Memo

DATE: March 18, 2020
TO: Mayor Villalta and City Council Members
FROM: Alex Terrazas, City Manager
RE: Emergency Agenda Item

A. Resolution Of The City Council Of The City Of Los Banos Ratifying The Director Of Emergency Services' Proclamation Of The Existence Of A Local Emergency Within The City Of Los Banos (COVID-19)
B. Update on City Efforts regarding COVID-19

Recommendation:

By motion made a determination: 1) that there is an immediate need to take action and 2) that the need arose after the posting of the agenda (unaware of City Council Resolution until advised after City's agenda was posted). The matter may be placed on the Agenda for consideration pursuant to California Government Code section 54954.2(b).

Background:

The Brown Act generally prohibits any action or discussion of items not on the posted agenda. However, there are three specific situations in which a legislative body can act on an item not on the agenda:

1) When a majority decides there is an “emergency situation” (as defined for emergency meetings);

2) When two-thirds of the members present (or all members if less than two-thirds are present) determine there is a need for immediate action and the need to take action “came to the attention of the local agency subsequent to the agenda being
posted. This exception requires a degree of urgency. Further, an item cannot be considered under this provision if the legislative body or the staff knew about the need to take immediate action before the agenda was posted. A new need does not arise because staff forgot to put an item on the agenda or because an applicant missed a deadline; or

3) When an item appeared on the agenda of, and was continued from, a meeting held not more than five days earlier.

Discussion:

Since the agenda was posted on March 12, 2020 the landscape has changed dramatically concerning Federal, State, and Local actions concerning COVID-19. Specifically the declaration of the President of the United States of a National Emergency and on the same date a declaration of a local emergency by both the County of Merced Local Health Officer and the Director of Emergency Services. On March 17, 2020 the City Manager, as the City's director of emergency services proclaimed a local emergency. The City Manager's actions must be ratified by the City Council within seven (7) days. Staff is requesting immediate action (adoption of a resolution) and the need to take action "came to the attention of the local agency subsequent to the agenda being posted."
Agenda Staff Report

TO: Mayor Villalta and City Council Members
FROM: Alex Terrazas, City Manager
DATE: March 18, 2020

TYPE OF REPORT: 

SUBJECT: Existence of Local Emergency COVID - 19

RECOMMENDATION

Adopt Resolution No. 6190

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOS BANOS
RATIFYING THE DIRECTOR OF EMERGENCY SERVICES’
PROCLAMATION OF THE EXISTENCE OF A LOCAL EMERGENCY
WITHIN THE CITY OF LOS BANOS (COVID-19)

BACKGROUND

The Coronavirus Disease 2019 (COVID-19), a severe acute respiratory illness caused by a novel (new) coronavirus was first detected in Wuhan, Hubei Province, People’s Republic of China and the first case was reported on December 31, 2019, in China. Cases of COVID-19 are now being reported internationally outside of China including the United States.

Coronaviruses are a large group of viruses that are common among animals and humans. This novel coronavirus that causes COVID-19 is a newly discovered
coronavirus that has not been previously detected in animals or humans. The source of this virus is not yet known.

Symptoms of the virus include fever, cough, and shortness of breath, and infected individuals have experienced a range of outcomes, from mild sickness to severe illness and death.

There is currently no vaccine to prevent COVID-19. The best way to prevent illness is to avoid being exposed to this virus. The virus is thought to spread mainly from person-to-person between people who are in close contact with one another (within about 6 feet). This occurs through respiratory droplets produced when an infected person coughs or sneezes. These droplets can land in the mouths or noses of people who are nearby or possibly be inhaled into the lungs. Older adults and people who have severe underlying chronic medical conditions like heart or lung disease or diabetes seem to be at higher risk for developing more serious complications from COVID-19 illness.

Chronology of events:

- On January 27, 2020 the Merced County Public Health Department Operations Center was opened in order to prepare for the potential of COVID-19 in and around our community.

- On January 30, 2020, the World Health Organization (WHO) declared the COVID-19 outbreak a Public Health Emergency of International Concern, and on January 31, 2020, the United States Secretary of Health and Human Services declared a Public Health Emergency to aid the nation in responding to COVID-19.

- On February 26, 2020, the Centers for Disease Control and Prevention (CDC) confirmed the first case of local person-to-person transmission of COVID-19 in the United States, and this case raises the possibility of community transmission occurring in the general public.

