

**CITY OF LOS BANOS  
CITY COUNCIL MEETING MINUTES  
MAY 20, 2020**

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

***SPECIAL NOTE:*** *This meeting was held by teleconference due to the COVID-19 Pandemic.*

**CALL TO ORDER:** Mayor Villalta called the City Council Meeting to order at the hour of 4:20 p.m.

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

**ROLL CALL – MEMBERS OF THE CITY COUNCIL PRESENT:** *Participating by teleconference:* Council Members Tom Faria, Daronica Johnson-Santos, Brett Jones, Deborah Lewis, Mayor Michael Villalta.

**STAFF MEMBERS PRESENT:** *Participating by teleconference:* City Manager Terrazas, City Attorney Vaughn, Police Chief Brizzee, Fire Chief Hurley, Community & Economic Development Director Elms; *Present in the Council Chambers:* City Clerk/Human Resources Director Mallonee, Finance Director Williams.

**CONSIDERATION OF APPROVAL OF AGENDA:** Motion by Faria, seconded by Johnson-Santos to approve the City Council Meeting agenda as submitted. The motion carried by the following roll call vote: AYES: Faria, Johnson-Santos, Jones, Lewis, Villalta; NOES: None; ABSENT: None.

**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 CHAMBER INFORMATIONAL TABLE.** Mayor Villalta asked the City Clerk if she had received any comments by email, for which City Clerk Mallonee stated she has received many comments by email regarding Agenda Item 7 – COVID-19 Status Update. No other comments were received or read into the record and the public forum was closed.

**CONSIDERATION OF APPROVAL OF CONSENT AGENDA.** Council Member Lewis requested that item 6G – City Council Resolution No. 6213 – Accepting the Fire Station 1 and 2 Americans with Disabilities Act (ADA) and “State Streets” Sidewalk Improvement Project as Complete and Authorizing the Filing of a Notice of Completion with the Merced County Recorder be removed from the Consent Agenda for separate

consideration and approval. Motion by Lewis, seconded by Jones approve the consent agenda as follows: Check Register for #221979 – #222243 in the Amount of \$525,040.34; Minutes for the May 6, 2020 City Council Meeting; City Council Resolution No. 6209 – Approving a Side Letter/Memorandum of Understanding Contract Extension through September 30, 2020 by and between the City of Los Banos and the Los Banos Police Sergeants Association; City Council Resolution No. 6210 – Approving and Adopting Final Tract Map No. 2019-01 Mission Village South Phase 5A and Accompanying Subdivision Improvement Agreement (Stonefield Home, Inc.); City Council Resolution No. 6211 – Authorizing the City Manager to Execute a Measure V Local Funding Agreement with Merced County Association of Governments for the Administration of the Local Projects Funding From Measure V; City Council Resolution No. 6212 – Approving Amendment No. 3 to Professional Services Agreement with CSG Consultants, Inc. for Plan Check and Building Inspection Services for an Additional One (1) Year; ~~City Council Resolution No. 6213 – Accepting the Fire Station 1 and 2 Americans with Disabilities Act (ADA) and “State Streets” Sidewalk Improvement Project as Complete and Authorizing the Filing of a Notice of Completion with the Merced County Recorder;~~ City Council Resolution No. 6214 – Authorizing Entering into a Second Amendment to Lease Agreement between the City of Los Banos and Marlene Pennington for Rental of the Ranchwood Park Facility for an Additional Five (5) Years. The motion carried by the following roll call vote: AYES: Faria, Johnson-Santos, Jones, Lewis, Villalta; NOES: None; ABSENT: None.

**CITY COUNCIL RESOLUTION NO. 6213 – ACCEPTING THE FIRE STATION 1 AND 2 AMERICANS WITH DISABILITIES ACT (ADA) AND “STATE STREETS” SIDEWALK IMPROVEMENT PROJECT AS COMPLETE AND AUTHORIZING THE FILING OF A NOTICE OF COMPLETION WITH THE MERCED COUNTY RECORDER.** Council Member Lewis spoke to how the residents in the state streets neighborhood finally got the sidewalks they have been waiting for many years and thanked staff for completing this project.

Motion by Lewis, seconded by Jones to approve City Council Resolution No. 6213 – Accepting the Fire Station 1 and 2 Americans with Disabilities Act (ADA) and “State Streets” Sidewalk Improvement Project as Complete and Authorizing the Filing of a Notice of Completion with the Merced County Recorder. The motion carried by the following roll call vote: AYES: Faria, Johnson-Santos, Jones, Lewis, Villalta; NOES: None; ABSENT: None.

