

**CITY OF LOS BANOS
CITY COUNCIL MEETING MINUTES
OCTOBER 7, 2015**

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

CALL TO ORDER: Mayor Villalta called the City Council Meeting to order at the hour of 7:01 PM.

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

ROLL CALL – MEMBERS OF THE CITY COUNCIL PRESENT: Council Members Tom Faria, Deborah Lewis, Scott Silveira, Elizabeth Stonegrove, Mayor Michael Villalta; Absent: None.

STAFF MEMBERS PRESENT: City Attorney Vaughn, City Clerk/Human Resources Director Mallonee, Police Chief Brizzee, Police Commander Hedden, City Manager Carrigan, Finance Director Williams, City Treasurer/Accountant I Brazil, Fire Chief Marrison, Public Works Director/City Engineer Fachin and Information Technology Director Spalding.

CONSIDERATION OF APPROVAL OF AGENDA: Mayor Villalta stated that staff is requesting that item 7B - Street Closure/Usage Request from the Our Lady of Fatima Society for Annual Religious Ceremonies and Events on October 10, 2015 from 11:00 a.m. - 1:00 p.m. Exiting the Alley behind Our Lady of Fatima School turning Left on Center Avenue, Right on Madison Avenue, Left on 4th Street Left on Jefferson Avenue, Left on Center Avenue, and Back to the School Parking Lot; October 10, 2015 from 8:00 p.m. – 9:30 p.m. Exiting St. Joseph’s Church Parking Lot onto Center Avenue, East on Adams Avenue to 6th Street, South on 6th Street to Jefferson Avenue, West on Jefferson Avenue to Center Avenue and back to St Joseph’s Church; and October 11, 2015 12:00 p.m. – 2:00 p.m. Leaving St. Joseph’s Church Parking Lot onto Center Avenue, East on Adams Avenue to 6th Street, South on 6th Street to Jefferson Avenue, West on Jefferson Avenue to Center Avenue and back to St Joseph’s Church be removed from the Consent Agenda.

Motion by Lewis, seconded by Faria to approve the City Council Meeting agenda as amended, with the removal of item 7B - Street Closure/Usage Request from the Our Lady of Fatima Society for Annual Religious Ceremonies and Events on October 10, 2015 from 11:00 a.m. - 1:00 p.m. Exiting the Alley behind Our Lady of Fatima School turning Left on Center Avenue, Right on Madison Avenue, Left on 4th Street Left on Jefferson Avenue, Left on Center Avenue, and Back to the School Parking Lot; October 10, 2015 from 8:00 p.m. – 9:30 p.m. Exiting St. Joseph’s Church Parking Lot onto Center Avenue, East on Adams Avenue to 6th Street, South on 6th Street to Jefferson

Avenue, West on Jefferson Avenue to Center Avenue and back to St Joseph's Church; and October 11, 2015 12:00 p.m. – 2:00 p.m. Leaving St. Joseph's Church Parking Lot onto Center Avenue, East on Adams Avenue to 6th Street, South on 6th Street to Jefferson Avenue, West on Jefferson Avenue to Center Avenue and back to St Joseph's Church. The motion carried by the affirmative action of all City Council Members present.

PRESENTATION – PROCLAMATION RECOGNIZING THE 125TH ANNIVERSARY OF THE LOS BANOS FIRE DEPARTMENT AND VIDEO.

Mayor Villalta presented the proclamation to the Fire Department employees in attendance and a short video was played regarding the history of the Los Banos Fire Department. Representatives from the Los Banos Fire Department and Fresno County Pink Heels organization came forward and was presented a check in the amount of \$2500. The representatives from Pink Heels spoke regarding the services that they provide and thanked the Los Banos Fire Department for all they do for the cause. Fire Fighter Freeman thanked the City Council and the City for all their support.

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.

