



City of Los Banos

At the Crossroads of California

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AGENDA

PLANNING COMMISSION

CITY HALL COUNCIL CHAMBERS
520 J Street
Los Banos, California

OCTOBER 22, 2014

If you require special assistance to attend or participate in this meeting, please call the Planning Secretary @ (209) 827-7000 extension 118 at least 48 hours prior to the meeting.

The City of Los Banos complies with the Americans with Disabilities Act (ADA) of 1990.

Si requiere asistencia especial para atender o participar en esta junta por favor llame a la oficina de la Secretaria del Departamento de Planificación al (209) 827-7000 extensión 118 a lo menos de 48 horas previas de la junta.

La Ciudad de Los Banos cumple con la Acta de Americanos con Desehabilidad (ADA) de 1990.

Any writings or documents provided to a majority of the Planning Commission regarding any item on this agenda will be made available for public inspection at the meeting and in the Planning Department's office located at City Hall, 520 J Street, Los Banos, California during normal business hours. In addition, such writings and documents may be posted on the City's website at www.losbanos.org.

Cualquier escritura o los documentos proporcionaron a una mayoría del Departamento de Planificación con respecto a cualquier artículo en este orden del día será hecho disponible para la inspección pública en la reunión y en la oficina del Secretaria del Departamento de Planificación del City Hall, 520 J Street, Los Banos, California durante horas de oficina normales. Además, tales escrituras y los documentos pueden ser anunciados en el website de la Ciudad en www.losbanos.org.

1. CALL TO ORDER. **7:00 PM**
2. PLEDGE OF ALLEGIANCE.
3. ROLL CALL: (Planning Commission Members)
Baker __, Cates __, Faktorovich __, Hammond __, Mello __, Spada __, Toscano __
4. APPROVAL OF AGENDA.

Recommendation: Approve the agenda as submitted.

5. CONSIDERATION OF APPROVAL OF THE ACTION MINUTES FOR THE JOINT REGULAR PLANNING COMMISSION MEETING AND ADJOURNED AIRPORT ADVISORY COMMISSION MEETING OF SEPTEMBER 10, 2014.

Recommendation: Approve the minutes as submitted.

6. CONSIDERATION OF APPROVAL OF THE ACTION MINUTES FOR THE REGULAR PLANNING COMMISSION MEETING OF SEPTEMBER 24, 2014.

Recommendation: Approve the minutes as submitted.

7. PUBLIC FORUM: Members of the public may address the Commission on any item of public interest that is within the jurisdiction of the Commission, including agenda and non-agenda items. No action will be taken on non-agenda items. Speakers are limited to a five (5) minute presentation.

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 at, or prior to, the public hearing.

- A. Public Hearing – To Consider Approval of an Amendment to Mobile Vendor Permit #2014-03 to Allow the Operation of a Mobile Taco Truck to Vend on Private Property Located at 855 H Street in the Highway-Commercial Zoning District, More Specifically Identified as Assessor's Parcel Number: 026-143-001.

- 1) Planning Commission Resolution No. 2014-22 – Approving an Amendment to Mobile Vendor Permit #2014-03 for the Operation of a Mobile Taco Truck on Private Commercial Property Located at 855 H Street.

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

- B. Public Hearing – To Consider and Make Recommendation to the Los Banos City Council to Adopt an Ordinance to Regulate Unattended Donation Bins/Boxes. **(Continue to November 12, 2014)**

Recommendation: Receive staff report, open the public hearing, receive public comment, continue the public hearing to the November 12, 2014 Planning Commission meeting, and direct staff to prepare an ordinance for adoption.

9. COMMUNITY DEVELOPMENT DEPARTMENT REPORT.

10. COMMISSIONER REPORTS.

A. Baker

B. Cates

- C. Faktorovich
- D. Hammond
- E. Mello
- F. Spada
- G. Toscano

11. ADJOURNMENT.

APPEAL RIGHTS AND FILING PROCEDURES

Any person dissatisfied with an act or determination of the Planning Commission may appeal such act or determination to the Planning Commission by filling written notice with the Planning Commission Secretary not later than five (5) business days (excluding holidays) after the day on which the act or determination was made. An appeal must state the act or determination which is being appealed, the identity of the applicant and his/her interest in the matter, and set forth in concise statement(s) the reasons which render the Commission's decision unjustified or inappropriate. (Los Banos Municipal Code Section 9-3.2326)

Concerning an action taken by the Planning Commission related to Chapter 2 Articles 1 through 17 of the Los Banos Municipal Code "Subdivisions", if a subdivider or other affected property owner is dissatisfied with any action of the Commission with respect to a tentative map or the nature and extent of improvements recommended or required he/she may within fifteen (15) days after such action appeal to the Planning Commission Secretary for a public hearing on the matter. An appeal must state the action being appealed, identify the agenda item by agency number or project title, and set forth in concise statement(s) the reasons for the appeal. (Los Banos Municipal Code Sections 9-2.807)

Appeals must be in writing and include the appellant's name and address and original signature. A filing fee of \$150.00 must accompany the notice of appeal.

<p>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.</p>	
<p style="text-align: center;">  _____ Sandra Benetti, Planning Technician </p>	<p style="text-align: right;">Dated this 17th day of October 2014</p>

**CITY OF LOS BANOS
JOINT REGULAR PLANNING COMMISSION &
ADJOURNED AIRPORT ADVISORY COMMISSION MEETING MINUTES
SEPTEMBER 10, 2014**

ACTION MINUTES – These minutes are prepared to depict action taken for agenda items presented to the Planning Commission & Airport Advisory Commission. For greater detail of this meeting refer to the electronic media (CD and/or audio) kept as a permanent record.

CALL TO ORDER. Planning Commission Chair Spada called the Joint Regular Planning Commission & Adjourned Airport Advisory Commission Meeting to order at the hour of 7:00 p.m.

PLEDGE OF ALLEGIANCE. The pledge of allegiance was led by Airport Advisory Commissioner Leonardo, Sr.

ROLL CALL – MEMBERS OF THE PLANNING COMMISSION PRESENT: Planning Commission Members Todd Baker, John Cates, Stephen Hammond, Tom Spada, Susan Toscano, Arkady Faktorovich; Tom Mello absent.

ROLL CALL – MEMBERS OF THE AIRPORT ADVISORY COMMISSION PRESENT: Airport Advisory Commission Members Dave Anderson, Daniel Beasworrick, Alan Wilber, Larry Leonardo, Sr.; Heiko Stichel absent (arrived at 7:11 p.m.)

STAFF MEMBERS PRESENT: City Manager Steve Carrigan, Assistant Planner II Stacy Elms, Public Works Director/City Engineer Mark Fachin, Planning Technician Sandra Benetti.

CONSIDERATION OF APPROVAL OF AGENDA. Motion by Cates, seconded by Faktorovich to approve the agenda as submitted. The motion carried by the affirmative action of all Planning Commission & Airport Advisory Commission Members present; Mello and Stichel absent.

PUBLIC FORUM: MEMBERS OF THE PUBLIC MAY ADDRESS THE PLANNING COMMISSION & AIRPORT ADVISORY COMMISSION ON ANY ITEM OF PUBLIC INTEREST THAT IS WITHIN THE JURISDICTION OF THE COMMISSIONS; 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 CHAMBERS INFORMATIONAL TABLE. Planning Commission Chair Spada opened the public forum. No one came forward to speak and the public forum was closed.

PRESENTATION – LOS BANOS AGRICULTURAL & INDUSTRIAL BUSINESS LOGISTICS CENTER. City Manager Carrigan presented the report, which included

maps of the project area and noted that staff is in the preliminary phase of this project and noted how staff will be presenting a guidance package to the Merced County Board of Supervisors for approval on Tuesday, November 4, 2014.

Assistant Planner II Elms spoke in detail of the Airport Land Use Plan zones and the possible locations of the runway.

Planning Chair Spada spoke of how he supports this project, the need for a regional medical center, and the need for a Plan B in case Merced County doesn't support the project.

Planning Commissioner Faktorovich spoke of how this isn't cast in stone, the existing processing plant, and the Frank Lloyd Wright house nearby the project area.

Planning Commissioner Toscano thanked staff, spoke of this being hard work and a wonderful vision, and inquired as to how many property owners were in the project area.

Assistant Planner II Elms spoke of there being about 18 total property owners in the area which include multiple LLCs.

There was discussion among Planning Commissioners and staff regarding the proximity of Parreira Almond Processing Co., the need for a new airport and perspective on a new hospital, how the airport would be designated general aviation with the ability to take in large cargo, how it would be comparable to Castle Airport, the need for a traffic study in addition to other studies, the need for a Joint Powers Authority or agreement if this project moves forward, and how the entitlement process would go through Merced County and the airport annexation would go through the City.

Airport Advisory Commission Chair Leonardo spoke of his concern for the safety of pilots in the proximity of the foothills.

City Manager Carrigan spoke of how a wind study would help determine the location of the runway and reminded the Commissioners that the first step is obtaining approval for a guidance package from Merced County on November 4th.

Airport Advisory Commissioner Beasworrick spoke of his concern with the hills to south and west from a pilot's standpoint, suggested a wind study be done 1-3 miles out above the terrain due to wind, and inquired about a cross runway.

City Manager Carrigan stated that a cross runway would be addressed in the wind study.

Public Works Director/City Engineer Fachin spoke of a wind study and California Environmental Quality Act (CEQA) and National Environmental Policy Act (NEPA) requirements.

Kathy Ballard, Los Banos, inquired about the wind study and spoke of her concern about the lack of moisture in the air and how it could affect the weather study.

Airport Advisory Commissioner Beasworrick spoke of the existing airport and hospital and inquired what the City would consider doing while maintaining the current airport.

City Manager Carrigan spoke of how this process would take years and how the City can't spend \$1 million on maintaining the current runway knowing we are going to move it.

