.

(d) “Residence” or “other private property” shall mean a home, yard, apartment, condominium, hotel or motel room, or other dwelling unit, or a hall or meeting room, whether occupied on a temporary or permanent basis, whether occupied as a dwelling, party or other social function, and whether owned, leased, rented, or used with or without compensation.

(e) “Response Cost” are the costs associated with response by law enforcement, fire, or other emergency response providers to a gathering, including but not limited to;

1. salaries and benefits of law enforcement, fire or other emergency response personnel for the amount of time spent responding to, remaining at, or otherwise dealing with a gathering, and the administrative cost associated with or attributed to such response(s);
2. the cost of any medical treatment for any law enforcement, code enforcement, fire, or other emergency response personnel injured responding to, remaining at, or leaving the scene of a gathering;
3. the cost of repairing any City equipment or property damaged, and the cost of the use of any such equipment in, responding to, remaining at, or leaving the scene of a gathering and;
4. any other allowable costs related to enforcement of sections 5-10.04.

(f) “Responsible person” shall mean a person or persons with a right of possession of the residence or other private property at which a gathering of underage drinkers is conducted. A responsible person need not be present at such gathering and prior knowledge of the gathering of underage drinkers is not a prerequisite to a finding that any specific individual is a responsible person as defined by this section. Responsible person includes, but is not limited to:

1. Owner(s) and/or lessee(s) of the property where a gathering of underage drinkers is taking place, including the record owner of the title to property, wherever that person or entity may currently reside;
2. Person(s) hosting a gathering of underage drinkers;
3. Person(s) receiving money or other consideration for granting access to a gathering of underage drinkers;
4. Parent(s) or legal guardian(s) of a minor who is also a responsible person;
(5) Tenant of the residence or other private property;

(6) Person(s) in charge of the residence or other private property.

(g) "Underage person" shall mean any person under twenty-one (21) years of age.

5-10.03 Public nuisance.

(a) Any gathering of underage drinkers shall constitute a public nuisance, as an immediate threat to public health and safety.

(b) As a public nuisance, the gathering of underage drinkers may be summarily abated by police by all reasonable means, singularly or in combination, including, but not limited to:

(1) An order requiring the gathering to be disbanded;

(2) Issuance of an administrative citation under this chapter;

(3) Issuance of a citation and/or arrest of any law violators under any other applicable ordinances and/or statutes.

5-10.04 Penalties for violation of the chapter.

(a) A violation of this chapter shall only be prosecuted as a civil penalty pursuant to the administrative citation procedures in Chapter 11 of Title 4 of the Los Banos Municipal Code. Notwithstanding Chapter 11, of Title 4, a violation subjects any and all responsible persons, as defined in this chapter, to a civil penalty of Five Hundred and No/100ths ($500.00) Dollars.

(b) If the owner of the private property has leased the property to another person, such owner shall not be considered a responsible person until such owner receives notice of at least one previous gathering of underage drinkers on his property in the prior twelve (12) months. Notice shall be by a copy of the citation transmitted via certified mail, return receipt requested, and first class mail to the owner of the private property as recorded by the last equalized assessment roll of the Merced County Assessor.

(c) In the event that a gathering of underage drinkers is hosted by a juvenile, then the parents or guardians of that juvenile will be jointly and severally liable for any penalties incurred pursuant to this chapter.

(1). Alternative penalty for a first offense only: In the event a juvenile or one of his/her parents is found to be a responsible person as defined by this chapter, the juvenile and the juvenile’s parents may complete a course on alcohol education and prevention of underage drinking approved by the Chief of Police, as an alternative to paying the entire first offense penalty.
of Five Hundred and No/100ths ($500.00) Dollars. The cost of the course will be considered in the calculation of a reduced fine amount upon successful completion of the approved course. The intent of this alternative is to reduce but not eliminate the penalty for an administrative citation pursuant to this chapter and the alternative fine will be determined at the sole discretion of the Chief of Police.

(d) A second violation of this chapter within twelve (12) calendar months subjects and all responsible persons, as defined in this chapter, to a civil penalty of One Thousand, Five Hundred and No/100ths ($1,500.00) Dollars.

(e) Third and subsequent violations of this chapter within twelve (12) calendar months of the first violation subjects any and all responsible persons, as defined in this chapter, to a civil penalty of Three Thousand and No/100ths ($3,000.00) Dollars as well as the recovery of response costs as described in 5-10.05 and 5-10.06.

5-10.05 Recovery of response costs.

(a) When a law enforcement, fire, or other emergency response provider makes an initial response to a gathering of underage drinkers, the official shall, in writing, inform any responsible person(s) for the gathering at the scene that:

(1) The official has determined that a gathering of underage drinkers exists; and

(2) That if emergency response providers make at least two (2) subsequent responses to the same location within a twelve (12) month period from the initial response, responsible person(s) will be charged for any response costs required for the third subsequent response, i.e., for the third response;

(b) Within thirty (30) calendar days of the initial response and each response thereafter, an additional written warning shall be transmitted via certified mail to the owner of the private property as recorded by the last equalized assessment roll of the Merced County Assessor;

(c) This section applies to the costs of abatement of the summary nuisance described in Section 5-10.03, and costs are recovered pursuant to California Government Code Section 38773.1 and Chapter 11 of Title 4 of the Los Banos Municipal Code;

5-10.06 Billing and collection of response costs.

(a) The response costs shall also be deemed a civil penalty and are collectable pursuant to the procedures in Chapter 11 of Title 4 of this Code. A person owing such costs shall be liable in an administrative civil proceeding for recovery for such fees.
(b) If the responsible person is a juvenile, then the juvenile's parents or guardians shall be liable for the response costs.

(c) Any citation issued for a violation of this chapter shall contain, at a minimum, the following information:

1. The name(s) of the person(s) being held liable for the payment of such costs;
2. The address of the residence or other private property where the gathering of underage drinkers occurred;
3. The date and time of the response;
4. The law enforcement, fire or emergency service provider who responded;
5. The date(s) and time(s) of any previous warning(s) given pursuant to Section 5-10.06 and/or previous responses to gatherings of underage drinkers at the residence or other private property in question within the previous twelve (12) months;
6. An itemized list of the response costs for which the person(s) is being held liable. The police shall calculate and compile an itemized list of the applicable response costs; and
7. The imposition of a lien on the subject property in the event of nonpayment of response costs.