KEN HEATON, Los Banos, spoke regarding the Harvest Fun Fest being held on October 31, 2015 and the events going on that day; BERTHA FARIA, Los Banos Chamber of Commerce, spoke regarding the Los Banos Tomato Festival held last weekend, the reason behind the festival and how it was established, how this year was the biggest ever and all the events going on that day, and she thanked Merced County Supervisor O'Banion for the County's contribution; KIRSTEN ARIAS, member of the local farming community, spoke in opposition to the proposed Farmer's Market ordinance, she stated that there is a need for a Farmers Market in Los Banos speaking in detail to her concerns; DENNIS AREIAS, Los Banos, spoke in opposition to the proposed Farmers Market ordinance and spoke in detail to his concerns; DONALDA SOUSA, Los Banos, stated that she watched the last City Council meeting and how she was concerned with comments made by Mayor Villalta and the holes in the park being a hazard, she supports Mr. Areias' Farmers Market and noted that Farmers Markets are not just one day a week, how the City Council should be trying to bring things into town not shut them down; DAVID DEEKMAN, Los Banos, stated that he is a regular customer of Will Areias' Farmers Market and how he does not see a problem with; BOB REISTER, Los Banos, asked that before final judgments are made to go back and consider what was said, what he just heard tonight upsets him and hopes that it is not true; CARYN COX, Los Banos, spoke regarding the proposed annexation being considered on tonight's agenda and her concerns, particularly the water shortage issue and how 95 lots have been approved with front and back yards, she urged the City Council to vote no on the proposed annexation and to not approve the project now but to wait, she would also suggest that a committee be formed to come up with ideas to save the City of Los

Banos money which she would like to be a member of, saving money should be our number one goal; ERIK LIMON, Republic Services Los Banos, spoke regarding illegal scavenging in garbage cans and how they are to contact the Los Banos Police Department non-emergency number if the encounter scavengers and/or call Republic Services. No one else came forward to speak and the public forum was closed.

CONSIDERATION OF APPROVAL OF CONSENT AGENDA. Motion by Silveira, seconded by Stonegrove to approve the consent agenda as follows: ~~Check Register for #155557 – #155866 in the Amount of \$2,052,916.22; Street Closure/Usage Request from the Our Lady of Fatima Society for Annual Religious Ceremonies and Events on October 10, 2015 from 11:00 a.m. – 1:00 p.m. Exiting the Alley behind Our Lady of Fatima School turning Left on Center Avenue, Right on Madison Avenue, Left on 4th Street Left on Jefferson Avenue, Left on Center Avenue, and Back to the School Parking Lot; October 10, 2015 from 8:00 p.m. – 9:30 p.m. Exiting St. Joseph’s Church Parking Lot onto Center Avenue, East on Adams Avenue to 6th Street, South on 6th Street to Jefferson Avenue, West on Jefferson Avenue to Center Avenue and back to St Joseph’s Church; and October 11, 2015 12:00 p.m. – 2:00 p.m. Leaving St. Joseph’s Church Parking Lot onto Center Avenue, East on Adams Avenue to 6th Street, South on 6th Street to Jefferson Avenue, West on Jefferson Avenue to Center Avenue and back to St Joseph’s Church; City Council Resolution No. 5701 – Amending the Fiscal Year 2015-2016 Budget by Increasing the Appropriations in the General Fund for Engineering Revenue and Expenditures; City Council Resolution No. 5702 – Authorizing the City Manager to Execute a Professional Services Agreement for Utility Bill Printing and Mailing Services with Infosend; City Council Resolution No. 5703 – Authorizing the City Manager, or his Designee, to Sign and File for and on Behalf of the City of Los Banos, a Financial Assistance Application for a Financing Agreement from the State Water Resources Control Board for the Planning of the Mitigation Measures for the City of Los Banos’ Municipal Water System to Conform o the State of California’s Maximum Contaminant Level (MCL) for Hexavalent Chromium. The motion carried by the affirmative action of all City Council Member present.~~

