

**CITY OF LOS BANOS  
CITY COUNCIL MEETING MINUTES  
JANUARY 6, 2016**

***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 7:02 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, Mayor Michael Villalta; Absent: Council Member Elizabeth Stonegrove

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

**CONSIDERATION OF APPROVAL OF AGENDA:** Motion by Silveira, seconded by Lewis to approve the City Council Meeting agenda as submitted. The motion carried by the affirmative action of all City Council Members present, Stonegrove absent.

**PRESENTATIONS – PROCLAMATIONS RECOGNIZING CITY COMMISSIONERS:**  
**HEIKO STITCHEL – AIRPORT ADVISORY COMMISSION, ALEKSEY DVORKIN – ECONOMIC DEVELOPMENT ADVISORY COMMISSION, BRETT JONES – ECONOMIC DEVELOPMENT ADVISORY COMMISSION, STEPHEN HAMMOND – PLANNING COMMISSION, TODD BAKER – PLANNING COMMISSION, JOHN CATES – PLANNING COMMISSION, REBECCA TIETJEN – TREE COMMISSION, JOHN SPEVAK – TREE COMMISSION, COLLEEN MENELEE – TREE COMMISSION, MARK BODLEY – MEASURE P COMMITTEE, JOANG (ICHABOD) NGUYEN – MEASURE P COMMITTEE.** Mayor Villalta presented proclamations to those commissioners in attendance: Heiko Stichel, Stephen Hammond, Todd Baker, Rebecca Tietjen, John Spevak, Colleen Menelee, Mark Bodley thanking them and all recognized for their years of service.

**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.** ERIK LIMON,

Republic Services and Los Banos resident, spoke regarding the proper disposal of Christmas trees. No one else came forward to speak and the public forum was closed.

**CONSIDERATION OF APPROVAL OF CONSENT AGENDA.** Motion by Silveira, seconded by Lewis to approve the consent agenda as submitted: Check Register for #156833 – #157343 in the Amount of \$2,111,519.16; Minutes for the December 9, 2015 Special City Council Meeting; Minutes for the December 16, 2015 Adjourned City Council Meeting; Minutes for the December 23, 2015 Adjourned City Council Meeting; City Council Resolution No. 5714 – Appointing Members to the Measure P Citizens Oversight Committee (Mark Bodley & Eric Poppish); City Council Resolution No. 5715 – Adopting a Revised Budget for the 2015/2016 Fiscal Year as it Pertains to Expenditures and Revenues in the Police Department Communications/Special Police Services Accounts. The motion carried by the affirmative action of all City Council Member present, Stonegrove absent.

**PUBLIC HEARING – TO RECEIVE PUBLIC COMMENT AND CONSIDERATION OF A CONDITIONAL USE PERMIT TO ALLOW THE USE OF TYPE 86 ALCOHOL LICENSE FOR THE INSTRUCTIONAL TASTING OF ALCOHOLIC BEVERAGES ONSITE AT THE WAL-MART STORE LOCATED AT 1575 WEST PACHECO BOULEVARD, ASSESSOR’S PARCEL NUMBER 430-010-012; CITY COUNCIL RESOLUTION NO. 5716 – APPROVING CONDITIONAL USE PERMIT #2015-10 FOR THE USE OF A TYPE 86 ALCOHOL LICENSE, “INSTRUCTIONAL TASTING”, FOR THE WAL-MART LOCATED AT 1575 WEST PACHECO BOULEVARD.** Senior Planner Elms presented the staff report, which included a PowerPoint presentation.

Mayor Villalta opened the public hearing. MIRIAM MONTESINOS, Legal Counsel from Gresham Savage Nolan & Tilden, Wal-Mart representative, spoke regarding the Type 86 “Instructional Tasting” request and what exactly will happen at the store through a third party; ROY ROSALES, Los Banos, inquired as to how good are the vendors at spotting fake IDs; KATHY BALLARD, Los Banos, stated that fake ID readers look at not just the front but the back too. No one else came forward to speak and the public hearing was closed.