(d) If a timely request for an administrative hearing pursuant to Section 4-11.06 is not made, such costs, if unpaid within thirty (30) days of notice, shall become a lien against the property as is authorized by Government Code Section 38773.1.

(e) If, following an administrative hearing, appeal, or other final determination, the owner of the property is determined to be responsible for any costs pursuant to this section, such costs, if unpaid within thirty-five (30) days of notice of the final determination, shall become a lien against the property as is authorized by Government Code Section 38773.1.

(f) Under either subsections (d) and (e) of this section, a notice of a lien shall be filed with the County Recorder's Office which states the identity of the record owner or possessor of the property, the date upon which the citation was issued, a description of the real property subject to the lien, and the amount of the abatement costs incurred to date. The notice shall be served on the record owner as required in Government Code Section 38773.1.

It is the intent of the City Council that abatement costs incurred after the filing of the Notice of an Abatement Lien relates back to the date upon which the lien was recorded.
for purposes of priority; however, in order to preserve its rights, after all abatement costs have been incurred and the abatement is complete, the City shall cause a supplemental Notice of an Abatement Lien to be recorded. The supplemental notice shall contain all of the information required for the original notice and shall also refer to the recordation date and recorder’s number of the original notice.

Section 5-10.07: Special Fund.

(a) There is hereby established a special fund for the purposes of receiving and expending civil penalties collected. This special fund shall be known and designated as the Prevention of Underage Drinking Fund.

(b) Expenditure of monies. The appropriation of all monies in the Prevention of Underage Drinking Fund shall be made exclusively for the purposes of Prevention of Underage Drinking Programs within the City of Los Banos. The Underage Drinking Program shall include the enforcement of, education for, and prevention of underage drinking. Expenditures shall include, but not be limited to; purchase of equipment, contractual services, material and supplies, or any other expenditures related to the prevention of underage drinking with the City of Los Banos. The administration of the fund shall conform to this Code and all accounting principles practiced by the City.

(c) Accumulation of monies in the funds. The balance remaining in the Prevention of Underage Drinking Fund at the close of any fiscal year shall be deemed to have been provided for a specialized purpose and shall be carried forward and accumulated in said fund for the purposes set forth herein.

5-10.08 Protected activities.

This chapter shall not apply to activities protected by Article 1, Section 4 of the California Constitution or the 1st or 14th Amendments of the United States Constitution.

5-10.09 Severability.

If any section, subsection, clause or phrase of this chapter is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this chapter. The City Council declares that this chapter, and each section, subsection, sentence, clause and phrase hereof, would have been prepared, proposed, adopted, approved and ratified irrespectively of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

Section 2. The City Council of the City of Los Banos does hereby add the following sub section to Title 4, Chapter 11 Section 4-11.01 (d) of the Los Banos Municipal Code.

(45) Section 5-10.01 through 10.09 of the Los Banos Municipal Code.
Section 3. This Ordinance shall go into effect and be in full force and operation thirty (30) days after its final passage and adoption. The City Clerk shall certify to the adoption of this Ordinance and cause the same to be posted and published once within fifteen days after passage and adoption as may be required by law; or, in the alternative, the City Clerk may cause to be published a summary of this Ordinance and a certified copy of the text of this Ordinance shall be posted in the Office of the City Clerk five days prior to the date of adoption of this Ordinance; and, within fifteen days after adoption, the City Clerk shall cause to be published, the aforementioned summary and shall post a certified copy of this Ordinance, together with the vote for and against the same, in the Office of the City Clerk.

Introduced by Council Member ______________ and seconded by Council Member ______________ on the ___ day of __________, 2008.

Passed on the ___ day of __________, 2008, by the following vote:

AYES:
NOES:
ABSENT:

APPROVED:

______________________________
Tommy Jones, Mayor

ATTEST:

______________________________
Lucille L. Mallonee, City Clerk
What is the Social Host Ordinance?

This ordinance authorizes Officers with the Los Banos Police Department to issue administrative citations on private property to any responsible person who "hosts" a gathering or party, where two or more underage persons have assembled or are assembling for a social occasion or social activity whereupon underage persons are found to have consumed alcohol.

Words defined

"Gathering of underage drinkers" shall mean a party, event or gathering where two (2) or more underage persons are present at a residence or other private property in which alcoholic beverages are being consumed or possessed by any underage person.

"Responsible person" shall mean a person or persons with a right of possession of the residence or other private property at which a gathering of underage drinkers is conducted. A responsible person need not be present at such gathering and prior knowledge of the gathering of underage drinkers is not a prerequisite to a finding that any specific individual is a responsible person as defined by this section.

"Underage person" shall mean any person under twenty-one (21) years of age.

WARNING!!!

If, you are receiving this informational pamphlet because you have been warned or issued a citation by a Los Banos Police Officer for hosting a gathering where underage persons were found to have consumed alcohol, you are subject to an Administrative fine of:

> $500 – First Offense*
> $1,500 – Second offense*
> $3,000 – Third offense*  
*Within a consecutive 12-month period.

If the Police or Fire Department is required to respond to a third gathering within the same 12 month period you will also be required to pay for ALL of their response costs.

In the event that a gathering of underage drinkers is hosted by a juvenile, then the parents or guardians of that juvenile will be jointly and severally liable for any penalties incurred pursuant to this chapter.

In case of emergency dial 911
What can I do if I am issued a citation?

As with all Administrative citations you have 30 days from the date of the citation to request a hearing (LBMC 4-11.06). To do that, go to City Hall and complete a Citation Hearing form where you will be required to pay the fine amount before the hearing will take place.

Hearings are typically the third Wednesday of each month.

Why does Los Banos need a Social Host Ordinance?