PUBLIC HEARING – TO RECEIVE PUBLIC COMMENT AND CONSIDERATION OF AMENDMENTS TO THE CITY FIRE PREVENTION CODE ORDINANCE AS IT PERTAINS TO ALLOWING FOR AN EXEMPTION PERMIT TO BE ISSUED TO AN ELIGIBLE ORGANIZATION FOR THE PURPOSE OF SPONSORING OR CONTRIBUTING TO A 4TH OF JULY FIREWORKS DISPLAY; ORDINANCE NO. 1138 – AMENDING AMENDMENT NO. 11 TO THE CALIFORNIA FIRE CODE 2013 EDITION SET FORTH IN SECTION 4-3.07 OF THE LOS BANOS MUNICIPAL CODE (SECOND READING & ADOPTION). Fire Chief Marrison presented the staff report.

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

Motion by Faria, seconded by Silveira to waive the second reading of Ordinance No. 1138 – Amending Amendment No. 11 to the California Fire Code 2013 Edition Set Forth

in Section 4-3.07 of the Los Banos Municipal Code. The motion carried by the affirmative action of all City Council Members present.

Motion by Faria, seconded by Silveira to adopt Ordinance No. 1138 – Amending Amendment No. 11 to the California Fire Code 2013 Edition Set Forth in Section 4-3.07 of the Los Banos Municipal Code. The motion carried by the following roll call vote: AYES: Lewis, Silveira, Stonegrove, Villalta; NOES: None; ABSENT: None.

PUBLIC HEARING – TO RECEIVE PUBLIC COMMENT AND CONSIDERATION OF ADOPTING A PROPOSED ORDINANCE FOR REGULATION OF FARMERS’ MARKETS LOCATED IN TITLE 9 AND CHAPTER 3 OF THE LOS BANOS MUNICIPAL CODE; ORDINANCE NO. 1135 – ADDING ARTICLE 42 CHAPTER 3 TO TITLE 9 OF THE LOS BANOS MUNICIPAL CODE RELATING TO CERTIFIED FARMERS’ MARKET (FIRST READING & INTRODUCTION); CITY COUNCIL RESOLUTION NO. 5699 – ESTABLISHING PERMIT FEES FOR THE ADMINISTRATION AND ISSUANCE OF CERTIFIED FARMERS’ MARKETS (CONTINUED FROM SEPTEMBER 16, 2015 CITY COUNCIL MEETING).

Council Member Faria will be recusing himself for the discussion and action because of a conflict in that his wife is the Executive Director for the Chamber of Commerce and left the City Council Chambers at 7:47 PM.

City Attorney Vaughn presented the staff report, which included a powerpoint presentation.

City Manager Carrigan clarified that we are talking about two things: Regulating Farmers Markets and Will Areias, he stated that this all started with the Los Banos Chamber of Commerce coming to the City wanting to put on Farmers Market, which led to the creation of the proposed Farmers Market ordinance and it brought to light concerns with Will Areias Farmers Market, how he sat down with Will Areias and spoke about certain issues and he thinks this could all work out with certain standards and cooperation.

There was Council Member and staff discussion regarding the type of documentation and application will be required for which City Attorney Vaughn stated that the ordinance lists what is required and a form would be developed by the Community & Economic Development Depart, why staff came up with 2 consecutive days and not just 2 days, removing consecutive and allow any 2 days a week, for which City Attorney Vaughn explained the reason behind the distinction, the start and stop times of operation for which City Attorney Vaughn stated would be dictated by location.

Mayor Villalta called for a short recess at 8:52 PM. The meeting reconvened at 9:03 PM.