There was Council Member and staff discussion regarding 3<sup>rd</sup> party providers, how they are a standalone independent company not affiliated with the distributors or affiliation with Wal-Mart, insuring that no one under 21 would be able to taste, assurance that there will not be any slip ups and that there is a standardization for marketing and tasting, explanation of the tastings of different spirits which is regulated by the State and the Department of Alcoholic and Beverage Control.

Motion by Silveira, seconded by Faria to approve City Council Resolution No. 5716 – Approving Conditional Use Permit #2015-10 for the Use of a Type 86 Alcohol License, “Instructional Tasting”, for the Wal-Mart Located at 1575 West Pacheco Boulevard. The motion carried by the affirmative action of all City Council Member present, Stonegrove absent.

**PUBLIC HEARING – TO RECEIVE PUBLIC COMMENT AND CONSIDERATION OF A CONDITIONAL USE PERMIT TO ALLOW THE USE OF TYPE 40 ALCOHOL**

**LICENSE FOR THE ON-SALE OF BEER FOR AQUA ENTERTAINMENT CENTER LOCATED AT 923 WEST PACHECO BOULEVARD, ASSESSOR'S PARCEL NUMBER 431-020-002; CITY COUNCIL RESOLUTION NO. 5717 – APPROVING CONDITIONAL USE PERMIT #2015-11 FOR THE ON-SALE OF BEER FOR THE AQUA ENTERTAINMENT CENTER LOCATED AT 923 WEST PACHECO BOULEVARD.** Senior Planner Elms presented the staff report, which included a PowerPoint presentation.

Mayor Villalta opened the public hearing. JASON SERANG, Los Banos & Marketing Director for Aqua Entertainment Center, spoke regarding the plans for the center and hopes to open by March 2016. No one else came forward to speak and the public hearing was closed.

Motion by Silveira, seconded Faria by to approve City Council Resolution No. 5717 – Approving Conditional Use Permit #2015-11 for the On-sale of Beer for the Aqua Entertainment Center Located at 923 West Pacheco Boulevard. The motion carried by the affirmative action of all City Council Member present, Stonegrove absent.

**PUBLIC HEARING – TO RECEIVE PUBLIC COMMENT AND CONSIDERATION OF AN ORDINANCE IMPOSING AN EXPRESS BAN ON MARIJUANA CULTIVATION, MARIJUANA PROCESSING, MARIJUANA DELIVERY, AND MARIJUANA DISPENSARIES IN THE CITY OF LOS BANOS; ORDINANCE NO. 1142 – IMPOSING AN EXPRESS BAN ON MARIJUANA CULTIVATION, MARIJUANA PROCESSING, MARIJUANA DELIVERY, AND MARIJUANA DISPENSARIES IN THE CITY OF LOS BANOS (FIRST READING & INTRODUCTION).** City Attorney Vaughn presented the staff report, which included a PowerPoint presentation. Police Chief Brizzee spoke in additional detail to the proposed ordinance and the negative impacts medical marijuana, which included a powerpoint presentation.

Mayor Villalta opened the public hearing. APRIL GIBSON, Los Banos, she stated that she could find the same negative information for alcohol, meth, heroin, and prescription drugs, and spoke to how she feels how prohibiting medical marijuana would be denying her access to her medication that treats her arthritis and urged them to remember compassion; TIM OBLETO, San Luis Obispo, stated that the City is trying to get rid of what they can't regulate, is just going to take the system way back and will be a downfall in the City, if you allow medical marijuana you would be able to regulate it and make is a much safer environment for the City; ALBERTO ESCOBETO, Los Banos, compared alcohol to marijuana and how it is not fair to restrict medical marijuana; CASEY CUESTA, Los Banos, stated that she takes medical marijuana instead of taking a narcotic, and finds it funny that she can now go to Wal-Mart for wine tasting; MS. SADIE, Los Banos, stated that she is scared for her rights, how she has a degenerative disk disease and is a patient of medical marijuana, there will be a lot more criminalization if medical marijuana is prohibited, prays that everyone has a right to take care of their pain; MATTHEW GRAYS, Los Banos, stated that this is a tough issue and there are a lot of people who support their right to use medical marijuana, he has loved ones who use medical marijuana to cope with the medical issues that are disabling, it is a form of discrimination to not allow medical marijuana and we should take away that option from the law abiding citizens; GINO RODDICK, Los Banos, what a lot of people