Airport Advisory Commission Chair Leonardo spoke of how the current airport is on brink of disrepair and his concern that the City should have a commitment to maintain it.

Public Works Director/City Engineer Fachin spoke of how the City cannot spend \$1.3 million on resurfacing because it would have to be repaid to the Federal Aviation Administration (FAA) in addition to paying back any outstanding grants and the need to balance that with how this project is going at the moment.

City Manager Carrigan spoke of how this could take about 4-5 years if we work aggressively to get this runway built.

Public Works Director/City Engineer Fachin stated that federal funds weren't used to purchase the current airport.

Mrs. Ballard inquired about the proximity of Charleston Elementary School to this project area.

Assistant Planner II Elms stated that the school is located outside of the flight pattern zone.

Airport Advisory Commissioner Wilber spoke of how he would like to keep active in this group discussion of this project.

City Manager Carrigan stated that staff will keep the Airport Advisory Commission updated and if any members would like staff to email the information, to let us know what they would like and staff can send it to them.

Information item only, no action taken.

ADJOURNMENT. The meeting was adjourned at the hour of 8:15 p.m.

APPROVED:

Tom Spada, Planning Commission Chair

ATTEST:

Sandra Benetti, Planning Technician

**CITY OF LOS BANOS
PLANNING COMMISSION MEETING MINUTES
SEPTEMBER 24, 2014**

ACTION MINUTES – These minutes are prepared to depict action taken for agenda items presented to the Planning Commission. For greater detail of this meeting refer to the electronic media (CD and/or audio) kept as a permanent record.

CALL TO ORDER. Chair Spada called the Planning Commission Meeting to order at the hour of 7:00 p.m.

PLEDGE OF ALLEGIANCE. The pledge of allegiance was led by Commissioner Cates.

ROLL CALL – MEMBERS OF THE PLANNING COMMISSION PRESENT: Planning Commission Members Todd Baker, John Cates, Arkady Faktorovich (arrived late at 7:01 p.m.), Stephen Hammond, Tom Mello, Tom Spada, Susan Toscano.

STAFF MEMBERS PRESENT: Assistant Planner II Stacy Elms, Planning Technician Sandra Benetti, City Attorney William Vaughn.

CONSIDERATION OF APPROVAL OF AGENDA. Motion by Cates, seconded by Baker to approve the agenda as submitted. The motion carried by the affirmative action of all Planning Commission Members present, Faktorovich absent.

Commissioner Faktorovich arrived and took his seat at the dais at 7:01 p.m.

CONSIDERATION OF APPROVAL OF THE ACTION MINUTES FOR THE REGULAR MEETING OF AUGUST 27, 2014. Motion by Cates, seconded by Mello to approve the minutes as submitted. The motion carried by the affirmative action of all Planning Commission Members present.

PUBLIC FORUM: MEMBERS OF THE PUBLIC MAY ADDRESS THE CITY COUNCIL MEMBERS ON ANY ITEM OF PUBLIC INTEREST THAT IS WITHIN THE JURISDICTION OF THE CITY; INCLUDES AGENDA AND NON-AGENDA ITEMS. NO ACTION WILL BE TAKEN ON NON-AGENDA ITEMS. SPEAKERS ARE LIMITED TO A FIVE (5) MINUTE PRESENTATION. DETAILED GUIDELINES ARE POSTED ON THE COUNCIL CHAMBERS INFORMATIONAL TABLE. Chair Spada opened the public forum. No one came forward to speak and the public forum was closed.

AMENDMENT TO SITE PLAN REVIEW #2002-01 FOR PHASE 2 OF THE VAGABOND INN, LOCATED AT 20 W. PACHECO BLVD., MORE SPECIFICALLY IDENTIFIED AS APN: 026-032-044 AND APN: 026-032-049. Assistant Planner II Elms presented the report, which included a PowerPoint presentation.

There was discussion among Commissioners and staff regarding how the existing lighting meets current standards.

Paul Accinelli, general contractor for the project, spoke of how he was involved with the project when the original building was erected, how the owner, Sanjay Patel, is trying to keep with the same style but understands they need to make adjustments to shade, the need to expand another island somewhere else and move handicapped parking, and how landscaping will be addressed last.

Assistant Planner II Elms spoke of how staff can add that as a condition of approval that they meet the shade tree requirement of 51% and how they can work with staff to make sure they meet this percentage.

Mr. Accinelli spoke of how they would be losing about 6 parking spaces but would like to minimize that impact so they only lose 3 spaces by this adjustment.

Commissioner Baker spoke of how he would like to see trailer and boat parking as it is currently insufficient.

Errol Esbit, architect for the project, stated that there is a sign on the premises that says there is parking for motorhomes and trailers around the back.

Assistant Planner II Elms spoke of how there is a recorded reciprocal easement that allows for overflow parking with M&M Restaurant.

Motion by Faktorovich, seconded by Toscano to adopt Planning Commission Resolution No. 2014-21 – Approving an Amendment to Site Plan Review #2002-01 for Phase 2 of the Vagabond Inn, Located at 20 W. Pacheco Blvd with the condition of approval for staff to work with the applicant to coordinate the actual shade trees. The motion carried by the affirmative action of all Planning Commission Members present.

COMMUNITY DEVELOPMENT DEPARTMENT REPORT. Assistant Planner II Elms spoke of businesses doing their due diligence, doing preliminary reviews, no formal applications received, will continue forward with CEQA workshops and such to refresh design standards.

City Attorney Vaughn spoke of how he will be working on mobile vendor ordinance, it being a busy summer for everyone at City Hall, how staff will take back an ordinance draft to commission and it may take 2-3 meetings to prepare the draft.

Assistant Planner II Elms added that staff is looking at a donation bins ordinance and farmers markets ordinance.

Commissioner Mello spoke of how there is still a problem with ongoing garage sales on Fourth Street between Adams Avenue and Jefferson Avenue.

PLANNING COMMISSION MEMBER REPORTS.

BAKER: No report.

CATES: No report.

FAKTOROVICH: No report.

HAMMOND: No report.

MELLO: Spoke of the Knights of Columbus tootsie roll drive October 4th-5th, 2014 and how all donations are welcome and will be forwarded to Kingsview.

SPADA: Wished Commissioner Baker a happy birthday.

TOSCANO: No report.

ADJOURNMENT. The meeting was adjourned at the hour of 7:38 p.m.

APPROVED:

Tom Spada, Chair

ATTEST:

Sandra Benetti, Planning Technician



City of
Los Banos
At the Crossroads of California

PLANNING COMMISSION STAFF REPORT

TO: CHAIRMAN SPADA AND COMMISSIONERS

FROM: STACY SOUZA ELMS, ASSISTANT PLANNER II

FOR: PLANNING COMMISSION MEETING OF AUGUST 13, 2014

SUBJECT: AMENDING MOBILE VENDOR PERMIT #2014-03 – TACOS Y MARISCOS EL PLEBE

RECOMMENDATION:

1. That the Planning Commission adopts Resolution No. 2014-22 approving an amendment to Mobile Vendor Permit #2014-03 for the operation of a mobile taco truck to vend on private commercial property located at 855 H Street.

PROJECT BACKGROUND/DESCRIPTION:

The requested vendor permit is for the operation of a taco truck on private commercial property located at 855 H Street. The proposed operations would be seven days a week from 9am to 9pm and the menu would consist of tacos, burritos, tortas, quesadillas, and sea food.

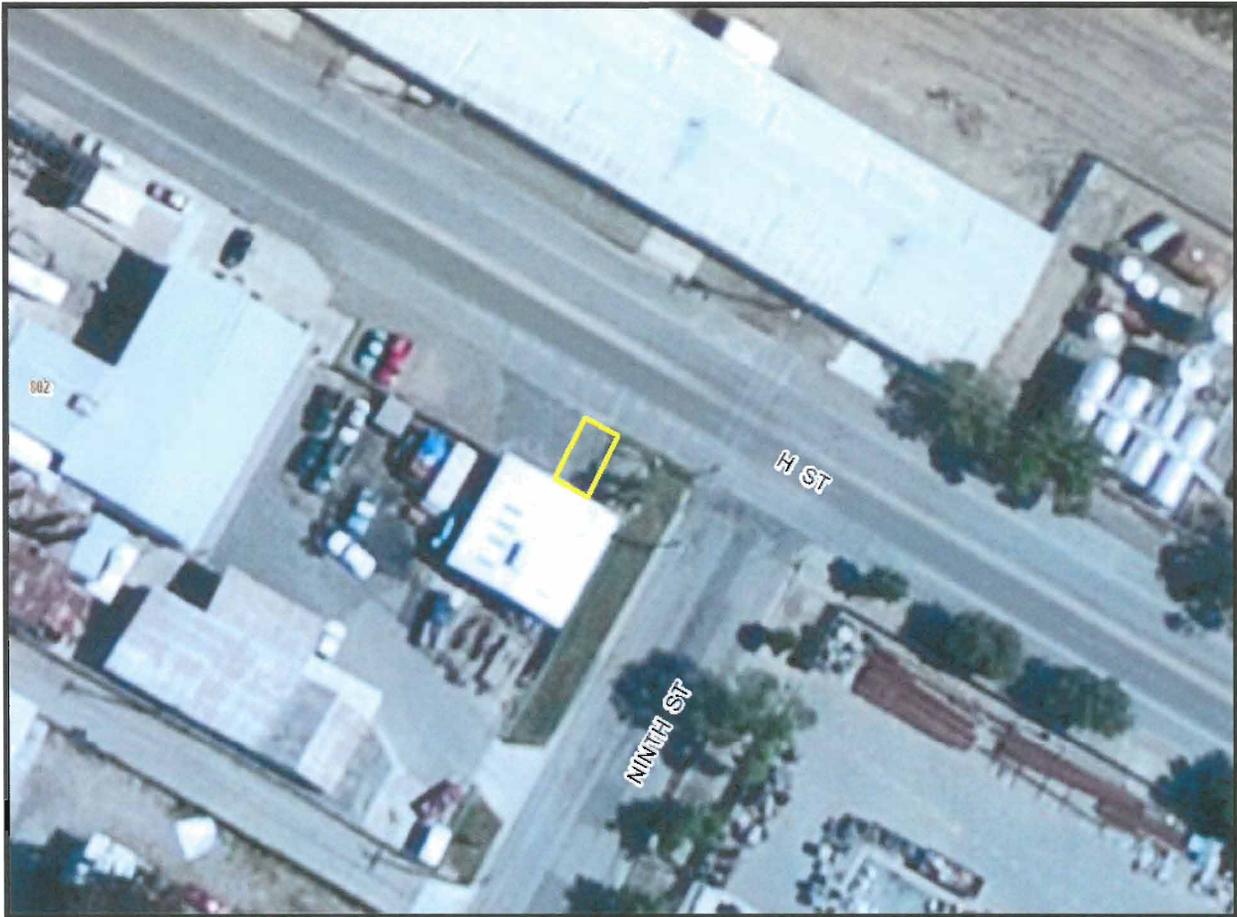
The applicant, Alfonso Valenzuela, had originally received permission from the business owner of 840 H Street (Samuel Reyes), to operate the mobile unit from this private property. However, after going through the Planning Commission process, the property owner changed his mind. The applicant was able to find a new location across the street and is requesting the Planning Commission to consider this new location at 855 H Street.