- On March 4, 2020 Governor Gavin Newsom proclaimed a state of emergency to exist in California; and

- On March 11, 2020 the World Health Organization (WHO) characterized COVID-19 as a pandemic, and as of March 12, 2020, the WHO has reported approximately 80,981 confirmed cases of COVID-19 in China. An additional 44,067 cases have been confirmed across 117 countries. More than 3,173 people have died from the virus, including 1,440 outside of China.

- On March 12, 2020 Governor Gavin Newsom issued a new executive order further enhancing California’s ability to respond to the COVID-19 pandemic; and.
On March 13, 2020, the President of the United States declared a national emergency in response to COVID-19 and that the federal government would make $50 billion in emergency funding to assist state and local governments in preventing the spread of and addressing the effects of COVID-19.

On March 13, 2020 the City of Los Banos activated its Emergency Operation Center to support ongoing emergency actions in response to the spread of COVID-19.

The Health Officer for the County of Merced has indicated that community transmission will become the more likely mode of transmission and on March 13, 2020 declared that the imminent introduction of COVID-19 to Merced County is a threat to the public health and declared a local health emergency.

On March 13, 2020 the Merced County Director of Emergency Services proclaimed a local emergency to exist throughout Merced County.

As of March 13, 2020, there are no confirmed cases of COVID-19 in Merced County however, in the State of California as of March 13, 2020, there are two hundred forty seven (247) positive cases, and five (5) deaths; among neighboring counties, there are forty eight (48) active cases reported in Santa Clara County, one (1) active case in Madera County, two (2) active cases in Fresno County, and two (2) active cases in San Benito County, two (2) active cases in Stanislaus County, and one (1) active case in San Joaquin County.

DISCUSSION

Staff is recommending that the City Council ratify the Proclamation of the City Manager declaring the existence a local emergency pursuant to California Government Code Section 8630, in order to ensure appropriate resources and funding are available to the City in its response to the growing concern of COVID-19.

The City of Los Banos has a population of over 40,000 residents with two (2) state highways intersecting the City and has a large daily commuter population, resulting in high volumes of residents and visitors traveling within and across the City’s borders posing an imminent threat of person to person transmission.

Should the threat materialize, the City’s ability to mobilize local resources, coordinate interagency response, accelerate procurement of vital supplies, use mutual aid, and seek future reimbursement by the State and Federal governments will be critical to successfully responding to COVID-19.
The proclamation of a local emergency does not signify an increased risk to the residents of Los Banos. A proclamation of emergency allows the City to streamline communication, increase coordination/collaboration among City and County staff as well as other political subdivisions, provide or receive mutual aid from other jurisdictions, and allows for the exercise of powers that can be used to address the emergency.

The proclamation follows the State of California’s proclamation of emergency on March 4, 2020 regarding COVID-19 and the funding that would be made available. Proclaiming a local emergency is a prerequisite for requesting and receiving any available federal or state funding/reimbursement at a later time.

FISCAL IMPACT

There is no fiscal impact associated with this specific item. However, declaring a state of emergency may allow state/federal reimbursements as described above.
RESOLUTION NO. 6190

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOS BANOS
RATIFYING THE DIRECTOR OF EMERGENCY SERVICES' PROCLAMATION OF
THE EXISTENCE OF A LOCAL EMERGENCY WITHIN THE CITY OF LOS BANOS
(COVID-19)

WHEREAS, California Government Code Section 8630 provides that a local
emergency may be proclaimed by the governing body of a city; and

WHEREAS, the Coronavirus Disease 2019 (COVID-19), a severe acute
respiratory illness caused by a novel (new) coronavirus was first detected in Wuhan,
Hubei Province, People's Republic of China and the first case was reported on
December 31, 2019, in China; and

WHEREAS, symptoms of the virus include fever, cough, and shortness of breath,
and infected individuals have experienced a range of outcomes, from mild sickness to
severe illness and death; and

WHEREAS, The Merced County Public Health Department Operations Center
was opened January 27, 2020 in order to prepare for the potential of COVID-19 in and
around our community; and

WHEREAS, on January 30, 2020, the World Health Organization (WHO)
declared the COVID-19 outbreak a Public Health Emergency of International Concern,
and on January 31, 2020, the United States Secretary of Health and Human Services
declared a Public Health Emergency to aid the nation in responding to COVID-19; and

WHEREAS, on February 26, 2020, the Centers for Disease Control and
Prevention (CDC) confirmed the first case of local person-to-person transmission of
COVID-19 in the United States, and this case raises the possibility of community
transmission occurring in the general public; and.