**COVID-19 STATUS UPDATE.** City Clerk Mallonee read the many public comments received by email into the record. SHAI HERNANDEZ wrote in support of opening up businesses, particularly the salon industry; GREG & LISA O’BANION wrote in support of opening up businesses; ALICIA ROJAS wrote in opposition to the facemask requirement; ROSA GARCIA wrote in support of opening up churches; NICOLE FLORES wrote in support of opening up small businesses and allowing people to go back to work; ERICA MEZA wrote in support of opening up all businesses; RUSS THOMAS wrote in support of opening up businesses as he needs a professional haircut; NATHAN LEON wrote in support of protecting the constitution of United States

of America and a call for change now that we have flattened the curve; TRACY HAWKINS wrote in opposition to opening up small businesses; MANUEL BERROSPE wrote in opposition of businesses opening back up because it is not safe and he feels Los Banos should open up safely and slowly; MARY SEGURA wrote in opposition of opening up businesses and to be a little more patient and follow the Governor's recommendation; ARLENE CARDOZA wrote in support of opening up small businesses, too many are suffering because of the lockdown order; GENEVA BRETT wrote in support of opening up businesses and directed City Council to lift all orders restricting business; ALYSSHA MCCLENDON wrote in opposition of opening up businesses and spoke to how we need to protect our most vulnerable in the community; LINDA ERICKSON wrote inquiring as to the tents at Pacheco Park that are not 6 feet apart, are they being tested, are the bathrooms being cleaned, and what is the City's ordinance about camping in City parks; BRAD CHAGNON wrote in support of opening up businesses as long as we continue to be smart and safe in our choices and allow the businesses a chance to become whole again; JAMIELEE wrote in support of re-opening Los Banos and to give the residents a chance to prove they can open and go by all the safety guidelines; ANDREA BRANDT wrote in support of the mask order and congratulated the City on getting the Los Banos numbers down; FARREN STEITZ wrote in support of opening up businesses, especially Dance Explosion; JUANA PEREZ, wrote in support of opening small businesses, especially Dance Explosion; JUANA PEREZ wrote in support of allowing the seniors to have their graduation ceremonies; JENNIFER CORREIA & GRACIANO RUBIO, CrossFit ValleyView spoke in support of opening up businesses noting that holding businesses to different standards based on opinion instead of science, data, and objective measures is discriminatory and should have no place within our City; ANNE SANCHEZ wrote in support of opening up businesses; MONICA FLORES wrote in support of opening up businesses especially dance studios; JENAI SCHATZ wrote in support of opening up businesses, especially dance studios; LISA SOUZA wrote in support of opening up businesses and deeming every business and church as essential, we have flattened the curve like you asked us to do and it's time we move forward with life; ALLISON AGUILAR wrote in opposition to opening up businesses and asked the City to not only focus on the economic needs of this community but to please consider the serious public health consequences if we reopen too quickly; ART MORENO wrote inquiring as to his father putting a carport in his driveway and receiving a letter from Code Enforcement telling him to take it down and requested that the City revisit the ordinance regarding carports.

Dr. Salvador Sandoval, MD, MPH, Merced County Health Officer and Rebecca Nanyonjo-Kemp, DrPH, Merced County Director, DOC Incident Commander spoke in great detail to the Coronavirus Disease (COVID-19), which included a power, which included a PowerPoint presentation.

There was Council Member and staff discussion regarding when counties in California may be able to open up other businesses classified as being in Stage 3 of the reopening roadmap and how the State will ultimately decide when it is ready to progress into that next phase.

The City's mandatory use of facemasks while in public facilities was discussed and how it may be a factor in the low number of cases in Los Banos. The County officials were asked why the County does not mandate that same order county-wide for which they stated that use of masks are highly recommended, but that their use cannot be proven as the reason why numbers are so low. They are leaving it up to the individual cities to decide whether they want to have stricter guidelines in their community as not everyone is happy with the idea of having to wear masks.

Council asked the County officials why the big box stores are deemed essential and safer than those small stores that are downtown in our communities or why people can go to the chiropractor but they cannot get their haircut. The County officials spoke to how the big box stores were deemed essential because of the items they sold in their stores such as sanitary products and food. Services such as those a chiropractor provides are deemed necessary services to maintain health. As non-essential businesses start to open up, as long as they follow certain protocols, they are just as safe as the big box stores. The County wishes the terms high risk vs low risk was used rather than essential vs non-essential.