In accordance with the Mobile Vending Ordinance, Section 9-3.3605, the applicant has provided the following information:

<input checked="" type="checkbox"/> Complete Permit Application	<input checked="" type="checkbox"/> Business License (pending PC approval)
<input checked="" type="checkbox"/> Background Check with LBPD	<input checked="" type="checkbox"/> 4 Photos of Unit
<input checked="" type="checkbox"/> Proof of Vehicle Registration	<input checked="" type="checkbox"/> Proof of Automobile Insurance
<input checked="" type="checkbox"/> Copy of Merced County Health Permit	<input checked="" type="checkbox"/> Affidavit from Property Owner
<input checked="" type="checkbox"/> Certificate of Liability for \$1,000,000	<input checked="" type="checkbox"/> Site Plan

LOCATION AND ACCESS:

855 H Street; APN: 026-143-001



VENDOR PERMIT ANALYSIS

Code Requirements

According to the Los Banos Municipal Code, the Planning Commission is the decision making authority for any initial application of a permit to operate a mobile vending unit, once the initial permit is approved, subsequent permits are approved by the Planning Director. Furthermore, mobile vendors located on private property are subject to the following conditions:

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.

The primary use of the property is a welding shop. The mobile vending unit will be an accessory use to the primary use of the property.

2. Be located in a Commercial or Industrial zoning district. Mobile vendors shall not be located on private property in a residential zoning district.

The subject property site is located in the Highway Commercial (H-C) zoning district on private property that is used for commercial purposes.

3. Not be located on a vacant parcel.

The mobile unit will be located in front of an existing commercial parcel which provides welding services.

4. Be located on pavement/concrete per City standards.

The mobile vending unit will be located on concrete in front of the existing business.

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.

The project site currently consists of 8 parking spaces in total (4 parking stalls directly in front of the primary business, and 4 parking stalls at the rear of the building within the gated area). The primary use is required to provide 3 parking spaces according to the Municipal Code. Conditions of approval have been added requiring the applicant to maintain 2 parking spaces in addition to the required parking spaces required for the primary use in the parking lot

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.

The mobile unit will be operated in a safe condition as designated on the site plan on file with the Community and Economic Development Department. The truck will not be parked in a way to interfere with the access, driveways, aisles, circulation or fire lanes and hydrants within the premises.

7. Comply with the requirements of the Merced County Environmental Health Department.

The applicant has obtained a health permit from Merced County Environmental Health and is on file with the Community and Economic Development Department.

8. Not interfere with pedestrian movement or create a hazard for pedestrians.

The mobile vending unit will not interfere with pedestrian movement and will not create a hazard for pedestrians as the unit will be located on private property and not in the way of any pedestrian walkways.

9. Not be located within 500 feet of a similar business (i.e. food truck cannot be located within 500 feet of a restaurant or flower stand within 500 feet of a flower shop).

The radius in red below shows everything within 500 feet to the proposed location of the mobile unit in yellow. There are no other restaurants or mobile units within 500 of the proposed use. The closest unit would be the Courthouse Diner located at 639 Ninth Street, which is approximately 589 feet away from the proposed unit.

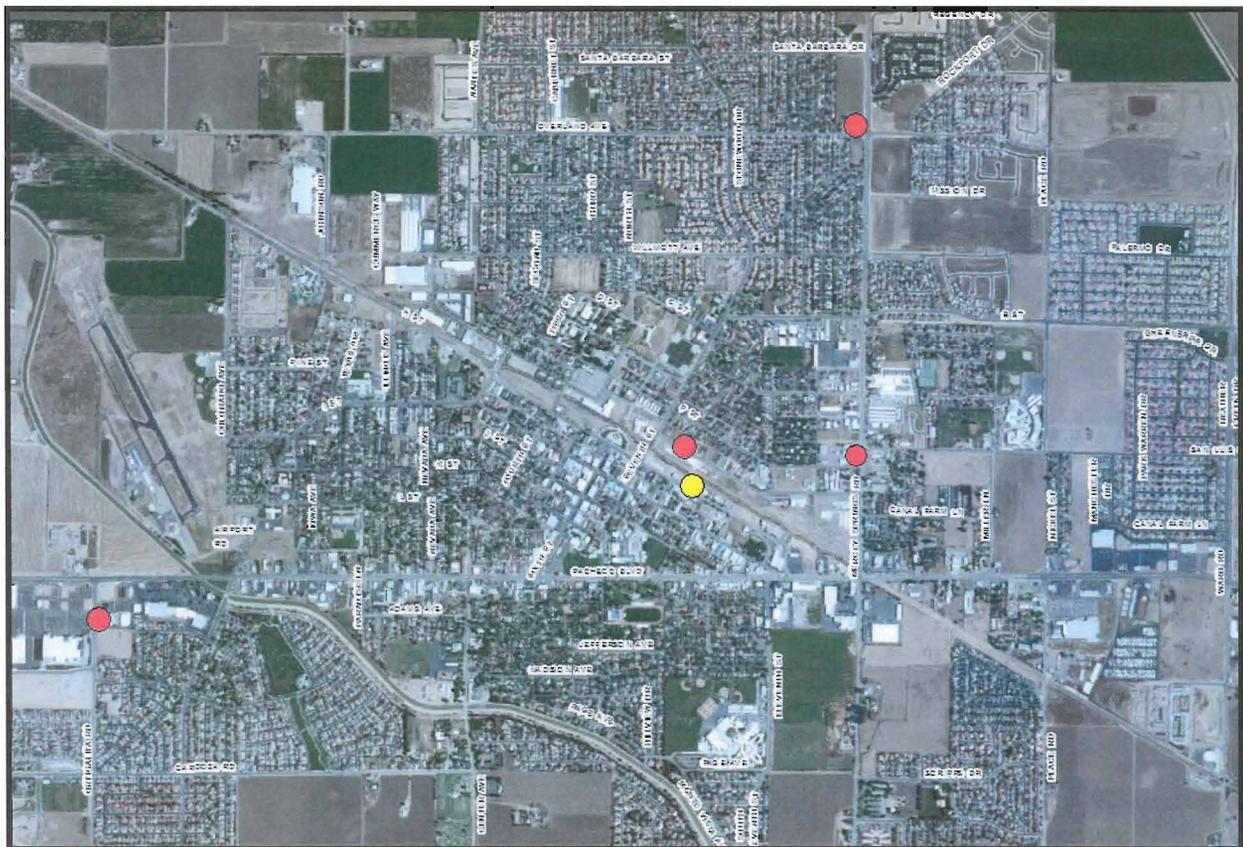


Staff has reviewed the application and has determined the proposed vendor permit is consistent with the Los Banos Municipal Code Mobile Vendor Ordinance. Conditions of approval have been incorporated into the project to ensure that the applicant conforms to the required level of cleanliness, quality, safety and security required by the Municipal Code.

Existing Vendor Permits

Currently there are three (3) active mobile vendor permits in the City. The following is a list of Vendor Permits approved by the Planning Commission for operation on private property:

Business Name	Business Owner	Location	Vendor Type
Junior's Tacos	Antemio & Gabriela Cortes	740 G Street	Taco Truck
El Grullense, Jal	Leo Oliva	531 Mercey Springs	Taco Truck
Tacos El Rey	Karina Delatorre	1245 W. Pacheco Blvd.	Taco Truck
Tacos & Mariscos Las Brasas	Natividad Parra	403 N. Mercey Springs	Taco Truck



PUBLIC COMMENT:

A public hearing notice was published in the Los Banos Enterprise on October 10, 2014. As of the date of this staff report no comments have been received.

APPLICABLE ORDINANCES/GUIDELINES:

Los Banos Municipal Code – 9-3.3601 – 9-3.3611

RECOMMENDATIONS:

1. That the Planning Commission adopts Resolution No. 2014-22 approving an amendment to Mobile Vendor Permit #2014-03 for the operation of a mobile taco truck to vend on private commercial property located at 855 H Street.