WHEREAS, on March 4, 2020 the Governor Gavin Newsom proclaimed a state
of emergency to exist in California; and

WHEREAS, on March 11, 2020 the World Health Organization (WHO)
characterized COVID-19 as a pandemic, and as of March 12, 2020, the WHO has
reported approximately 80,981 confirmed cases of COVID-19 in China. An additional
44,067 cases have been confirmed across 117 countries. More than 3,173 people have
died from the virus, including 1,440 outside of China; and

WHEREAS, on March 12, 2020 Governor Gavin Newsom issued a new
executive order further enhancing California's ability to respond to the COVID-19
pandemic; and.
WHEREAS, on March 13, 2020, the President of the United States declared a national emergency in response to COVID-19 and that the federal government would make $50 billion in emergency funding to assist state and local governments in preventing the spread of and addressing the effects of COVID-19; and

WHEREAS, on March 13, 2020 the City of Los Banos activated its Emergency Operation Center to support ongoing emergency actions in response to the spread of COVID-19; and

WHEREAS, the Health Officer for the County of Merced has indicated that community transmission will become the more likely mode of transmission and on March 13, 2020 declared that the imminent introduction of COVID-19 to Merced County is a threat to the public health and declared a local health emergency; and

WHEREAS, on March 13, 2020 the Merced County Director of Emergency Services proclaimed a local emergency to exist throughout Merced County; and

WHEREAS, as of March 17, 2020, there are no confirmed cases of COVID-19 in Merced County however, in the State of California as of March 17, 2020, there are four hundred seventy two (472) positive cases, and eleven (11) deaths; among neighboring counties, there are one hundred fifty five (155) confirmed cases and five (5) deaths reported in Santa Clara County, one (1) confirmed case in Madera County, two (2) confirmed cases in Fresno County, and five (5) confirmed cases and one (1) death in San Benito County, four (4) confirmed cases in Stanislaus County, and thirteen (13) confirmed cases in San Joaquin County; and

WHEREAS, the City of Los Banos has a population of over 40,000 residents with two (2) state highways intersecting the City and has a large daily commuter population, resulting in high volumes of residents and visitors traveling within and across the City's borders; and

WHEREAS, the City's ability to mobilize local resources, coordinate interagency response, accelerate procurement of vital supplies, use mutual aid, and seek future reimbursement by the State and Federal governments will be critical to successfully responding to COVID-19; and

WHEREAS, it is imperative to prepare for and respond to suspected or confirmed COVID-19 cases within the City, and to prepare to respond to an increasing number or individuals who may require medical care; and

WHEREAS, strict compliance with certain Municipal Code and other City regulations would prevent, hinder, or delay appropriate actions to prevent and mitigate the effects of the COVID-19, which issue cannot be timely addressed absent a declaration of emergency; and
WHEREAS, because the mobilization of local resources, ability to coordinate interagency response, accelerate procurement of vital supplies, use mutual aid, and allow for future reimbursement by the state and federal governments will be critical to successfully respond to COVID-19, the City may require additional assistance in the future, and proclamation of local emergency allows additional resources to flow to the City in a timely manner; and

WHEREAS, the City Manager has been designated as the Director of Emergency Services; and

WHEREAS, on March 17, 2020, the City manager as the City's Director of Emergency Services declared a local emergency, finding that that conditions of extreme peril to the safety of persons and property have arisen within the City of Los Banos and that these conditions are or are likely to be beyond the control of the services, personnel, equipment, and facilities of the City of Los Banos; and,

WHEREAS, per Government Code Section 8630 a local emergency declared by the Director of Emergency Services shall not remain in effect for a period in excess of seven days unless it has been ratified by the City Council of the City of Los Banos; and

WHEREAS, the Director of Emergency Services requests that the City Council proclaim the existence of a local emergency; and,

WHEREAS, after consideration of all facts reasonably available presently for review and all items, the City Council now desires to ratify the existence of a state of local emergency to make additional resources available to address the effects of COVID-19.

WHEREAS, these conditions warrant and necessitate that the City of Los Banos declare the existence of a local emergency.