The City of Los Banos recognizes that the occurrence of gatherings hosted on private property where alcoholic beverages are served to and consumed by underage persons is harmful to not only the underage person themselves, but is a threat to public safety, health and the quiet enjoyment of private property of other Los Banos residents.

We also realize that preventing and deterring gatherings on private property where underage persons possess or consume alcohol is difficult. This ordinance, with its administrative remedy, will likely reduce the opportunity for activities that could endanger the safety of our community.

Some facts about underage drinking:

The American Medical Association studied the problem and found the following to be true:

Approximately 11 million American youth under the age of 21 drink alcohol. Nearly half of them drink to excess, consuming five or more drinks in a row, one or more times in a two week period.

Alcohol is the most frequently used drug by high school seniors, and its use is increasing. Boys usually try alcohol for the first time at just 11 years old, while the average age for American girls first drink is, 13. In short, our nation's youth are flirting with disaster. Consider the following:

- Underage drinking is a factor in nearly half of all teen automobile crashes, the leading cause of death among teenagers.
- Alcohol use contributes to youth suicides, homicides and fatal injuries, which are the leading cause of death among youth after auto accidents.
- Alcohol abuse is linked to as many as two thirds of all sexual assaults and date rapes of teens and college students.
- Alcohol is a major factor in unprotected sex among youth, increasing their risk of contracting HIV or other transmitted diseases.

In California during 2005 alone, 90 drivers between the ages 12 and 20 died and over 5,000 people were injured in alcohol involved collisions (CHP, SWITRS).

Between 2002 and 2003 over 1,260 people between the age of 15 and 20 were killed in California alone due to alcohol related accidents (MADD).

In case of emergency dial 911
RESOLUTION NO. ___


WHEREAS, the City of Los Banos (City) pursuant to its police powers has the authority to enact laws which promote the public health, safety and general welfare of its residents; and

WHEREAS, the City, through the Los Banos Municipal Code, has the authority to adopt and incorporate ordinances into the Administrative citation process under Section 4-11 of the Los Banos Municipal Code; and

WHEREAS, minors often obtain alcoholic beverages at parties, gatherings, or events held at private residences or at rented residential and commercial premises that are under the control of a person who has failed to ensure that alcoholic beverages are neither possessed nor consumed by minors; and

WHEREAS, the occurrence of such gatherings is harmful to the minor themselves and a threat to public health, safety, quiet enjoyment of private property and general welfare because the gatherings typically become loud and unruly which results in one or more of the following: excessive noise, excessive traffic, obstruction of public streets and property, public drunkenness, the service of alcohol to minors, fights, disturbances of the peace, and liter; and

WHEREAS, problems associated with such gatherings at which underage drinking occurs are difficult to prevent and deter unless Police Officers acting on behalf of the City have legal authority to direct the host to disperse the gathering.

NOW, THEREFORE, BE IT RESOLVED the City Council of the City of Los Banos does approve: the addition of chapter 5-10 to the Los Banos Municipal code and the amendment of Section 4-11.01(d) of the Los Banos Municipal code adding subsections:

(45) Section 5-10.04 (a), (d) and (e) of the Los Banos Municipal Code.

The foregoing Resolution was introduced at a regular meeting of the City Council of the City of Los Banos held on this 19th day of September 2007, by Council Member ____, who moved its adoption, which motion was duly seconded by Council Member ____, and the Resolution was adopted by the following vote:

AYES:  
NOES:  
ABSENT:  

APPROVED:  

__________________________  
Tommy Jones, Mayor  

ATTEST:  

__________________________  
Lucille L. Malloniee, City Clerk
MEMORANDUM

DATE: April 16, 2008

TO: Mayor and City Council

CC: Interim Planning Manager

FROM: William A. Vaughn, City Attorney

RE: MOBILE VENDORS

Introduction: At the City Council Meeting of October 17, 2007 the City Council rejected the Planning Commission recommendation to amend the Los Banos Municipal Code pertaining to Mobile Vendors. I have attached for your reference a summary of the main provisions of the current Ordinance (LBMC section 9-3.1725). Specifically the City Council consensus was favorable to the amendment concerning the new comprehensive regulations and licensing requirements of Mobile Vendors but was not favorable to the proposed elimination of the 180-day vendor limitation. The proposed Ordinance was sent back to the Planning Commission for further review. This Ordinance was reviewed and discussed at the Planning Commission meeting of November 28, 2007, January 23, 2008, February 27, 2008 and March 12, 2008. The Planning Commission focused its efforts on alternatives to an absolute 180-day vendor limitation.

Discussion: The Planning Commission reviewed and considered the following four alternatives:

1. Alternative 1 proposed a 180-day permit limitation applied to all vendors. The applicable language reads as follows:

   “All vendor permits issued by the City pursuant to this section shall be limited to a permit period of 180 consecutive days during any calendar year.”

2. Alternative 2 proposed a 180-day permit limitation applied to all vendors except food vendors operating exclusively in business parks or construction areas. The applicable language reads as follows:

   “All vendor permits issued by the City pursuant to this section shall be limited to a permit period of 180 consecutive days during any calendar year with the exception of mobile vendors selling prepared, pre-packaged or unpacked, food or foodstuffs exclusively in business parks and/or active construction zones/areas as designated by the Planning Commission.”
3. Alternative 3 proposed a 180-day permit limitation applied to all vendors operating in the public right-of-way with alternative language excepting food vendors operating exclusively in business parks or construction areas. The applicable language reads as follows:

“All vendor permits issued by the City to operate on public right-of-way pursuant to section 9-1725.050 (A) shall be limited to a permit period of 180 consecutive days during any calendar year [ALTERNATE LANGUAGE: with the exception of mobile vendors selling prepared, pre-packaged or unprepared, unpackaged food or foodstuffs exclusively in business parks and/or active construction zones/areas as designated by the Planning Commission.]”