ATTACHMENTS:

1. Resolution #2014-22
Exhibit A Project Findings
Exhibit B Conditions of Approval
2. Truck Photos
3. Site Photos
4. Health Permit
5. Public hearing notice

RESOLUTION No. 2014-22

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LOS BANOS APPROVING AN AMENDMENT TO MOBILE VENDOR PERMIT #2014-03 FOR THE OPERATION OF A MOBILE TACO TRUCK ON PRIVATE COMMERCIAL PROPERTY LOCATED AT 855 H STREET

WHEREAS, the applicant, Alfonso Valenzuela, d.b.a: Tacos y Mariscos El Plebe, has filed an application with the City of Los Banos for a Mobile Vendor Permit to allow the operation of a mobile taco truck on private commercial property located within the City of Los Banos; and

WHEREAS, a public hearing notice was advertised in the Los Banos Enterprise on October 10, 2014 in accordance with the Los Banos Municipal Code and California Government Code Section 65091; and

WHEREAS, the Los Banos Planning Commission held a public hearing on October 22, 2014 at which time interested persons had an opportunity to provide testimony; and

WHEREAS, the Los Banos Planning Commission, heard and considered testimony, if any, of all persons desiring to be heard, and reviewed said Vendor Permit request and staff report, and considered the applicant's request in accordance with the Vendor Permit criteria established in Article 36, Title 9, Chapter 3 of the Los Banos Municipal Code.

BASED ON THE EVIDENCE PRESENTED AT THE PUBLIC HEARING the Planning Commission of the City of Los Banos hereby makes the findings set forth in Exhibit A attached hereto and incorporated herein by this reference.

NOW, THEREFORE, BE IT RESOLVED that based upon the foregoing the Planning Commission of the City of Los Banos does hereby approve and amendment to Mobile Vendor Permit #2014-03 to permit the use of a mobile taco truck to vend on private commercial property located at 855 H Street within the City of Los Banos, subject to the Conditions of Approval set forth in Exhibit B, attached hereto and incorporated herein by this reference.

The foregoing resolution was introduced at a regular meeting of the Planning Commission of the City of Los Banos held on the 22nd day of October 2014 by Planning Commissioner _____ who moved its adoption, which motion was duly seconded by Planning Commissioner _____, and the Resolution

adopted by the following vote:

AYES:

NOES:

ABSENT:

APPROVED:

Tom Spada, Planning Commission Chairman

ATTEST:

Sandra Benetti, Planning Commission Secretary

EXHIBIT A

FINDINGS FOR APPROVAL OF AMENDMENT MOBILE VENDOR PERMIT #2014-03 – TACOS Y MARISCOS EL PLEBE

FINDINGS FOR APPROVAL:

The City of Los Banos Planning Commission hereby finds as follows:

1. The applicant has provided all of the information to the Community Development Department as required by the Mobile Vendor Ordinance.
2. The proposed operation is consistent with the criteria and requirements of the Mobile Vendor Ordinance as follows:
 - a) 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.

The primary use of the property is a welding shop. The mobile vending unit will be an accessory use to the primary commercial use of the property.

- b) Be located in a Commercial or Industrial zoning district. Mobile vendors shall not be located on private property in a residential zoning district.

The project site is located on commercial private property.

- c) Not be located on a vacant parcel.

The mobile unit will be ancillary to the existing welding shop located on the premises.

- d) Be located on pavement/concrete per City standards.

The mobile vending unit will be located on asphalt on private property.

- e) 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.

The project site contains 8 parking spaces, and the primary use is required to provide parking 3 spaces. Conditions of approval have been added requiring the applicant to maintain 2 parking spaces in addition to the required parking spaces required for the primary use in the parking lot.

- f) 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.

The mobile unit will be operated in a safe condition as designated on the site plan on file with the Community and Economic Development Department. The truck will not be parked in a way to interfere with the access, driveways, aisles, circulation or fire lanes and hydrants within the premises.

- g) Comply with the requirements of the Merced County Environmental Health Department.

The applicant has obtained a health permit from Merced County Environmental Health which is on file with the Community and Economic Development Department.

- h) Not interfere with pedestrian movement or create a hazard for pedestrians.

The mobile vending unit will not interfere with pedestrian movement and will not create a hazard for pedestrians as the unit will be located on private property in the parking lot and not in the way of any pedestrian walkways.

- i) Not be located within 500 feet of a similar business (i.e. food truck cannot be located within 500 feet of a restaurant or flower stand within 500 feet of a flower shop).

The proposed mobile unit will not be located within 500 feet of any restaurant or mobile vending unit.

EXHIBIT B

CONDITIONS OF APPROVAL FOR AMENDED MOBILE VENDOR PERMIT #2014-03 – TACOS Y MARISCOS EL PLEBE

Community Development:

1. The operation of the Mobile Vending Unit shall at all times comply with the requirements of the Los Banos Municipal Code, the Conditions of Approval for the amendment to Mobile Vendor Permit #2014-03 including but not limited to the application on file with the Community and Economic Development Department. Should there be a conflict, the Municipal Code and the Conditions of Approval shall control.
2. The Vendor Permit is for a mobile taco truck to vend on private commercial property, in the location depicted in the application, located at 855 H Street; the permit shall expire one (1) year from date of issuance.
3. The applicant shall comply with all other requirements, laws and policies of other governmental agencies in the conduct and operation of said business including the Merced County Environmental Health Department and California Department of Food and Agriculture.
4. The mobile vending unit shall be moved off-site when not in operation.
5. The mobile vendor shall have a valid City of Los Banos Business License and renew such license each year.
6. 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 prior to issuance of a Business License.
7. The applicant shall comply with the applicable requirements of the Los Banos Municipal Code including but not limited to the following:
 - a. The operation 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.
 - b. The mobile vendor shall display, in plain view and at all times, current permits and licenses.
 - c. While vending, drive wheels of the mobile vending unit shall be chocked in such a manner as to prevent movement.
 - d. The permitted hours of operation are from 9:00am to 9:00pm.

- e. The mobile vending unit shall be entirely self-sufficient in regard to gas, water and telecommunications.
 - f. The mobile vendor shall not discharge items onto the sidewalk, gutter, storm drainage inlets or streets.
 - g. The mobile vending unit shall be maintained in a safe and clean manner at all times.
 - h. 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.
 - i. Any site improvements required for mobile vendor operations shall require application for the appropriate permits to ensure building and public safety and consistency.
 - j. Exterior storage of refuse, equipment or materials associated with the mobile food vendor is prohibited.
 - k. The mobile vendor operating the mobile unit as defined by the Health and Safety Code shall operate out of a commissary pursuant to Health and Safety Code Section 114295.
 - l. The mobile unit 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 unit before such unit is moved. The mobile vendor shall not 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.
 - m. The mobile vendor shall install signage in a visible location on the mobile vending unit indicating that loitering is not permitted.
 - n. The mobile food vendor shall enforce the no loitering rule.
8. The applicant 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.
9. The mobile unit shall not be inconsistent with the Conditions of Approval and shall not be operated in a manner that deviates from the

approved vendor permit, 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 unit.

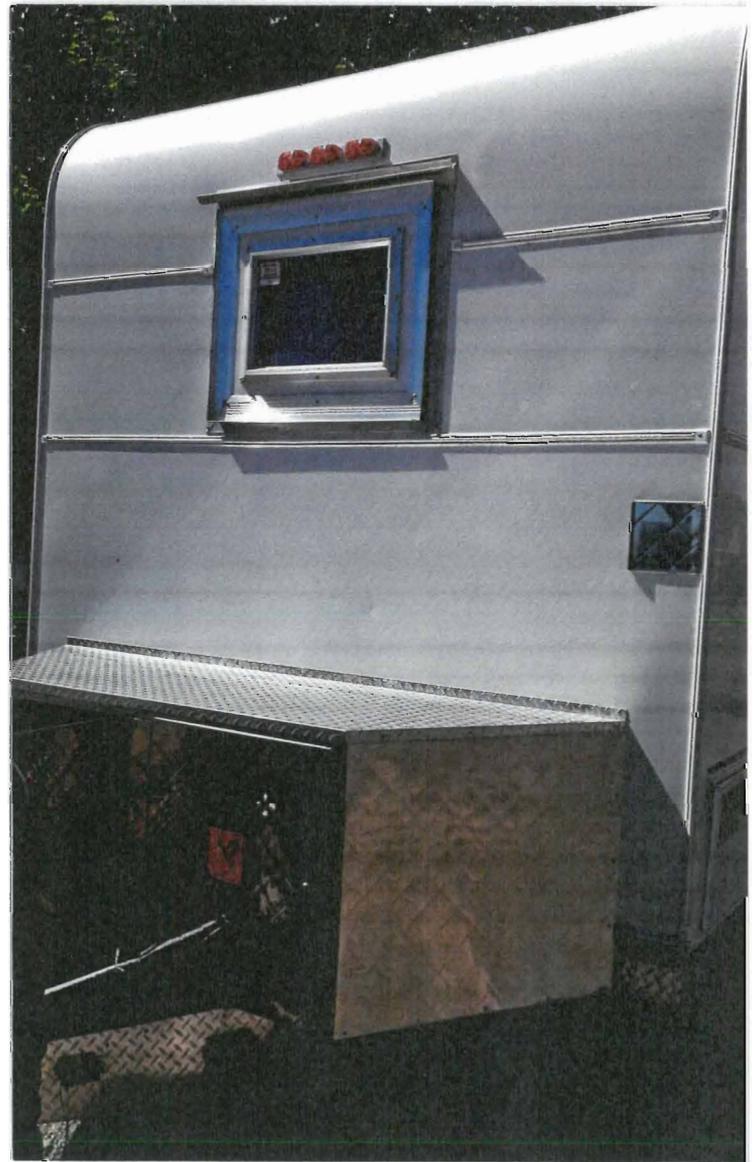
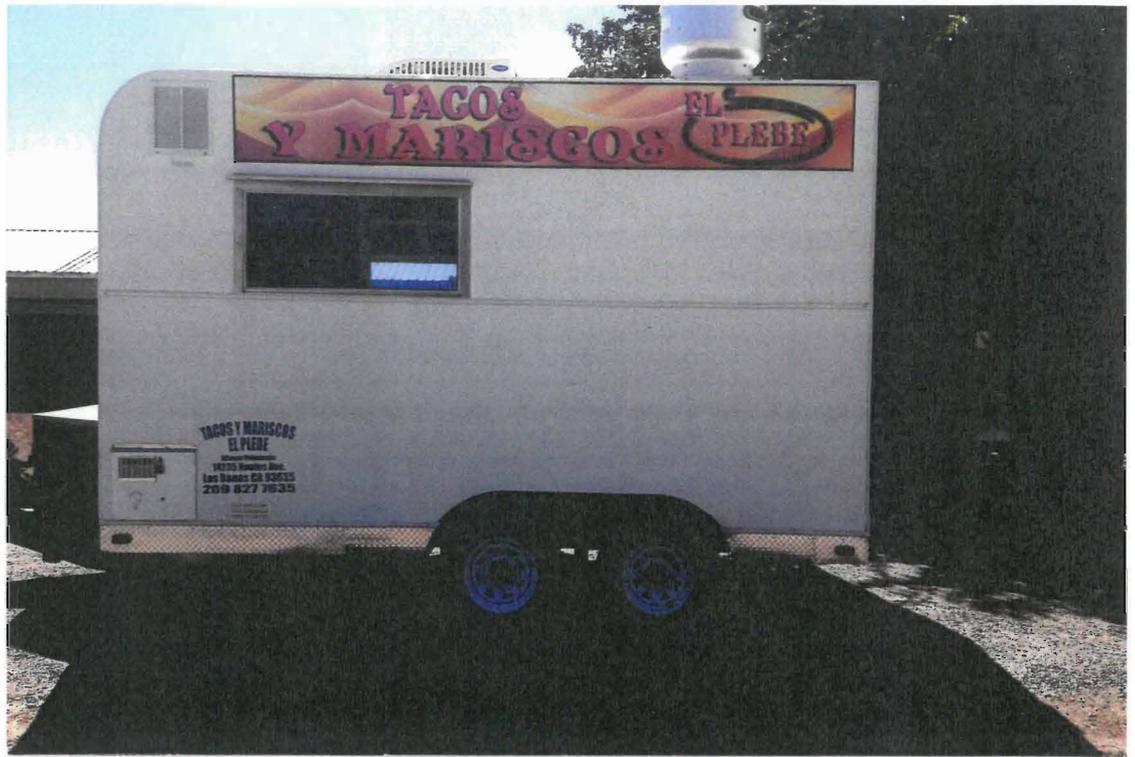
10. The operation of Amended Mobile Vendor Permit 2014-03 shall be located in front of 855 H Street in the location as depicted on the site plan submitted with the application, which is attached hereto and incorporated herein by this reference. Relocation of the mobile unit on site shall only occur with prior approval by the Community Development Director or designee or Planning Commission.
11. At least two (2) onsite parking spaces, in addition to those required for the primary use shall be provided for the mobile vending unit operation.