Mayor Villalta opened the public hearing. WILL AREIAS, Los Banos, spoke regarding his background, farmers market and vending history for the last two years, the services he provides and how he is the only farmers market that services the City of Los Banos,

he operates year round on Saturdays and Sundays and no one in the community has been affected by his business; BOB REISTER, Los Banos, stated that he is a customer of Will Areias' and apologized for the comments that he made earlier because they were rude in the way that he said it; DENNIS AREAIS, Los Banos, School Board Member for 18 years where they stress giving back to your community, wanted to know what type of precedent is the City Council trying to set tonight with putting Will Areias out of business, he is homegrown and works with our charter school teaching them how to plant and harvest a crop, he spoke to how he has learned that each jurisdiction can set their own regulations, the Chamber of Commerce is no longer interested in pursuing a Farmers Market because of exactly what Will Areias is being put through, if you want to kill a business do what you are doing tonight; DONALDA SOUSA, Los Banos, stated that we have so many things going on in town that are not being addressed, lawn mowing businesses without licenses, she remembers back when the Farmers Market was at Henry Miller Plaza with many vendors but now it is down to one vendor on the highway, stressing how this young man needs to be helped and for the future kids; DOUG BEYAGA, works for Will Areias, stated that regulation for seasons of operation are pretty arbitrary and not consistent with seasons, it could change every day with what is being offered, how the operation is very neat and clean and they are cordial with customers; REFUGIO LLAMAS, Los Banos, stated that the role in government is to try to create an environment for entrepreneurship, many people are willing to sacrifice to start a business, understands that we have storefront businesses that are not happy with the farmers market but he would ask the City Council to reconsider and maybe sunset or grandfather this into the standards. No one else came forward to speak.

There was additional City Council and staff discussion regarding the change to add the two days and for it to be on improved lots, how the City feels they have come up with a fair compromise – 2 days a week during the season and 1 day a week off season, moving to the east end not the center of the park, the concept “farm to fork” because people want to know where their food is coming from, where is the Chamber of Commerce they are the ones that wanted a Farmers Market and now they are out, agreement that the insurance and hold harmless agreements are needed, how we are spending an inordinate amount of time on this issue and how it looks like it is being crafted to put one person out of business, creating an ordinance that is fair, the City Manager will have discretion to deny or approve, the ordinance just sets the rules and regulations, if we approve this we are giving the city manager approval to set the parameters, and wanting clear and fair regulations for Farmers Markets.

Motion by Silveira, seconded by Stonegrove to waive the first reading of Ordinance No. 1135 – Adding Article 42 Chapter 3 to Title 9 of the Los Banos Municipal Code Relating to Certified Farmers' Market with item (d) of the ordinance being changed to two days. AYES: Lewis, Silveira, Stonegrove, Villalta; NOES: Villalta; ABSTAIN: Faria; ABSENT: None.

Motion by Silveira, seconded by Stonegrove to adopt Ordinance No. 1135 – Adding Article 42 Chapter 3 to Title 9 of the Los Banos Municipal Code Relating to Certified Farmers' Market with item (d) of the ordinance being changed to two days. The motion

carried by the following roll call vote: AYES: Lewis, Silveira, Stonegrove, Villalta; NOES: Villalta; ABSTAIN: Faria; ABSENT: None.

Council Member Faria returned to his seat at the dais (10:00 PM).

City Attorney Vaughn stated that he would not be participating in the following item because he owns property within the 300 foot radius of the project and left his seat at the dais and the Council Chambers at 10:01 PM.