4. Alternative 4 proposed a 180-day permit limitation applied to all vendors operating on private property with alternative language excepting food vendors operating exclusively in business parks or construction areas. The applicable language reads as follows:

“All vendor permits issued by the City to operate on private property pursuant to section 9-1725.050 (B) shall be limited to a permit period of 180 consecutive days during any calendar year [ALTERNATE LANGUAGE: with the exception of mobile vendors selling prepared, pre-packaged or unprepared, unpackaged food or foodstuffs exclusively in business parks and/or active construction zones/areas as designated by the Planning Commission.]”

The Planning Commission discussed the four alternatives at length and received public comment. The Planning Commission unanimously recommends by Resolution 2008-13, City Council approval of Alternative 3. Alternative 3 proposes a 180-day permit limitation applied to all vendors operating in the public right-of-way with alternative language excepting food vendors operating exclusively in business parks or construction areas. The 180-day permit limitation would not apply to vendors operating on private property or food vendors operating exclusively in business parks or construction areas. The Planning Commission feels that there is a distinction between mobile vendors applying their trade in the public right-of-way and “mobile” vendors whom have to conform to strict regulation for vending on private property. The Planning Commission also felt that an exception to the 180-day permit limitation was appropriate for mobile vendors vending in the public right-of-way within business parks and construction zones. I have attached for your reference a summary of the main provisions of the proposed (amended) Ordinance.

**Recommendation** The first reading of the attached Ordinance be waived and that the attached Ordinance be introduced by title.
SUMMARY OF CURRENT ORDINANCE

• REQUIRES A LICENSE VIA “USE PERMIT” OBTAINED FROM THE PLANNING DEPARTMENT
• APPLICANT MUST PROVIDE
  o General Statement Of Operation
  o Permission From Property Owner
  o Plot Plan
  o Permission For Employee Access To Restrooms
• REQUIRES APPROVAL BY POLICE CHIEF, BUILDING OFFICIAL, FIRE CHIEF, COUNTY HEALTH
• REQUIRES INSURANCE OF $1,000,000.00
• MOBILE VENDORS IN THE PUBLIC RIGHT-OF-WAY
  o Fifteen Minute Limit In One Place
  o Appropriate Storage Of Cart
  o Health Permit For Food Vendors
  o Business License On Cart
• MOBILE VENDORS ON PRIVATE PROPERTY
  o Must Meet Current City Development Standards
  o Adequate Set Backs
  o Responsible For Maintaining Site, Trash Receptacles
  o Hours Of Operation Regulated
  o Restroom Facilities For Employees
  o No Discharge Of Wastewater
  o Independent Power Source
  o 500 Feet From Similar Business
  o No Outdoor Furniture
  o Appropriate Storage
  o Health Permit For Food Vendors
  o Business License Displayed
  o Written Permission From Property Owner
  o Shall Not Operate More Than 180 Consecutive Days During 12 Month Period.
SUMMARY PROPOSED ORDINANCE

• REQUIRES A PERMIT TO OPERATE FROM THE PLANNING DEPARTMENT TO BE RENEWED ANNUALLY AND NON TRANSFERABLE
  o Police Department Background Check
  o Business License Required
  o Proof Of Vehicle Registration
  o Photograph Of Vending Unit
  o Rendering Of Signage
  o Copy Of Current Health Permit
  o Proof Of Insurance ($1,000,000.00 Limit)
  o Names Of All Employees Or Operators

• IF OPERATING ON PRIVATE PROPERTY APPLICANT MUST PROVIDE
  o Written Permission From Property Owner
  o Site Plan
  o Restroom Facilities For Employees

• CRITERIA FOR DENIAL
  o Does Not Comply With All Applicable Laws
  o Negative Criminal Background Check
  o False Statements On Application
  o Revocation Of Similar Permit Within Last 3 Years
  o Failure To Obtain Health Department Permit

• PLANNING COMMISSION DECISION MAKING AUTHORITY FOR INITIAL PERMIT, PLANNING DIRECTOR DECISION MAKING AUTHORITY FOR RENEWAL

• CONDITIONS RE: LOCATION IN PUBLIC RIGHT-OF-WAY
  o Limited To A Permit Period Of 180 Consecutive Days During Any Calendar Year With The Exception Of Mobile Vendors Selling Prepared, Pre-Packaged Or Unprepared, Unpackaged Food Or Foodstuffs Exclusively In Business Parks And/Or Active Construction Zones/Areas As Designated By The Planning Commission
  o 300 Foot Restriction Schools, Parks, Playgrounds, 100 Feet From Any Intersection
  o If In A Residential Zone – Must Move Every 10 Minutes, Hours 9am To 8pm, Not Within 400 Feet Of Another Vendor
  o If In Commercial Zone – Must Move Every 2 Hours, Hours 8am To 9pm, If Within 100feet Of Residential Zone Must Comply With Residential Zone Conditions
  o If In An Industrial Zone – May Operate 18 Hours Per Day, If Within 100 Feet Of Residential Zone Must Comply With Residential Zone Conditions
  o If In A Construction Zone Or Business Park – May Operate Monday Through Saturday 8am To 5pm
  o Not Interfere With Vehicular Access Or Pedestrian Movement
  o Must Comply With Health Department Requirements
  o May Not Be Located On Bicycle Paths, Walking Trails, Public Parks

• CONDITIONS RE: LOCATION ON PRIVATE PROPERTY
- Vending Must Be Incidental To A Primary Use (Not Only Use)
- Limited To Commercial Or Industrial Zones, Prohibited In Residential Zones
- May Not Be Located On A Vacant Parcel
- Must Be Located On Pavement
- May Not Decrease Parking Area
- Not Interfere With Vehicular Access Or Pedestrian Movement
- Not Located Within 500 Feet Of Similar Business
- Must Comply With Health Department Requirements

**OPERATIONAL REQUIREMENTS**

- Display All Required Permits
- Wheels Choked When Stationary
- Unit Must Be Entirely Self Sufficient
- No Discharge Of Waste
- Must Maintain Site In Safe And Clean Condition
- No Furniture
- Must Meet Applicable Building, Public Safety Requirements
- No Exterior Storage
- Amplified Music Limited
- Appropriate Trash Containment
- No Loitering Enforcement

**EXEMPTIONS**

**VIOLATIONS/REVOCATION PROCEDURE**

**GRANDFATHERING OF EXISTING BUSINESSES.**
The City Council of the City of Los Banos does ordain as follows:

Section 1. Title 9, Section 9-3.1725 of the Los Banos Municipal Code is hereby amended to replace in its entirety the existing section to read as follows:

Sec. 9-3.1725 Mobile Vending.