NOW, THEREFORE, the City Council of the City of Los Banos, does hereby resolve as follows:

1. All of the above recitals are true and correct; and

2. The conditions of extreme peril to the safety of persons and property have arisen within the City of Los Banos, caused by the effects of COVID-19; and

3. The aforementioned conditions of extreme peril warrant and necessitate the proclamation of the existence of a local emergency by the City's Director of Emergency Services; and.

4. The City Council does hereby ratify and confirm the declaration of a local emergency by the Director of Emergency Services; and.
5. It is hereby further resolved, proclaimed and ordered that during the existence of said local emergency the powers, functions, and duties of the emergency organization and the City Manager or designee as the City's Director of Emergency Services and the Fire Chief who is delegated the authority under the Los Banos Municipal Code to coordinate and oversee the day to day management of the emergency services program and emergency organization, shall be those prescribed by State law, by local ordinances, and resolutions and by the City of Los Banos Emergency Operations Plan in order to mitigate the effects of this emergency; and

6. It is hereby further resolved, proclaimed and ordered that a copy of this resolution be forwarded to the Merced County Office of Emergency Services to be forwarded to the Director of California Governor's Office of Emergency Services requesting that the Director find it acceptable in accordance with State law; that the Governor of California, pursuant to the Emergency Services Act, issue a proclamation declaring an emergency in the City of Los Banos under Merced County; that the Governor waive regulations that may hinder response and recovery efforts; that response and recovery assistance be made available under the California Disaster Assistance Act; and that the State expedite access to State and Federal resources and any other appropriate Federal disaster relief programs; and

7. It is further resolved, proclaimed and ordered that all City officials and employees cooperate and coordinate efforts with officials and employees of other political subdivisions and officials and employees of the state and federal government in bringing the present condition of local emergency under control; and

8. It is further resolved, proclaimed and ordered that the City Manager or designee is hereby designated as the authorized representative of the City of Los Banos for the purpose of receipt, processing, and coordination of all inquiries and requirements necessary to obtain available state and federal assistance; and

9. It is further resolved, proclaimed and ordered that this local emergency shall be deemed to continue to exist until its termination is declared by the City Council of the City of Los Banos.

The foregoing resolution was introduced at a regular meeting of the City Council of the City of Los Banos held on the 18th day of March 2020, by Council Member __________ who moved for its adoption, which motion was duly seconded by Council Member __________, and the Resolution was adopted by the following vote:

AYES: 
NOES: 
ABSENT: 

APPROVED:
ATTEST:

Lucille L. Mallonee, City Clerk

Michael Villalta, Mayor
PROCLAMATION

A PROCLAMATION BY THE DIRECTOR OF EMERGENCY SERVICES OF THE CITY OF LOS BANOS, CALIFORNIA, DECLARING THE EXISTENCE OF A LOCAL EMERGENCY

WHEREAS, Los Banos Municipal Code Section 4-2.05 and Government Code Section 8030 empowers the City Manager, as the Director of Emergency Services, to proclaim the existence of threatened existence or a local emergency when said City is affected of likely to be affected by a public calamity and the City Council is not in session; and

WHEREAS, the Coronavirus Disease 2019 (COVID-19), a severe acute respiratory illness caused by a novel (new) coronavirus was first detected in Wuhan, Hubei Province, People's Republic of China and the first case was reported on December 31, 2019, in China; and

WHEREAS, symptoms of the virus include fever, cough, and shortness of breath, and infected individuals have experienced a range of outcomes, from mild sickness to severe illness and death; and

WHEREAS, The Merced County Public Health Department Operations Center was opened January 27, 2020 in order to prepare for the potential of COVID-19 in and around our community; and

WHEREAS, on January 30, 2020, the World Health Organization (WHO) declared the COVID-19 outbreak a Public Health Emergency of International Concern, and on January 31, 2020, the United States Secretary of Health and Human Services declared a Public Health Emergency to aid the nation in responding to COVID-19, and

WHEREAS, on February 26, 2020, the Centers for Disease Control and Prevention (CDC) confirmed the first case of local person-to-person transmission of COVID-19 in the United States, and this case raises the possibility of community transmission occurring in the general public; and

WHEREAS, on March 4, 2020 the Governor Gavin Newsome proclaimed a state of emergency to exist in California; and

WHEREAS, on March 11, 2020 the World Health Organization (WHO) characterized COVID-19 as a pandemic, and as of March 12, 2020, the WHO has reported approximately 80,981 confirmed cases of COVID-19 in China. An additional 44,067 cases have been confirmed across 117 countries. More than 3,173 people have died from the virus, including 1,440 outside of China; and