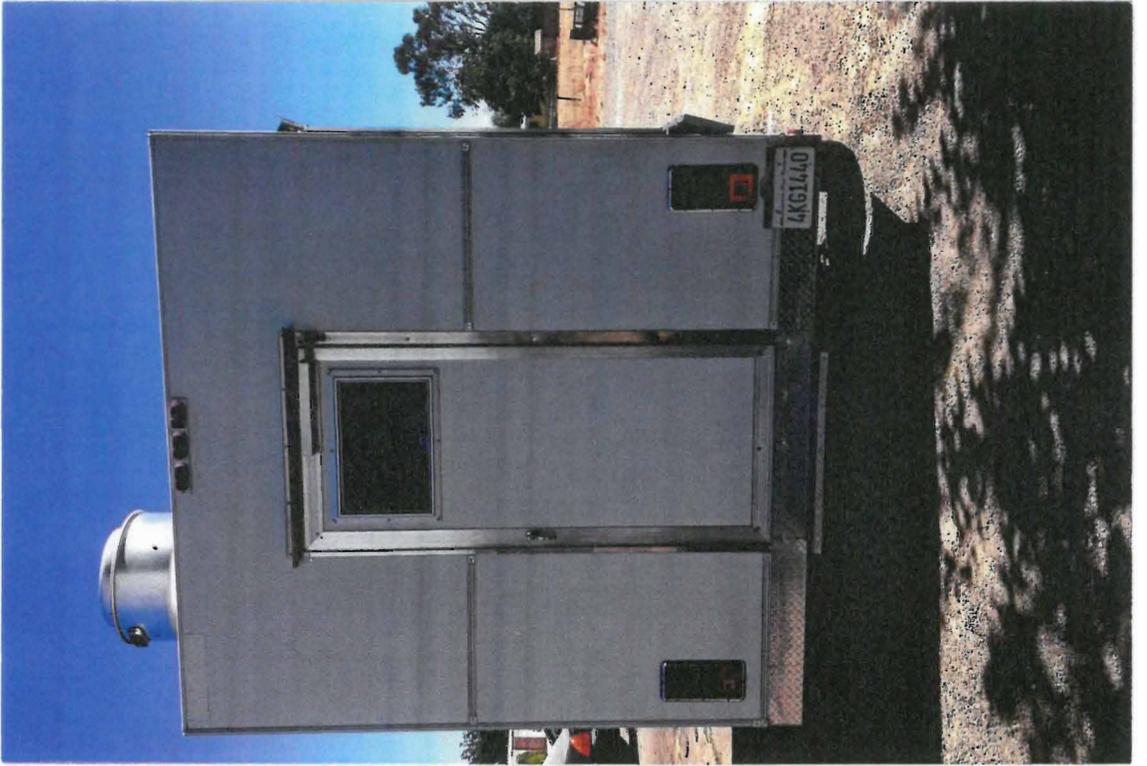
TACOS Y MARISCOS EL PLEBE

Alfonso Valenzuela
14235 Nantes Ave.
Los Banos CA 93635
209 827 7635

GRAY WATER CAP
MUST REMAIN ON
WHEN IN MOTION









Attached to the bottom of this letter is your Health Permit to Operate. **The permit is valid only upon receipt of all required invoiced fees and penalties (if any), AND compliance with state, federal and local regulations.**

Facilities operating without a valid permit will be subject to **administrative penalties equal to three times the full annual permit fee** and/or potential late payment penalties. Facilities operating without a valid permit may be subject to closure. After 90 days, any unpaid invoice balances will be sent to Revenue and Reimbursement (collections).

This permit and the permit fees are **ONLY** valid for the business and owner named below and are **not transferable** to any other person, business, or facility.

If you have any questions regarding this matter, please call our office at (209) 381-1100.

Run 6/25/2014 11:40:05AM

FOLD FORM HERE AND DISPLAY PROMINENTLY WITHIN CUSTOMER VIEW ON THE PREMISES

5303.rpt (updated 6/25/2014)



MERCED COUNTY DEPARTMENT OF PUBLIC HEALTH
DIVISION OF ENVIRONMENTAL HEALTH

260 E. 15th Street, Merced, CA 95341
(209) 381-1100 Fax (209) 384-1593

<http://www.co.merced.ca.us/eh>

Equal Opportunity Employer

Health Permit to Operate

Valid from 6/1/2014 to 12/31/2014

REGULATED FACILITY :

Tacos y Mariscos el Plebe
14235 Nantes Ave.
Los Banos, CA 93635

Facility ID: FA0008147
Account ID: AR0015489
Issued: 6/25/2014

OWNER NAME :

Alfonso Valenzuela

Program Element Number and Description

0143 MOBILE FOOD FAC (MOBILE FOOD PREP UNIT)

Permit ID.# Units

PT0012355

Permit is not valid until all permit fees are paid in full. Permits to operate and Annual Fee Payments are NOT TRANSFERABLE. This permit is valid ONLY for this owner: Alfonso Valenzuela. New owners must apply and pay for a new Permit(s) PRIOR to beginning operation or penalties will be assessed.

MOBILE FOOD PREP UNITS MUST COMPLY WITH LOCAL PLANNING REGULATIONS.

THIS FORM MUST BE CONSPICUOUSLY DISPLAYED ON THE PREMISES

Ronald W. Rowe, Environmental Health Director



City of
Los Banos
At the Crossroads of California

**COMMUNITY AND ECONOMIC DEVELOPMENT
DEPARTMENT**

Date: October 10, 2014

Regarding: Notice of Public Hearing

Proposal: Amending Mobile Vendor Permit #2014-03

NOTICE IS HEREBY GIVEN THAT a Public Hearing will be held by the Los Banos Planning Commission to consider amending Mobile Vendor Permit #2014-03 to change the previously approved location and allow the operation of a mobile trailer to vend on private property located at 855 H Street; more specifically identified as Assessor's Parcel Number: 026-143-001. The applicant is Alfonso Valenzuela, dba: Tacos Y Mariscos El Plebe.

A PUBLIC HEARING on this matter will be held at the next scheduled meeting of the Planning Commission on Wednesday, October 22, 2014 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 Elms, Assistant Planner II at City Hall or at (209) 827-7000, Ext. 133.

Persons wishing to provide oral comments on the proposed project 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. Please be advised that should the action by the City Council be challenged in court, you may be limited to only those issues raised at the hearings or by written comment per Government Code Section 65009.

THE CITY OF LOS BANOS

Stacy Souza Elms
Assistant Planner II



City of
Los Banos
At the Crossroads of California

PLANNING COMMISSION STAFF REPORT

TO: CHAIRMAN SPADA AND COMMISSIONERS

FROM: STACY SOUZA ELMS, ASSISTANT PLANNER II

DATE: OCTOBER 22, 2014

SUBJECT: DONATION BINS / BOXES PROPOSED ORDINANCE – STUDY SESSION

RECOMMENDATIONS:

That the Planning Commission provides input to Staff for the development and preparation of an ordinance regulating Donation Bins.

DISCUSSION:

The City Manager has requested that the Community Development Department prepare an ordinance regulating unattended donation boxes. The City Manager's request for the ordinance was in response to several complaints from residents and businesses, regarding the negative impacts resulting from the proliferation of donation boxes that has been occurring within the City of Los Banos.