9-3.1725.010. Purpose.

The general purpose of this Chapter is to promote the health, safety, comfort, convenience, prosperity and general welfare of the citizens, businesses and visitors of the City of Los Banos by requiring that new and existing mobile vendors provide the community and customers with a minimum level of cleanliness, quality, safety and security. It is the purpose and intent of the City Council in enacting this Chapter, to provide mobile vendors with clear and concise regulations to prevent safety, traffic and health hazards, as well as to preserve the peace, safety and welfare of the community.


A. “Mobile vending unit” shall mean any vehicle, trailer, pushcart, motorized food wagon, stand, tent, or structure; not affixed to a permanent foundation, with or without wheels, which may be moved from one place to another under its own power or by other means.

B. “Mobile vendor” shall mean any person engaged in the business of selling prepared, pre-packaged or unprepared, unpackaged food or foodstuffs of any kind, goods, wares, merchandise, or any other thing of value from a mobile vending unit on private or public property.

C. “Persons” shall mean any person, firm, partnership, association, corporation, or business entity, and includes, but is not limited to, owners, operators, drivers, lessors and lessees of a mobile vending unit.

D. “Vend” or “Vending” shall mean the sale of prepared, pre-packaged or unprepared, unpackaged food or foodstuffs of any kind, goods, wares, merchandise, or any other thing of value from a mobile vending unit on private or public property.

No person may vend in the City without first obtaining and having in his or her possession a vendor permit issued by the City in accordance with this Chapter. No permit granted herein shall confer any vested right to any person or business for more than the permit period. All mobile vendors subject to this Chapter shall comply with the provisions of this Chapter as they may be amended hereafter.

9-3.1725.31. Permit Period.

All vendor permits issued by the City to operate on public right-of-way pursuant to section 9-1725.050 (A) shall be limited to a permit period of 180 consecutive days during any calendar year with the exception of mobile vendors selling prepared, pre-packaged or unprepared, unpackaged food or foodstuffs exclusively in business parks and/or active construction zones/areas as designated by the Planning Commission.

9-3.1725.040 Application for Permit to Operate.

A person desiring to engage in a mobile vendor operation shall submit a written application for a Permit to Operate in a form acceptable to and with all supporting information required by the City Planning Department. Such application shall be accompanied by a non-refundable, non-transferable application fee in an amount as established by Resolution of the City Council. Any such permit shall be required to be renewed annually and a separate non-refundable, non-transferable application fee shall be paid yearly for such renewal application. Mobile vendors must have the permit in their possession when vending. Permits to Operate are nontransferable.

A. A background check through the Los Banos Police Department must be obtained for the mobile vendor and each person operating or vending out of the mobile unit.

B. Every mobile vendor shall obtain a City of Los Banos Business License.

C. As part of the Permit to Operate application, the mobile vendor shall provide the following:

1. Mailing address for notification purposes. If during the term of the permit, the permit holder has any change in the mailing address submitted on the original or renewal application, the permit holder shall notify the Planning Department of such change in writing within ten (10) business days thereafter. Failure to provide updated contact information shall be grounds for permit suspension.

2. Legal names of the mobile vendor and all persons operating or vending out of the mobile vending unit.

3. Proof of current vehicle registration (for mobile vending unit if applicable).

4. Designation of period of operation (limited to one 180 consecutive day period during the calendar year) if located on public right-of-way.
5. Four photographs (showing different exterior views) of each mobile vending unit.

6. Dimensioned sample or rendering of proposed signage.

7. A copy of a current Merced County Environmental Health permit.

8. Proof of automobile insurance as required by the Vehicle Code (for mobile vending unit if applicable).

9. No person shall engage in, conduct or carry on the business of a mobile vendor unless there is on file with the Planning Department, in full force and effect at all times, documents issued by an insurance company authorized to do business in the State of California evidencing that the operator is insured under a liability insurance policy providing minimum coverage of $1,000,000.00 for injury or death arising out of the operation of the mobile vending unit.

10. If the mobile vendor is operating on private property, the mobile vendor shall provide the following:

   a. An affidavit in a form approved by the City from the property owner (if other than self) permitting the mobile vendor to locate on the site.
   
   b. A site plan, including sufficient parking for the primary use and the mobile vendor, for all proposed stationary location(s). Parking spaces shall be marked as required by zoning regulations.
   
   c. An affidavit from the business or location providing the required restroom facilities for food service workers, stating the hours that those facilities are being made available.

D. The following may constitute grounds for denial of a Permit to Operate or renewal application:

   1. The proposed mobile vending activity does not comply with all applicable laws including, but not limited to, the applicable building, zoning, housing, fire, safety and health regulations;

   2. The applicant is unable to obtain a business license due to a criminal background check;

   3. The applicant has, within three (3) years immediately preceding the application filing date, had a Permit to Operate, vending license or similar permit suspended or revoked in another California jurisdiction;

   4. The applicant has knowingly made a material misstatement in the application for a Permit to Operate;

   5. Failure to obtain clearance from Merced County Environmental Health.
E. The Planning Commission shall be the decision making authority for any initial application of a Permit to Operate. The Planning Director or designee shall be the decision making authority for any renewal application of a Permit to Operate.

9-1725.050 Location.

A. A mobile vendor may locate in the public right-of-way subject to the following conditions:

1. A mobile vendor shall not operate within three hundred (300) feet of any church, school grounds, park, playground or City-operated recreation center.