There was discussion regarding the testing site that was supposed to be launched in Los Banos, but the State decided against it in the end. It is believed that certain decisions made in Merced County that went against the State's directives played a role in the site being pulled.

Council expressed their concerns and disappointment in the County not recognizing the fact that the mandatory use of facemasks at public facilities in Los Banos was making a big impact on the number of cases in the City especially due to the fact that a large number of residents commute daily to the Bay Area.

The County officials spoke to the stage 2.5 and how cities will proceed how they choose. However, those businesses and business owners choose to go against the State's directives and are regulated by the State may be punished for their actions such as licenses being revoked or suspended.

Informational item only, no action taken.

**PUBLIC HEARING – TO RECEIVE PUBLIC COMMENT AND CONSIDERATION OF A NEGATIVE DECLARATION (SCH #2020020445) AND A CONDITIONAL USE PERMIT FOR THE ALLOWANCE OF THE ON-SALE AND ON-SITE CONSUMPTION OF ALCOHOL THROUGH A TYPE 41 BEER AND WINE ABC LICENSE IN CONJUNCTION WITH A BONA-FIDE EATING ESTABLISHMENT FOR OA HOLDINGS NO. 1 LLC & MMCG DBR LOS BANOS LLC (CHIPOTLE), LOCATED AT 1420 E. PACHECO BOULEVARD, APN 428-140-030; CITY COUNCIL RESOLUTION NO. 6215 – APPROVING NEGATIVE DECLARATION (SCH #2020020445) AND APPROVING CONDITIONAL USE PERMIT 2020-02 TO ALLOW FOR THE SALE OF BEER AND WINE UNDER A TYPE 41 ALCOHOL LICENSE FOR CHIPOTLE LOCATED AT 1420 E. PACHECO BOULEVARD, APN 428-140-030.** Community &

Economic Development Director Elms presented the staff report, which included a PowerPoint presentation.

Mayor Villalta opened the public hearing. A short recess was taken to receive public comment by email.

After the five-minute recess, City Clerk Mallonee stated that no comments had been received by email. The applicant representative, Matt Nohr, spoke regarding the project. No one else came forward to speak and the public hearing was closed.

Motion by Faria, seconded by Johnson-Santos to adopt City Council Resolution No. City Council Resolution No. 6215 – Approving Negative Declaration (SCH #2020020445) and Approving Conditional Use Permit 2020-02 to Allow for the Sale of Beer and Wine Under a Type 41 Alcohol License for Chipotle Located at 1420 E. Pacheco Boulevard, APN 428-140-030. The motion carried by the following roll call vote: AYES: Faria, Johnson-Santos, Jones, Lewis, Villalta; NOES: None; ABSENT: None.

**CONSIDERATION OF AN ORDINANCE AMENDMENT REGARDING SHOPPING CARTS; ORDINANCE NO. 1184 – UNCODIFIED URGENCY ORDINANCE AMENDING CHAPTER 8 OF TITLE 11 OF THE LOS BANOS MUNICIPAL CODE REGULATING SHOPPING CARTS; ORDINANCE NO. 1185 – AMENDING CHAPTER 8 OF TITLE 11 OF THE LOS BANOS MUNICIPAL CODE REGULATING SHOPPING CARTS.** Community & Economic Development Director Elms presented the staff report, which included a PowerPoint presentation.

There was Council Member and staff discussion regarding the reasoning why an uncodified urgency ordinance was introduced alongside the introduction of an ordinance of the same nature that would be codified. Staff was thanked for all the work that was put into creating this ordinance.

Motion by Lewis, seconded by Jones to waive the reading and adopt Ordinance No. 1184 – Uncodified Urgency Ordinance Amending Chapter 8 of Title 11 of the Los Banos Municipal Code Regulating Shopping Carts. The motion carried by the following roll call vote: AYES: Faria, Johnson-Santos, Jones, Lewis, Villalta; NOES: None; ABSENT: None.

Motion by Lewis, seconded by Jones to waive the first reading of Ordinance No. Ordinance No. 1185 – Amending Chapter 8 of Title 11 of the Los Banos Municipal Code Regulating Shopping Carts. The motion carried by the following roll call vote: AYES: Faria, Johnson-Santos, Jones, Lewis, Villalta; NOES: None; ABSENT: None.