WHEREAS, on March 12, 2020 Governor Gavin Newsom issued a new executive order further enhancing California's ability to respond to the COVID-19 pandemic; and

WHEREAS, As of March 13, 2020, there are no confirmed cases of COVID-19 in Merced County however, in the State of California as of March 13, 2020, there are two hundred forty seven (247) positive cases, and five (5) deaths; among neighboring counties, there are forty eight (48) active cases reported in Santa Clara County, one (1) active case in Madera County, two (2) active cases in Fresno County, and two (2) active cases in San Benito County, two (2) active cases in Stanislaus County, and one (1) active case in San Joaquin County; and

WHEREAS, on March 13, 2020, the President of the United States declared a national emergency in response to COVID-19 and that the federal government would
make $50 billion in emergency funding to assist state and local governments in preventing the spread of and addressing the effects of COVID-19; and

WHEREAS, on March 13, 2020 the City of Los Banos activated its Emergency Operation Center to support ongoing emergency actions in response to the spread of COVID-19; and

WHEREAS, the Health Officer for the County of Merced has indicated that community transmission will become the more likely mode of transmission and on March 13, 2020 declared that the imminent introduction of COVID-19 to Merced County is a threat to the public health and declared a local health emergency; and

WHEREAS, on March 13, 2020 the Merced County Director of Emergency Services proclaimed a local emergency to exist throughout Merced County; and

WHEREAS, the City of Los Banos has a population of over 40,000 residents with two (2) state highways intersecting the City and has a large daily commuter population, resulting in high volumes of residents and visitors traveling within and across the City’s borders; and

WHEREAS, the City’s ability to mobilize local resources, coordinate interagency response, accelerate procurement of vital supplies, use mutual aid, and seek future reimbursement by the State and Federal governments will be critical to successfully responding to COVID-19; and

WHEREAS, these conditions warrant and necessitate that the City of Los Banos declare the existence of a local emergency.

NOW, THEREFORE IT IS PROCLAIMED AND ORDERED by the City Manager as Director of Emergency Services of the City of Los Banos finds that:

1. All of the above recitals are true and correct; and

2. It is hereby proclaimed that a local emergency as defined by Government Code Section 8558 now exists throughout the City of Los Banos, California; and

3. It is hereby further proclaimed and ordered that during the existence of said local emergency the powers, functions, and duties of the emergency organization and the City Manager or designee as the City’s Director of Emergency Services and the Fire Chief who is delegated the authority under the Los Banos Municipal Code to coordinate and oversee the day to day management of the emergency services program and emergency organization, shall be those prescribed by State law, by local ordinances, and resolutions and by the City of Los Banos Emergency Operations Plan in order to mitigate the effects of this emergency; and

4. It is hereby further proclaimed and ordered that a copy of this proclamation be forwarded to the Merced County Office of Emergency Services to be forwarded to the Director of California Governor’s Office of Emergency Services requesting that the Director find it acceptable in accordance with State law; that the Governor of California, pursuant to the Emergency Services Act, issue a proclamation declaring an emergency in the City of Los Banos under Merced County; that the Governor waive regulations that may hinder response and recovery efforts; that response and recovery assistance be made available under the California Disaster Assistance Act; and that the State expedite access to State and Federal resources and any other appropriate Federal disaster relief programs; and

5. It is further proclaimed and ordered that all City officials and employees cooperate and coordinate efforts with officials and employees of other political subdivisions and officials and employees of the state and federal government in bringing the present condition of local emergency under control; and
6. It is further proclaimed and ordered that the City Manager or designee is hereby designated as the authorized representative of the City of Los Banos for the purpose of receipt, processing, and coordination of all inquiries and requirements necessary to obtain available state and federal assistance; and

7. It is further proclaimed and ordered that this local emergency shall be deemed to continue to exist until its termination is declared by the City Council of the City of Los Banos.

8. It is further proclaimed that this emergency proclamation shall expire seven (7) days after issuance unless confirmed and ratified by the City Council.

DATED this 11th day of March, 2020.

Alex Terrazas, City Manager as Director of Emergency Services

ATTEST:

Lucille L. Mallonee, City Clerk

APPROVED AS TO FORM:

William A. Vaughn, City Attorney