2. A mobile vendor shall not operate within one hundred (100) feet of any street intersection.

3. In addition to the above, a mobile vendor must comply with the following regulations, depending upon the type of use in which it is located:

   a. Residential zones:
      i. In a residential zone, a mobile vendor shall move not less than four hundred (400) feet at least every ten (10) minutes and may not return more than three times to a previous location or within four hundred (400) feet of a previous location on the same calendar day.
      ii. Permitted hours of operation are from 9:00 a.m. to 7:00 p.m.
      iii. A mobile vendor may not be located within four hundred (400) feet of another mobile vendor.

   b. Commercial zones:
      i. In a commercial zone, a mobile vendor shall move not less than four hundred (400) feet at least every two (2) hours and may not return more than three times to a previous location or within four hundred (400) feet of a previous location on the same calendar day.
      ii. Permitted hours of operation are from 8:00 a.m. to 9:00 p.m.
      iii. If a mobile vendor is located in a commercial zone and is within one hundred (100) feet of a residence, it shall comply with the requirements listed above for residential zones.

   c. Industrial zones:
      i. In an industrial zone, a mobile vendor may operate eighteen (18) hours a day or as long as businesses within 300 feet of the mobile vendor location are open, whichever is shorter.
      ii. If a mobile vendor is located in an industrial zone and is also within one hundred feet (100) feet of a residence, it shall comply with the requirements listed above for residential zones.

   d. Construction Zones and Business Parks:
i. Permitted days and hours of operation are Monday through Saturday from 8:00 a.m. to 5:00 p.m.

4. No mobile vendors shall be located or maintained on public property, including bicycle pathways, walking trails, public parks or inconsistent with any other City regulations;

5. Shall not interfere with access, driveways, aisles, circulation or fire lanes and hydrants and shall not operate in a place where the operation will create an unsafe condition; and

6. Shall comply with the requirements of the Merced County Environmental Health Department.

B. A mobile vendor may locate on private property subject to the conditions as follows:

1. Be incidental to a primary use with a valid Business License; a mobile vending unit shall not be the primary use of a parcel. Mobile vending units shall not be permitted as an accessory use to a standalone parking lot;

2. Be located in a commercial or industrial zoning district. Mobile vendors shall not be located on private property in a residential zoning district;

3. Not be located on a vacant parcel;

4. Be located on pavement per City standards;

5. Not utilize, or be located on, parking spaces required for the primary use. At least two onsite parking spaces, in addition to those required for the primary use, shall be provided for the mobile vending unit operation;

6. Not interfere with access, driveways, aisles, circulation or fire lanes and hydrants and shall not operate in a place where the operation will create an unsafe condition;

7. Comply with the requirements of the Merced County Environmental Health Department;

8. Not interfere with pedestrian movement or create a hazard for pedestrians; and

9. Not be located within 500 feet of a similar business (i.e. food truck cannot located within 500 feet of a restaurant or flower stand within 500 feet of a flower shop).

Section 9-1725.060 Operational Requirements.

A. Mobile Vending Unit:
1. The mobile vendor shall display, in plain view and at all times, current permits and licenses.

2. While vending, drive wheels of the mobile vending unit shall be chocked in such a manner as to prevent movement.

3. The mobile vending unit shall be entirely self-sufficient in regards to gas, water and telecommunications. Should any utility hook-ups or connections to on-site utilities be used or required, the mobile vendor shall be required to apply for appropriate permits or receive approval by the appropriate City Department to ensure building and public safety and consistency with applicable building and zoning regulations.

4. The mobile vendor shall not discharge items onto the sidewalk, gutter, storm drainage inlets or streets.

B. Appearance of Site:

1. The site shall be maintained in a safe and clean manner at all times.

2. No tables, chairs, fences, shade structures or other site furniture, (permanent or otherwise) or any free standing signs shall be permitted in conjunction with the mobile vendor.

3. Any site improvements required for mobile vendor operations shall require application for the appropriate permits to ensure building and public safety and consistency with applicable building and zoning regulations.

4. Exterior storage of refuse, equipment or materials associated with the mobile food vendor is prohibited.

C. Amplification:

1. While moving, a mobile unit may utilize amplified music, provided that such music shall not exceed eighty (80) decibels at ten (10) feet from the source as measured by a sound level meter. Any amplified music shall cease while the mobile vending unit is stopped for vending purposes.

D. Sanitation:

1. All mobile vendors operating a mobile food facility as defined by the Health and Safety Code shall operate out of a commissary pursuant to Health and Safety Code section 114295.

2. All mobile units shall be equipped with refuse containers large enough to contain all refuse generated by the operation of such a unit, and the vendor of the mobile unit shall pick up all refuse generated by such operation within a twenty-five (25) foot radius of the
vehicle before such unit is moved. No mobile vendor shall dispose of any trash or refuse in any such public or private trash receptacle other than a trash receptacle owned, operated or otherwise provided by and under the control of such vendor.

3. All mobile vendors operating a mobile food facility as defined by the Health and Safety Code shall comply with Health and Safety Code section 114315 regarding the availability of adequate toilet facilities for use by food service personnel.

E. Safety and security:

1. No vending shall be permitted except after the mobile vending unit has been brought to a complete stop and parked in a lawful manner.

2. The mobile vendor shall install signage in a visible location on the mobile vending unit indicating that loitering is not permitted.

3. The mobile food vendor shall enforce the no loitering rule.

9-1725.070 Exemptions.

A. Any person engaged in vending where such person has been authorized by the City of Los Banos to engage in such activity by a special event permit or other entitlements issued by the City of Los Banos.

B. Any person delivering any goods by vehicle where such goods have been ordered in advance for such delivery from any business located at a permanent location and which goods are being delivered from such location to the customer by vehicle, regardless of the point of sale.

9-1725.080 Application of Other Laws and Regulations.

A. The provisions of this Chapter prohibiting the stopping or parking of a vehicle shall apply at all times or at those times specified by this Chapter, except when it is necessary to stop a vehicle to avoid conflict with other traffic or in compliance with the directions of a police officer or official traffic control device.

B. The provisions of this Chapter imposing a time limit on stopping or parking shall not relieve any person from the duty to observe other more restrictive provisions of the Vehicle Code, this Code or any other Ordinances of the City, prohibiting or limiting the stopping or parking of vehicles in specified places or at specified times.