PUBLIC HEARING – TO RECEIVE PUBLIC COMMENT AND CONSIDERATION OF ANNEXATION #2014-01, PREZONE #2014-02, PRE-ANNEXATION DEVELOPMENT AGREEMENT, AND ASSOCIATED MITIGATE NEGATIVE DECLARATION (SCH #2015061056) FOR PRESIDENTIAL ESTATES EAST AREA PLAN AND ANNEXATION OF APPROXIMATELY 106 ACRES ON UNINCORPORATED LANDS LYING NORTH OF PIONEER ROAD, WEST OF MERCY SPRINGS ROAD (SR 1658) AND EAST OF ELEVENTH STREET, APNS 026-290-001, 002, 003, 004, 005, 083-120-012, 013, 014, 015, 016, 017, 018, 019, 020, 021, 022, 023, 024, AND 028; CITY COUNCIL RESOLUTION NO. 5704 – APPROVING MITIGATED NEGATIVE DECLARATION (SCH #2015061056) AND MITIGATION MONITORING PLAN; ORDINANCE NO. 1139 – AMENDING THE ZONING MAP TO PRE-ZONE APPROXIMATELY 106 ACRES BOUND BY PIONEER ROAD TO THE SOUTH (UNINCORPORATED), DEVELOPED RESIDENTIAL PROPERTY TO THE WEST AND ELEVENTH STREET, DEVELOPED COMMERCIAL PROPERTY TO THE NORTH, AND MERCY SPRINGS ROAD (SR 165) TO THE EAST (FIRST READING & INTRODUCTION); ORDINANCE NO. 1140 – AUTHORIZING THE MAYOR TO EXECUTE A PRE-ANNEXATION DEVELOPMENT AGREEMENT BETWEEN THE CITY OF LOS BANOS AND STONEFIELD COMMUNITIES, LLC RELATIVE TO THE PRESIDENTIAL ESTATES EAST ANNEXATION (FIRST READING & INTRODUCTION); ORDINANCE NO. 1141 – AUTHORIZING THE MAYOR TO EXECUTE A PRE-ANNEXATION DEVELOPMENT AGREEMENT BETWEEN THE CITY OF LOS BANOS AND MANUAL M. CARDOZA LIFE ESTATE RELATIVE TO PRESIDENTIAL ESTATES EAST ANNEXATION (FIRST READING & INTRODUCTION); CITY COUNCIL RESOLUTION NO. 5705 – REQUESTING THE ANNEXATION AND PRE-ZONE OF APPROXIMATELY 106 ACRES OF PROPERTY LOCATED NORTH OF PIONEER ROAD, EAST OF ELEVENTH STREET, SOUTH OF DEVELOPED COMMERCIAL PROPERTY TO THE NORTH, AND WEST OF MERCY SPRINGS ROAD (SR 165). City Manager Carrigan presented the staff report, which included a powerpoint presentation, with Special Planning Consultant Bill Abbott and Dan Cutchi assisting.

There was Council Member and staff discussion as to preservation of farm land, if the County increased their farm land do we have a reason as to why, parks and open space, detention basins being required in almost every development throughout the city, mitigation measures on Madison Avenue and Scripps Drive with both ingress and egress, concerned about the closeness, focusing just now on the annexation not project specifics, CCID at the time of annexation they would no longer provide water to the

property site, the Cardozo's will be able to farm as long as they want, since our last general plan has there been any consideration as to if we will be able to supply water to this annexations which is based on the Water Master Plan, the most recent Los Banos annexations were more job-related projects, if the water situation gets bad can the State mandate building permits, if there will be a lift station at Pacheco and 11th, if approved when the City would see the master plan, becoming a Landscape & Lighting District, master plan and the customization of these units with each house would submit plans to the City for approval, the master plan will allow for a property owner to apply and build what they like/want, if there could there be dry landscaping, how starting the first of the year the State is mandating drought tolerant landscaping and staff will be working on an ordinance to meet the new standards, a proposed new fire station, are the uses locked in or can they be changed, and concerns with commercial businesses being proposed in the middle of these proposed custom homes.

Mayor Villalta opened the public hearing. JEFF ROBERTS, Stonefield Communities (applicant), spoke to the great experience he has had with city staff, the City Manager, Senior Planner Elms and the Cardoza family, supports and is please to see the phases for the different land owners and a real clear vision of what is ahead of you and he views it as a very valuable step and concurs with the staff recommendations, stated that the prezone is consistent with the City's Land Use Plan, the property in question has been in the City's Sphere of Influence since the 1990s and has never seen such an obvious annexation in a City; STEVE TEITJEN, Los Banos Unified School District Superintendent, spoke in support of the proposed annexation and stated that there is an existing Mitigation Agreement with the Los Banos Unified School District for this developer to pay their fair share of school fees and is excited to see Page Avenue extended as part of this development; MANUAL CARDOZA, Los Banos, appreciates everything that the staff has done as they have been honest and upfront the whole time, how we've never discussed much of this and is all new to them, things change and spoke in support of this annexation; CARYN COX, Los Banos, stated that she is concerned with the proposed annexation, we have enough parks, concerns with CCID water rights, how Mr. Roberts states that it will not be hooked up to City water until homes are built and she's not so sure, the proposed fire station needs to be addressed now, and there are no tract homes to be built in the proposed annexations. No one else came forward to speak and the public hearing was closed.