Unattended donation boxes can be found throughout the city. The lack of regulations on unattended donation boxes has resulted in unwanted and negative impacts affecting the community of Los Banos. Code Enforcement Staff has reported that unattended donation boxes have also become a target for scavengers and for illegal dumping, which is harmful to surrounding businesses. The mess resulting from scavenging and illegal dumping is not only unsightly and detrimental to surrounding businesses but has the potential for creating potential health and safety concerns. It has also come to the attention of the City that donation boxes have been placed on private property without the property owner's consent.

Staff is unaware of any surrounding jurisdictions who have adopted ordinances to address the placement of donation boxes.

In July 2010, the state enacted Assembly Bill (AB) 918 which amended portions of the Welfare and Institutions Code (See Attachment A) in an effort to regulate unattended donation boxes, and to provide consumers information regarding how their donations would be used. The law required, among other disclosures, that unattended donation boxes provide a written display of the organization which benefits from the donation and whether or not it is a non-profit entity. Importantly, the law did not limit the ability of local municipalities to place further restrictions on the bins.

Ordinance Development

The significant provisions of the proposed Ordinance are outlined below:

- **Permit.**
An administrative permit issued by the Community Development Department shall be required before placement on any property.
- **Property Owner Consent.**
The permittee of the unattended donation box must have written consent of the owner of the real property on which the box will be placed.
- **Permit Fee.**
Reasonable fee for processing the application will be charged.
- **Renewal.**
Permit valid for one year, permittee must reapply for a renewal of the permit prior to expiration.
- **Revocation and Nuisance Abatement.**
Failure to comply with the terms of the permit or other provisions of the code shall be grounds for revocation of the permit and require removal of the donation box.
- **Location and Concentration and Zoning District.**
Not allowed in residential districts. Limit to the number of boxes per parcel of real property. Not located within 400 feet of any other unattended donation box. Not placed on required parking spaces. Not placed in a location that would pose a traffic/visibility line of sight concern. Location of box would not impede bicycle or pedestrian traffic.
- **Size.**
Standard size – for example not to exceed 3x3x5 without administrative approval.
- **Maintenance.**
Must be in good condition and appearance, free of junk, garbage, trash, debris, and graffiti. Must be locked and secured and emptied at least once every 30 days.

Ordinance Implementation

Staff recommends that within a time period to be specified in the Ordinance, all persons having an unattended donation box on their property apply for a permit. Unattended donation boxes not having the required permit would be cited for action by Code Enforcement. Staff recommends this approach as the precise number and location of the boxes is unknown; therefore, allowing pre-existing uses to continue would make

enforcement nearly impossible as the City would not be able to determine which donation boxes were placed prior to the adoption of the Ordinance.

Existing Collection Bin Locations

Business Name	Address
1. Town & Country Liquor	1248 E. Pacheco Blvd.
2. Mi Barrio Food & Gas Mart	403 N. Mercey Springs Rd.
3. New Life Community Church	1230 Overland Avenue
4. Los Banos Donut Shop	609 W. Pacheco Blvd.
5. Papa Murphy's Take-n-Bake	603 Pacheco Blvd.
6. L&L Landscaping	1310 Ward Rd.
7. La Bodega Bay Furniture	2225 E. Pacheco Blvd.
8. El Grullense, Jal.	1024 E. Pacheco Blvd.
9. Sherwood Grain	500 Mercey Springs Rd.
10. Laundromat	1451 I St.
11. George Allen Construction	*21520 Hwy 152

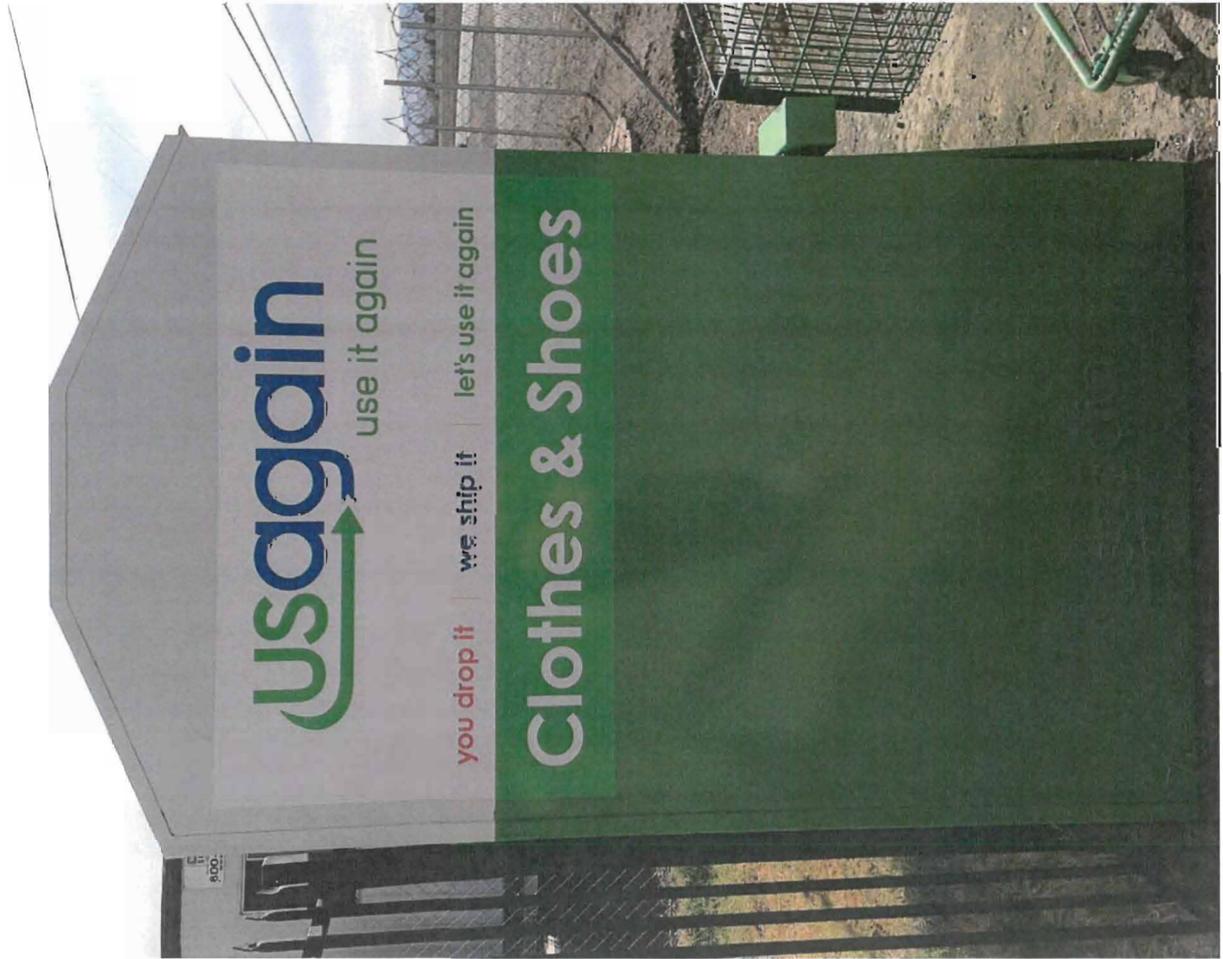
*Outside City Limits

CONCLUSION

Staff will prepare an ordinance to establish regulations for unattended donation boxes in an attempt to reduce or eliminate the negative impacts of their use.

ATTACHMENTS

1. Location Map
2. Photos
3. Sections 148.3 and 150-153 of the Welfare and Institutions Code.
4. Miscellaneous reference material.
5. Public Hearing Notice







WELFARE AND INSTITUTIONS CODE

SECTION 148-148.9

148. As used in this chapter:

(a) "Solicit" or any of its derivatives means to request directly or indirectly the giving of any kind of salvageable personal property on the plea or representation, express or implied, to the person requested that the property or any proceeds to be derived therefrom are to be devoted to charitable uses. The word shall extend to such requests made by any of the following means, whether or not the person making the request is given anything as a result:

1. Orally or in writing, by telephone or otherwise.
2. By distribution, circulation, mailing, posting, or publishing of any handbill, advertisement, or publication.
3. By means of any box or receptacle, upon any public street, sidewalk or way, or in any public park or in any publicly owned or controlled place; or by means of any box or receptacle in any place immediately abutting upon any public sidewalk or way, or in any place of business open to the public, or in any room, hallway, corridor, lobby, or entranceway, or other place open or accessible to the public.
4. By making of any announcement through the press, radio, telephone, television, or telegraph concerning an appeal, assemblage, athletic or sports event, bazaar, benefit, campaign, contest, dance, drive, entertainment, exhibition, exposition, party, performance, picnic, sale, or social gathering, which the public is requested to patronize.

(b) "Salvageable personal property" means any type of corporeal personalty, new or used, but not including money or evidences of debt.

148.1. None of the provisions of this chapter shall apply to the activities of any organization or association of persons or any person engaged by or under its authority, in soliciting donations of salvageable personal property solely from members of the organization or in selling salvageable personal property obtained from the organization's members by that soliciting, or the soliciting and sale of salvageable personal property by fraternal, social, political, or service organizations for occasional rummage sales or bazaars where the activity does not constitute a major part of the organization's activities and is not conducted as a permanent or continuous operation. Nor shall the provisions of this chapter apply to an association which is exempt under Section 23701d or 23701f of the Revenue and Taxation Code if the membership of the association is comprised of persons with physical, mental, or developmental disabilities and the primary purpose of the association is to provide services to persons with those disabilities.

148.2. Any organization qualified under Section 148.3 to solicit donations of salvageable personal property, or to sell salvageable personal property obtained by soliciting, shall: (a) maintain separate bank accounts and separate books and records for such solicitations or sales, and shall not commingle any proceeds of such

solicitations or sales with any other assets; and (b) fully comply with the provisions of the Uniform Supervision of Trustees for Charitable Purposes Act (Article 7 of Chapter 6 (commencing with Section 12580) of the Government Code).