C. The provisions of this Chapter shall not relieve any person from the provisions of the Health and Safety Code pertaining to the regulation of Mobile Food Facilities.

1725.090 Suspension/Revocation of Permit to Operate.
A. Violation and noncompliance. The Planning Director or designee may refuse to renew a permit or may revoke or suspend an existing permit on the grounds that the permit holder has failed to comply with the permit conditions or other requirements of this Chapter. If a suspended permit lapses during the suspension period, a new application must be filed at the end of the suspension period. In any such case, the permit holder shall have the right to appeal in the time and manner set forth in this Section.

B. Revocation and suspension of Permit to Operate. When the City concludes that grounds for denial, suspension, revocation or refusal to renew a Permit to Operate exist, he or she shall serve the applicant or permit holder, either personally or by certified mail addressed to the business or residential address of applicant or permit holder, with a Notice of Denial or Notice of Intent to Suspend, Revoke or Refuse to Renew Permit.

This Notice shall state:

1. The reasons for the proposed action;
2. The effective date of the decision;
3. The right of the applicant or permit holder to a hearing; and
4. That the decision will be final if no hearing request is filed within five business days.

C. Hearings and Appeals. Hearings and appeals of the decision of the Planning Director or his designee or the Planning Commission shall be conducted in the same manner provided by Sections 9-3.2226 – 9-2228.

1725.100 Applicability of Ordinance to existing businesses.

A. The provisions of this Ordinance shall be applicable to all mobile vendors established after the effective date of the Ordinance.

B. All existing mobile vendors operating within the City shall be required to obtain a Permit to Operate and otherwise comply with this Ordinance upon the expiration of a current business license and/or application of a renewal of a current business license.

Section 2. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unenforceable by a court of competent jurisdiction, the remaining sections, subsections, sentences, clauses, phrases or portions of this Ordinance shall nonetheless remain in full force and effect. The City Council hereby declares that it would have adopted each section, subsection, sentence, clause, phrase or portion of this Ordinance, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions of this Ordinance be declared invalid or unenforceable.

Section 3. The City Council finds that the project is categorically exempt from the provisions of CEQA, Section 15061(b)(3) – The activity is covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.
Section 4. This Ordinance shall go into effect and be in full force and operation thirty (30) days after its final passage and adoption. The City Clerk shall certify to the adoption of this Ordinance and cause the same to be posted and published once within fifteen days after passage and adoption as may be required by law, or in the alternative, the City Clerk may cause to be published a summary of this Ordinance and a certified copy of the text of this Ordinance shall be posted in the Office of the City Clerk five days prior to the date of adoption of this Ordinance; and, within fifteen days after adoption, the City Clerk shall cause to be published, the aforementioned summary and shall post a certified copy of this Ordinance, together with the vote for and against the same, in the Office of the City Clerk.

Introduced by Council Member _____ and seconded by Council Member _____ on the ___ day of _____________, 2008.

Passed on the ___ day of _____________, 2008 by the following vote:

AYES:
NOES:
ABSENT:

APPROVED:

__________________________
Tommy Jones, Mayor

ATTEST:

__________________________
Lucille L. Mallonee, City Clerk
Agenda Staff Report

TO: Mayor & City Council Members
FROM: Lucy Mallonee, CMC
City Clerk/Human Resources Director
DATE: April 16, 2008
SUBJECT: Current City Commission Vacancies
TYPE OF REPORT: Non Consent Agenda

Recommendation:
Appoint one (1) Council Member to serve with the Mayor on the Selection Committee.

Discussion:
According to the new City Commission appointment policy adopted by City Council Resolution No. 5008, the City Clerk must report to the City Council with any existing vacancies on City Commissions.

Fiscal Impact:
Four (4) advertisements running in the local newspaper at a total cost of $566.10 to be split between the Planning Department and the Public Works Department.

Reviewed by:

Melinda J. Wall, Chief Financial Officer
Steve Rath, City Manager

Attachments:
Notice of Vacancy
Local Appointments List
City Council Resolution 5008
## Local Appointments List

### Planning Commission

<table>
<thead>
<tr>
<th>Term</th>
<th>January 31, 2009</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Norm Donovan</td>
<td></td>
</tr>
<tr>
<td>2 Jose Manzo</td>
<td></td>
</tr>
<tr>
<td>3 Stephen Hammond</td>
<td></td>
</tr>
<tr>
<td>4 Vacancy (unexpired term)</td>
<td></td>
</tr>
<tr>
<td>5 Vacancy</td>
<td></td>
</tr>
<tr>
<td>6 Vacancy</td>
<td></td>
</tr>
<tr>
<td>7 Erasmo Viveros</td>
<td>February 13, 2008</td>
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### Parks & Recreation Commission

<table>
<thead>
<tr>
<th>Term</th>
<th>December 31, 2008</th>
</tr>
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<tbody>
<tr>
<td>1 John Spevak, City Appointed</td>
<td></td>
</tr>
<tr>
<td>2 Diana Ingram, City Appointed</td>
<td></td>
</tr>
<tr>
<td>3 Tesse Mazzina, County Appointed</td>
<td></td>
</tr>
<tr>
<td>4 Vacancy (unexpired term)</td>
<td></td>
</tr>
<tr>
<td>5 Michael Neu, County Appointed</td>
<td></td>
</tr>
<tr>
<td>6 Mario Gonzalez, School Board Appointed</td>
<td></td>
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<tr>
<td>7 Jacqueline Skinner, City Appointed</td>
<td></td>
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</tbody>
</table>

### Airport Advisory Commission

<table>
<thead>
<tr>
<th>Term</th>
<th>December 31, 2009</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Shirley Napolitano, Vice Chairperson</td>
<td></td>
</tr>
<tr>
<td>2 Ronald Ingram, Chairperson</td>
<td></td>
</tr>
<tr>
<td>3 Alan Wilber</td>
<td></td>
</tr>
<tr>
<td>4 Jack Aguilar, Jr.</td>
<td></td>
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<tr>
<td>5 Larry Leonardo, Sr.</td>
<td></td>
</tr>
</tbody>
</table>
RESOLUTION NO. 5008

A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF LOS BANOS ESTABLISHING A POLICY
FOR APPOINTMENTS TO CITY COMMISSIONS
AND BOARDS

WHEREAS, the City Council adopted Ordinance No. 1069 amending Title 2,
Chapter 2 of the Los Banos Municipal Code relating to appointments to City
Commissions and Boards; and

WHEREAS, the City Council desires to adopt a policy for appointments to City
Commissions and Boards.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Los
Banos does hereby approve the attached policy entitled “Policy and Procedures for
Appointments to City Commissions And Boards” as set forth in forth in Exhibit A
attached hereto and incorporated herein by this reference.