There was further Council Member and staff discussion regarding in relation to the City's General Plan and concern for medium density housing, thoughts that the amend the General Plan should be amended before we adopt this annexation, fixing the uses now, how the City is not short of residential property right now in Los Banos, reiteration that the proposed project conforms to the City's General Plan, going over the proposed projects amenities again, and some Council Members not comfortable taking a vote tonight and wanting to continue this item to get more information and clarification.

Motion by Villalta, seconded by Faria to continue this item to the October 21, 2015 City Council Meeting. The motion carried by the affirmative action of all City Council Members present, Silveira and Stonegrove voting No.

City Attorney Vaughn returned to his seat at the dais (12:02 AM).

COUNCIL MEMBER AGENDA REQUESTS. (TO SEE IF THERE IS A MAJORITY CONSENSUS TO HAVE STAFF EXPEND TIME ON THE ISSUE AND TO HEAR IT AT A FUTURE MEETING.) REQUEST FROM MAYOR VILLALTA FOR DISCUSSION AND CONSIDERATION OF PLACING A VETERANS WALL AT HENRY MILLER PLAZA. Mayor Villalta stated that Rick Toscano and the veterans came to him with a list of fifteen war dead from the City of Los Banos and wanting to develop something into a living memorial/wall at Henry Miller Plaza, he added that he has an article that states that a fund was started in 1941 and the idea has come up again, he is asking to see if the City Council is interested in pursuing the idea, look at the plans, and then submitted to the City for approval and construction.

City Manager Carrigan stated that the City of Los Banos has a Memorial Policy that might work for this situation, but wanted to make not that the City of Los Banos does not currently own Henry Miller Plaza as it is under the old Los Banos Redevelopment Agency which is now und the authority of the DLA. He suggested that Mr. Toscano get in touch with Public Works Director/City Engineer Fachin to see if anything could be started or done.

ADVISEMENT OF PUBLIC NOTICES (No Report).

CITY MANAGER REPORT. No report

CITY COUNCIL MEMBER REPORTS.

SCOTT SILVEIRA: No report.

ELIZABETH STONEGROVE: No report.

TOM FARIA: Congratulated Senior Planner Elms on her new baby and to enjoy your time and sent prayers to Wayne Pricolo.

DEBORAH LEWIS: Congratulated Senior Planner Elms on the arrival on her new baby boy, thanked the City of Los Banos for allowing her to attend the League of California Cities Conference last week, spoke to how the State is imposing new water regulations, a choice without choice and no money to flow for the changes, she had the opportunity to attend the Merced County Excellence in Education Award event in Merced with Miano Elementary School teacher Mr. Dealba being chosen as Teacher of the Year, how yesterday she and the Police Department staff and attended Miano Elementary School where the Police Department staff did a wonderful presentation on their Spay and Neuter Program and thanked them for allowing her to go with them, noting how Police Chief Brizzee is the “Pied Piper” and how the kids follow him around, the recent Tomato Festival was better this year than ever and hopes to see it get better and better each year.

MAYOR MICHAEL VILLALTA: Reminded all to keep Wayne Pricolo in your prayers, a very dedicated retired city employee.

ADJOURNMENT. The meeting at the hour of 12:13 AM.

APPROVED:

/s/ Michael Villalta
Michael Villalta, Mayor

ATTEST:

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