Motion by Lewis, seconded by Jones to introduce Ordinance No. 1185 – Amending Chapter 8 of Title 11 of the Los Banos Municipal Code Regulating Shopping Carts. The motion carried by the following roll call vote: AYES: Faria, Johnson-Santos, Jones, Lewis, Villalta; NOES: None; ABSENT: None.

**CONSIDERATION OF ADOPTION OF CITY COUNCIL RESOLUTION NO. 6216 – AUTHORIZING THE CITY MANAGER TO EXECUTE A PROFESSIONAL SERVICES AGREEMENT WITH VANIR CONSTRUCTION MANAGEMENT, INC. FOR PROJECT MANAGEMENT SERVICES FOR THE NEW POLICE DEPARTMENT FACILITIES PROJECT.** Public Works Director/City Engineer Fachin presented the staff report.

Motion by Faria, seconded by Johnson-Santos to adopt City Council Resolution No. 6216 – Authorizing the City Manager to Execute a Professional Services Agreement with Vanir Construction Management, Inc. for Project Management Services for the New Police Department Facilities Project. The motion carried by the following roll call vote: AYES: Faria, Johnson-Santos, Jones, Lewis, Villalta; NOES: None; ABSENT: None.

**CONSIDERATION OF ADOPTION OF CITY COUNCIL RESOLUTION NO. 6217 – AUTHORIZING THE CITY MANAGER TO EXECUTE A COOPERATIVE AGREEMENT WITH THE STATE OF CALIFORNIA THROUGH ITS DEPARTMENT OF TRANSPORTATION (CALTRANS) TO PROVIDE OVERSIGHT IN THE DEVELOPMENT OF THE PROJECT STUDY REPORT – PROJECT DEVELOPMENT SUPPORT (PSR-PDS) FOR THE IMPROVEMENTS ON THE PIONEER ROAD WIDENING PROJECT AT LOCATIONS WHERE CALTRANS HAS JURISDICTION.**

Public Works Director/City Engineer Fachin presented the staff report.

Motion by Johnson-Santos, seconded by Faria to adopt City Council Resolution No. 6217 – Authorizing the City Manager to Execute a Cooperative Agreement with the State of California through its Department of Transportation (CalTrans) to Provide Oversight in the Development of the Project Study Report – Project Development Support (PSR-PDS) for the Improvements on the Pioneer Road Widening Project at Locations Where Caltrans has jurisdiction. The motion carried by the following roll call vote: AYES: Faria, Johnson-Santos, Jones, Lewis, Villalta; NOES: None; ABSENT: None.

**ADVISEMENT OF PUBLIC NOTICES (No Report).**

**CITY MANAGER REPORT.** City Manager Terrazas stated that it is good to see projects moving forward despite the impact of COVID-19. The City is progressing with other projects behind the scenes even though City offices are closed to the public.

**REPORT/UPDATE ON MERCED COUNTY ASSOCIATION OF GOVERNMENTS (MCAG) AND MEASURE V COMMITTEE.** Mayor Villalta stated that the expansion of the waste site on Billy Wright Road on the Westside is still being worked on. A project study review is also in process for the Pioneer Road expansion project.

**BRETT JONES:** Council Member Jones inquired as to if the next meeting would be held in the Council Chambers for which Mayor Villalta stated that it would either be held in the Council Chambers or at the Community Center. Other cities are starting to move back to normal procedure.

**DEBORAH LEWIS:** Council Member Lewis stated that there was a lot on tonight's agenda and that there are a lot of issues surrounding COVID-19. She would like to see all of our businesses opened and doesn't believe any business should be labeled as non-essential. She hopes that the Governor soon realizes how important small businesses are to the communities.

**TOM FARIA:** Council Member Faria thanked all for their hard work done during these trying times. Hopes all stay safe.

**DARONICA JOHNSON-SANTOS:** Council Member Johnson-Santos thanked all for their hard work and believes everyone is doing a great job. She asked all to stay safe and stay smart.

**MAYOR MICHAEL VILLALTA:** Mayor Villalta spoke to how he would like to return to normalcy and hold the next meeting in the Council Chambers or at the Community Center.

**ADJOURNMENT.** The meeting was adjourned at 7:41 PM.

APPROVED:

/s/ Michael Villalta  
Michael Villalta, Mayor

ATTEST:

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