The foregoing resolution was introduced at a regular meeting of the City Council
of the City of Los Banos held on the 2nd day of April 2008, by Council Member Faria,
who moved its adoption, which motion was duly seconded by Council Member Sousa,
and the Resolution is hereby adopted by the following vote:

AYES: Council Members Brooks, Faria, Sousa, Villalta, Mayor Jones

NOES: None

ABSENT: None

APPROVED:

[Signature]

Tommy Jones, Mayor

ATTEST:

[Signature]

Lucille L. Mallonee, City Clerk
"EXHIBIT A"

POLICY AND PROCEDURES FOR APPOINTMENTS TO CITY COMMISSIONS AND BOARDS

PURPOSE. To establish a more formal and inclusive selection process for the recruitment and appointment of the best qualified candidates for Commissioners to City Commissions and Boards that allows for all community members the opportunity to become involved in local government by serving on City Commissions and Boards.

1. **Local Appointment List.** The City Clerk shall maintain and provide the Local Appointment List as required by Government Code.

   a. On or before December 31 of each year, the City Clerk shall prepare an appointments list of all regular and ongoing boards, commissions, and committees which are appointed by the City Council. This list shall be known as the Local Appointments List. The list shall contain the following information:

      (i) A list of all appointive terms which will expire during the next calendar year, with the name of the incumbent appointee, the date of appointment, the date the term expires, and the necessary qualifications for the position.

      (ii) A list of all boards, commissions, and committees whose members serve at the pleasure of the legislative body, and the necessary qualifications for each position.

   b. The Local Appointments List shall be made available to members of the public for a reasonable fee which shall not exceed actual cost. The City Clerk shall forward a copy of the list to the Merced County Public Library Los Banos Branch.

2. **Notice of Vacancy.** At a regular City Council Meeting the City Clerk will report to the City Council approximately sixty days prior to the date of expiration of a term of office of a commissioner or board member. At a regular City Council Meeting the City Clerk will also report to the City Council any board or commission unscheduled vacancy for reasons other than the expiration of the term of office.

3. **Advertisement.** The City Clerk will post notice of the vacancies and application deadlines at the City Clerk’s Office, the Merced County Public Library, the City website, and a newspaper of general circulation within the City. For unscheduled vacancies, the City Clerk will post notice of the vacancy not earlier than twenty days before or not later than twenty days after the vacancy occurs.

4. **Applications.**

   a. A standard application form together with supplemental questions will be provided by the City Clerk to persons interested in appointment to a vacant office.
b. Incumbent commissioners and board members seeking reappointment, as well as new applicants, will complete the application forms and return them to the City Clerk by the designated deadline in order to be considered for appointment. However, a board member or commissioner who has been appointed to fill an unexpired term within the previous twelve months will not be required to complete and file a new application.

c. Applicants are expected to have attended at least one meeting of the board or commission for which they are seeking appointment.

d. Applications will only be accepted for specific vacancies. Persons who have applied for previous vacancies will be kept on an interest list for a period of two years by the City Clerk and be mailed notices of pending vacancies during that period.

e. In the event there are not two or more applicants than vacancies the application filing deadline may be extended by the City Clerk.

5. **Interview Committee.** The Mayor and a selected Council Member and appropriate Department Head will review applications and interview applicants.

   a. The Committee will interview all of the applicants, including incumbents, who have submitted applications by the designated deadline. The Committee may conduct interviews by telephone. A candidate who is unable to be interviewed will be dropped from consideration.

6. **Appointments.**

   a. With the input of the other Interview Committee members, the Mayor shall recommend a candidate for appointment to the full City Council. Appointments are made at regular or special meetings of the City Council.

   b. If the City Council is unable to reach the necessary number of appointments for whatever reason, the City Council may then proceed to seek additional applicants and continue the appointment process.
NOTICE IS HEREBY GIVEN THAT a Public Hearing will be held to consider Tentative Parcel Map No. 2008-02 for PMB Development to subdivide approximately 3 acres into three parcels in the Highway Commercial zoning district. The project is located on the southeast corner of Ortigalita Road and Pacheco Blvd., more specifically identified as Assessor’s Parcel Number: 431-141-015.

A PUBLIC HEARING on this matter will be held at the next scheduled meeting of the Planning Commission on Wednesday, April 23, 2008 at 7:00 p.m. in the Council Chambers of Los Banos City Hall located at 520 "J" Street. Questions regarding the above-referenced item may be directed to Stacy Souza, Assistant Planner at City Hall or at (209) 827-7000, Ext. 133.

Persons wishing to provide oral comments on the described proposal may do so at this meeting or may provide written comments on this matter prior to the public meeting. Written comments may be sent by U.S. Mail or hand delivered to the City of Los Banos City Hall at 520 "J" Street, Los Banos, California 93635. If no comments are received prior to or on the above date, it will be assumed that no comments are being offered. The public is also informed that should this matter, at some future date go to court, court testimony is limited to only those issues raised at the hearings per Government Code Section 65009.

THE CITY OF LOS BANOS

Stacy Souza
Assistant Planner
NOTE - Assessor's Block Numbers Shown in Ellipses
Assessor's Parcel Numbers Shown in Circles

County of Merced, Calif.
2007