148.3. It shall be unlawful for any association of persons to engage, directly or indirectly, in soliciting donations of salvageable personal property, or in selling salvageable personal property obtained by soliciting, except an association which is exempt under Section 23701d or 23701f of the Revenue and Taxation Code from any tax imposed by the Bank and Corporations Tax Law.

148.4. It shall be unlawful for any organization qualified under Section 148.3 to solicit donations of salvageable personal property, to contract with or otherwise engage any independent contractor to perform the work of soliciting such donations or selling any personal property donated. All soliciting shall be done by the officers of the organization or agents appointed by or under the authority of such officers.

148.5. It shall be unlawful for any person to engage in soliciting donations of salvageable personal property except as an officer or agent of an organization meeting the requirements of Section 148.3, and who has been appointed in the manner prescribed by this chapter.

148.6. Every organization qualified under Section 148.3 to solicit donations of salvageable personal property, shall furnish each officer or agent engaged to work as a solicitor with an identification card stating the name and address of the solicitor, the name of the organization for whom he is soliciting, that he has been appointed by the organization to act as a solicitor, and the signature of the person by whom he was so appointed. The identification card must be exhibited on the demand of any person solicited or of any peace officer. Any such organization receiving the proceeds from any sale of salvageable personal property obtained by soliciting, shall see that each purchaser of such property is given a receipt stating the price paid for the property sold. Every such organization shall keep accurate books and records setting out the proceeds of such sales and the amounts devoted directly to charitable uses, which books and records shall be open to the inspection of any peace officer.

148.8. The violation of any provision of this chapter by any person or organization is a misdemeanor. Any person who solicits a donation of salvageable personal property, and uses any device purporting to be an identification card and which is not furnished in accordance with the provisions of this chapter is guilty of a misdemeanor.

148.9. The enactment of this chapter shall in no way limit or infringe upon the powers of counties and cities to impose additional requirements for the privilege of soliciting and selling salvageable personal property within their jurisdictions.

WELFARE AND INSTITUTIONS CODE

SECTION 150-153

150. For purposes of this chapter, the following definitions shall apply:

(a) "Collection box" means an unattended cannister, box, receptacle, or similar device, used for soliciting and collecting donations of salvageable personal property.

(b) "Commercial fundraiser" shall have the same meaning as in subdivision (a) of Section 12599 of the Government Code.

(c) "Nonprofit organization" means an organization that is exempt from taxation pursuant to Section 501(c)(3) or 501(c)(4) of the United States Internal Revenue Code.

(d) "Salvageable personal property" has the same meaning as in subdivision (b) of Section 148.

151. (a) The front of every collection box shall conspicuously display both of the following:

(1) The name, address, telephone number, and, if available, the Internet Web address of the owner and operator of the collection box.

(2) A statement, in at least two-inch typeface, that either reads, "this collection box is owned and operated by a for-profit organization" or "this collection box is owned and operated by a nonprofit organization." For purposes of this chapter, a commercial fundraiser shall be classified as a for-profit organization.

(b) If the collection box is owned by a nonprofit organization, the front of the collection box shall also conspicuously display a statement describing the charitable cause that will benefit from the donations.

(c) If the collection box is owned by a for-profit entity, the front of the collection box shall also conspicuously display a statement that reads "this donation is not tax deductible." If the collection box is owned and operated by a commercial fundraiser, the commercial fundraiser may post notice of donations to a charitable cause only on the sides of the box. This notice shall always be smaller in size than the for-profit entity's name and address and shall constitute only 25 percent of the notice space of the box.

152. A city, county, or city and county shall have the authority to declare a box that is in violation of this chapter to be a public nuisance and to abate that nuisance accordingly.

153. Nothing in this chapter shall be construed to do either of the following:

(a) Supersede or in any way limit existing authority of the Department of Justice over fundraising for charitable purposes.

(b) Limit or infringe upon the powers of a city, county, or city and county to impose additional requirements upon the solicitation and sale of salvageable personal property within its jurisdiction.

BILL NUMBER: AB 918 CHAPTERED
BILL TEXT

CHAPTER 75
FILED WITH SECRETARY OF STATE JULY 15, 2010
APPROVED BY GOVERNOR JULY 15, 2010
PASSED THE SENATE JUNE 28, 2010
PASSED THE ASSEMBLY JULY 1, 2010
AMENDED IN SENATE JUNE 22, 2010
AMENDED IN SENATE JUNE 9, 2010
AMENDED IN SENATE JUNE 11, 2009
AMENDED IN SENATE JUNE 8, 2009
AMENDED IN ASSEMBLY APRIL 21, 2009
AMENDED IN ASSEMBLY APRIL 13, 2009

INTRODUCED BY Assembly Member Adams
(Coauthors: Assembly Members Carter, Davis, and Jones)

FEBRUARY 26, 2009

An act to add Chapter 2 (commencing with Section 150) to Division 1 of the Welfare and Institutions Code, relating to charitable donations.

LEGISLATIVE COUNSEL'S DIGEST

AB 918, Adams. Salvageable personal property: collection boxes.

Existing law makes it unlawful for any association of persons to engage, directly or indirectly, in the soliciting of donations or in selling salvageable personal property obtained by soliciting, except qualified charitable organizations, as described, that meet specified requirements.

Existing law authorizes counties and cities to impose additional requirements for the privilege of soliciting and selling salvageable personal property within their jurisdictions.

This bill would impose requirements for the placement of statements specifying prescribed information on collection boxes, as defined. The bill specifies that its provisions shall not be deemed to supersede the authority of the Department of Justice or to limit a city, county, or city and county from regulating, monitoring, or prohibiting collection boxes. The bill would also allow the city, county, or city and county to declare a collection box that is in violation of these provisions to be a public nuisance and to impose additional requirements on the solicitation and sale of salvageable personal property within its jurisdiction.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Chapter 2 (commencing with Section 150) is added to Division 1 of the Welfare and Institutions Code, to read:

CHAPTER 2. UNATTENDED COLLECTION BOXES

150. For purposes of this chapter, the following definitions shall apply:

(a) "Collection box" means an unattended cannister, box, receptacle, or similar device, used for soliciting and collecting donations of salvageable personal property.

(b) "Commercial fundraiser" shall have the same meaning as in subdivision (a) of Section 12599 of the Government Code.

(c) "Nonprofit organization" means an organization that is exempt from taxation pursuant to Section 501(c)(3) or 501(c)(4) of the United States Internal Revenue Code.

(d) "Salvageable personal property" has the same meaning as in subdivision (b) of Section 148.

151. (a) The front of every collection box shall conspicuously display both of the following:

(1) The name, address, telephone number, and, if available, the Internet Web address of the owner and operator of the collection box.

(2) A statement, in at least two-inch typeface, that either reads, "this collection box is owned and operated by a for-profit organization" or "this collection box is owned and operated by a nonprofit organization." For purposes of this chapter, a commercial fundraiser shall be classified as a for-profit organization.

(b) If the collection box is owned by a nonprofit organization, the front of the collection box shall also conspicuously display a statement describing the charitable cause that will benefit from the donations.

(c) If the collection box is owned by a for-profit entity, the front of the collection box shall also conspicuously display a statement that reads "this donation is not tax deductible." If the collection box is owned and operated by a commercial fundraiser, the commercial fundraiser may post notice of donations to a charitable cause only on the sides of the box. This notice shall always be smaller in size than the for-profit entity's name and address and shall constitute only 25 percent of the notice space of the box.

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153. Nothing in this chapter shall be construed to do either of the following:

(a) Supersede or in any way limit existing authority of the Department of Justice over fundraising for charitable purposes.

(b) Limit or infringe upon the powers of a city, county, or city and county to impose additional requirements upon the solicitation and sale of salvageable personal property within its jurisdiction.



Planet Aid Respond to Goodwill's Efforts to Advance S.B. 450 – A Fatally Flawed Bill Goodwill Seeks in Order to Make It Impossible for Charities to Place Clothing Donation Bins in California

March 21, 2013 07:22 PM Eastern Daylight Time

SACRAMENTO, Calif.--(BUSINESS WIRE)--This morning, Goodwill Industries had a press conference to highlight a study on the positive economic impact of their operations in California in terms of job creation and the millions of dollars of economic activity they bring to the California economy. D.A.R.E. and Planet Aid commend them for their work on that front; however, that announcement, made in Sacramento, has a complex backdrop: Goodwill's attempts to prop up S.B. 450, the latest iteration of a bad bill they've fronted through an infamous California political consultant. This effort is directly anti-competitive and is bad for California on a number of levels. The bill seeks to, in essence, create a de facto ban on collection boxes placed by charitable groups like D.A.R.E. and Planet Aid by making it easy for property owners to tow them.

"The notion that clothing donation boxes are such a problem that a measure like S.B. 450 is needed is unsupported by the facts"

"Despite Goodwill's solid contributions, we think it's worth pointing out an alternate headline on job creation: Some Goodwill affiliates have a problem with the disability community. These affiliates are allowed to pay wages staggeringly lower than the minimum requirements, with some employees reportedly earning as low as \$0.22/hour. This is occurring while Goodwill's top executives are making mid-six-figure salaries.

"It's unfortunate that Goodwill has devoted so much money to a statewide attempt to make it impossible for legitimate charities like D.A.R.E. and Planet Aid to place clothing donation bins in California," said Jonathan Franks, a spokesman for both organizations. "We believe Californians should have the right to choose the cause they donate to, and it's unfortunate that Goodwill doesn't share that position. The only inference that may be drawn is that this attempt is about cornering the clothing donation market to make more money.

"The notion that clothing donation boxes are such a problem that a measure like S.B. 450 is needed is unsupported by the facts," said Franks. "Property owners aren't asking for the protections in this bill – it's a bold-faced, anti-competitive measure fronted by a team of lobbyists and political consultants.

"Both D.A.R.E. and Planet Aid support common sense legislation with respect to collection boxes and look forward to working with the bill's sponsor to that effect. We think a requirement that organizations placing boxes have written permission from a person in control of the property will benefit all

stakeholders. S.B. 450 is simply a bad bill. We hope the sponsor will work with us to find common ground, as a vote for this bill in its current form is a vote against third-world development and the critical fight to keep our kids away from drugs," concluded Franks.

Contacts

For D.A.R.E. and Planet Aid

Jonathan Franks, 310-435-7998

jonathan@lucidpublicrelations.com

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Battle erupts in California over clothes donation bins

Sat, Apr 6 2013

By Sharon Bernstein

LOS ANGELES, April 6 (Reuters) - A political fight over charity collection bins is brewing in California, where property owners complain that the boxes are sometimes dropped onto their land without permission, becoming magnets for graffiti and shelter for transients.

Goodwill Industries International, the most established of such U.S. charities, has pushed for years for regulation of donation bins, and a California state senator has taken up the cause with a bill that would make it easier for property owners to have unauthorized bins towed away.

State and local governments elsewhere in the United States, including Florida, Massachusetts, Michigan, Arizona and North Carolina, have also stepped in to try to regulate the bins.

Americans plow tens of millions of dollars worth of used clothing into the bins each year, creating big revenue streams for charities and for-profit companies alike. The regulatory battle over the bins, now in its fifth year in California, exposes the high stakes in the competitive world of charity fund-raising.

Goodwill executives worry that messy, untended bins, sometimes owned by companies that are not affiliated with charities at all, give legitimate clothing collectors a bad name. They complain that the big plastic boxes are often blue in color, evoking Goodwill's azure logo.

But opponents of regulation, which include smaller non-profits DARE America and Planet Aid as well as for-profits, say the big reseller is just trying to squash the competition.

This week, frustration on both sides boiled over as media coverage intensified. Accused by opponents of bowing to Goodwill's expensive lobbyists, State Senator Cathleen Galgiani, a Democrat, pulled her bill from consideration moments before it was to be heard in committee on Wednesday. She plans to bring it up again in a few weeks after more preparation.

"There's big money involved," said Ken Berger, president of the watchdog group Charity Navigator. "The players can get very passionate about these large sums of money."

BIG MONEY

Goodwill brought in \$53 million in revenue in 2011, according to financial reports, and paid its president \$725,000 in salary and benefits. Planet Aid posted revenue of \$37 million that year, while DARE America had \$3.7 million.

Some charities lend their names to for-profits in return for a small percentage of the money raised - a practice that has been criticized.

But John Lindsay, a vice president of DARE America, said his organization would not be able to survive without the agreements it has with for-profits in California, Texas and Maryland.

West Chicago-based USAgain operates 10,000 for-profit collection bins in 17 states, many of them bearing the names of charities.

"We think that being profitable is a great way to make sure an activity is sustainable and can thrive in the long term," the company, which does not disclose revenues, says on its website.

The lure of money has brought in questionable players as well.

At least 10 property owners around Stockton, California, have complained to Goodwill that rogue operators have dropped bins on their land in the middle of the night, said David Miller, president of Goodwill in the state's San Joaquin Valley.

The idea, he said, is to trick consumers into thinking that the bin is owned by a legitimate non-profit.

"There is a blue box on our property, and we were wondering if it was yours," a caller to Goodwill told Miller. It took months to reach the owner and get the bin towed away, he said.

California State Sen. Galgiani's measure would grant immunity from lawsuits to property owners who have unauthorized bins towed away. A similar effort was vetoed last year by Democratic Governor Jerry Brown.

Democratic State Senator Lois Wolk, who chairs the Governance and Finance committee, which was scheduled to hear Galgiani's bill on Wednesday, was concerned that she had not shown that local governments had trouble regulating the bins, said Craig Reynolds, Wolk's chief of staff.

Galgiani plans to go into the next round of hearings better armed, bringing property owners who have had trouble getting rid of the bins, and city officials who have tried to regulate them.

Galgiani spokesman Thomas Lawson said opponents of regulation are mischaracterizing the battle as one for dominance by Goodwill.

"It's always a sexier story to say if this bill passes, more people are going to be on drugs," he said. "But we're just trying to give property owners the ability to remove a box if they choose to."

(Reporting by Sharon Bernstein; Editing by Cynthia Johnston and Richard Chang)

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‘Deceptive’ clothing collection boxes target of legislation

Jeff Benziger
jbenziger@cerescourier.com
May 21, 2013

Goodwill thrift stores have asked the Ceres City Council to join their fight against for-profit companies that are flooding shopping centers with clothing collection bins.

Many people are under the false impression that clothing dropped into the boxes is going to charity, said Earl Brown, Business Development director with Goodwill Industries.

"Many of the companies involved in this activity are for-profit organizations," said Brown. "Donations placed in these boxes leave the community and are typically sold on the international market. Profits are pocketed by box operators, very few jobs are created and no local services are funded."

He estimated that over \$7 million of income raising potential has been robbed of charitable organizations between Sacramento and Visalia by the diversion of goods to the boxes.

"It causes a negative impact to our ability to fund services that we conduct here," said Brown.

He asked the council to pass a resolution in support of SB 450 to wage war against the so-called "drop box industry." Brown said the large metal boxes are usually placed in commercial shopping districts without owner or manager consent.

SB 450 would authorize the city to waive civil liability to property owners who remove unapproved collection boxes. Initially the state rejected the far reaching effects and the bill is being amended. Brown said the bill is being crafted to allow the city to remove unauthorized boxes and the box owners' expense. The bill has the support of Goodwill Industries, the Salvation Army and the American Cancer Society.

Property owners have the option to tell the box operators to remove boxes, but Brown said "in most cases those calls go unanswered." Often property owners

have higher priorities. Some property managers are afraid to remove the 250-pound boxes for fear of being sued since boxes are worth an estimated \$3,000.

"It's mind boggling how blatant the box operators have been with regard to total disregard to property owners," Brown told Councilman Bret Durossette.

"The bottom line is they really don't have the time to take the box, engage with the box operator and a lot of property managers feel that it's not a fair situation to incur the cost to remove the box and I somewhat concur."

Brown teamed up with Ceres Code Enforcement Officer Paula Redfern last year to remove 14 boxes with an "estimated few more left," notably on Central Avenue. Two green boxes south of Caswell Elementary School are owned by USAgain, a for-profit company. The company's website said its mission statement is to "provide consumers with a convenient and eco-friendly option to rid themselves of excess clothing, which we divert from wasting in landfills for resale here in the US and abroad."

The city of Tracy has adopted a resolution of support with possible support coming from Sacramento, Davis, Rancho Cordova, Modesto and Stockton.

City Attorney Michael Lyons said he is looking into a possible draft for a resolution.

<http://www.cerescourier.com/section/32/article/600/>



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Friday, June 10, 2011 The CSAC Bulletin

Keeping Unattended Collection Boxes in Their Place

Assembly Member Luis Alejo is requesting that counties and cities review their unattended donation box ordinances. The issue has sparked legislation in recent years, including last year's AB 918 (Chapter 75, Statutes of 2010), which passed. The bills are aimed at reducing the nuisances that these collection boxes sometimes cause.

Alejo is requesting that local agencies consider amending their ordinances to ensure they require the property owner's explicit permission to place collection boxes on their property. His note to counties and cities appears in full below.

Some sample ordinances are available on CSAC's website [here](#).

A NOTE FROM STATE ASSEMBLY MEMBER LUIS ALEJO

As Vice Chair of the California State Assembly Committee on Local Government, I look forward to working with residents, businesses, non-profit organizations and local governments across the state to minimize the negative impacts resulting from the proliferation of unattended donation boxes.

While I support donations, unattended donation boxes have become a target for illegal dumping. This is no more evident than when boxes are placed in areas without a property owner's consent.

Of equal concern to me is that some less-than-legitimate "charities" utilize the unattended boxes, don't secure property owner permission, and siphon off the flow of donations from our most reputable local charities that rely on donations to fund social service, which have become more reliant on donations during these tough economic times.

The League of Cities and California State Association of Counties join me in encouraging local municipalities to consider adopting model ordinances impacting unattended donation box proliferation.

Several local governments have already approved and deployed an ordinance in an effort to create accountability, transparency and prevent unsupported placement of donation boxes on private and public property.

The critical provision in each of these ordinances is that the property owner is required to provide proof that the entity operating and maintaining the unattended donation box is qualified to solicit donations or salvageable personal property pursuant to State law. Since property owners are ultimately and legally responsible for any problems resulting from unattended boxes it is only fair that their written permission be obtained.

I would encourage you to review and consider how these model ordinances could assist your local government. They can be found on the League of Cities and California State Association of Counties websites under "Unattended Donation Box."

Please feel free to contact me if you have any questions regarding this issue or any state issue at 916-319-2028 or Assemblymember.Alejo@assembly.ca.gov or www.asmdc.org/alejo.

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City of
Los Banos
At the Crossroads of California

**COMMUNITY AND ECONOMIC DEVELOPMENT
DEPARTMENT**

Date: October 10, 2014

Regarding: Notice of Public Hearing

Proposal: Proposed Ordinance – Donation Bins/Boxes

NOTICE IS HEREBY GIVEN THAT a Public Hearing will be held by the Los Banos Planning Commission to consider and make a recommendation to the Los Banos City Council to adopt a proposed ordinance to regulate unattended donation bins/ boxes in an attempt to reduce or eliminate negative impacts of their use in the City of Los Banos.

A PUBLIC HEARING on this matter will be held at the next scheduled meeting of the Los Banos Planning Commission on Wednesday, October 22, 2014 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 Elms, Assistant Planner II, 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 Elms
Assistant Planner II