are trying to say is that California voters voted in 1996 to keep medical marijuana, banning safe access is further driving it underground, it is clear that there are problems but in his opinion it is because it is not better regulated, a lot of cities are just reacting to this March deadline and in turn should be taking a step back and regulating it; POLICE CHIEF BRIZZEE stated that he appreciates everyone's comments and reiterated that the City is not trying to prohibit those who have a doctor's recommendation; SGT FRAMSTAD, Merced County's Sherriff's Department, spoke in support of passing this Ordinance regarding their 12 plants per parcel law, dangers with marijuana grows, organized crime issues, and violence; JAIME FLORES, Los Banos, stated that what the City is trying to do is going back in time, there is a benefit in medical marijuana and what we should be trying to do is regulate it not make it harder to get and creating more problems, let them have local access to a medicine that makes them feel better, and compared it to the Wal-Mart getting a permit for wine tasting; JENNIFER WALTON, Los Banos, spoke regarding her personal issues with medical problems and how they are medical marijuana users and not having to use prescriptions drugs and using a natural drug to treat their illnesses; ERNIE LUGO, Los Banos, has a lot of friends, family friends, coworkers who are medical marijuana users, this will make is more difficult to obtain medical marijuana, will turn people to prescription drugs, how there is money generated from allowing medical marijuana and would be a positive thing, this is setting us back with this ban and will not only hurt this town but a lot of people in this town; LUKE DILLER, Los Banos, spoke to the personal needs for the medical marijuana, there is recreational marijuana that is sold illegal but what you are trying to prohibit is what people are trying to sell and use is legal and medically needed, concerns with residential grows, how marijuana does not keep you up late at night, seems to him that the City is showing a complete different picture than what actually is, why not take the route to regulate it, issue the permits and collect the taxes, how he does not support the passage of the ordinance; ROBERT ROSALES, Los Banos, spoke regarding the amount of tax revenue the State of Colorado raised, how 4 out of 27 grows were legal, concerns with showing the weapons that perhaps were to protect their property rights, how marijuana is a schedule 1 drug as is heroin and you do not smell marijuana growing in his yard, he smokes because he has insomnia, wonders who brought this forward and if any of the Council has the courage to come forward and speak for the compassionate marijuana users, he feels that this is politically driven. No one came forward to speak and the public hearing was closed.

Motion by Faria, seconded by Lewis to waive the first reading of Ordinance No. 1142 – Imposing an Express Ban on Marijuana Cultivation, Marijuana Processing, Marijuana Delivery, and Marijuana Dispensaries in the City of Los Banos. The motion carried by the affirmative action of all City Council Member present, Stonegrove absent.

Motion by Faria, seconded by Lewis to introduce Ordinance No. 1142 – Imposing an Express Ban on Marijuana Cultivation, Marijuana Processing, Marijuana Delivery, and Marijuana Dispensaries in the City of Los Banos. The motion carried by the following roll call vote: AYES: Faria, Lewis, Silveira, Villalta; NOES: None; ABSENT: Stonegrove.

**CONSIDERATION OF THE ADOPTION OF CITY COUNCIL RESOLUTION NO. 5718 – REVISING THE SCHEDULE OF LANDSCAPE IRRIGATION FROM TWO (2) DAYS**

**A WEEK TO ONE (1) DAY A WEEK.** Public Works Director/City Engineer Fachin presented the staff report.

There was Council Member and staff discussion regarding how many cities in California have gone to one day a week watering, how Merced, Atwater, Fresno are some cities that are prohibiting through the winter months completely to mostly to meet the mandate, if the neighboring cities reached their goals, what other neighboring cities are doing to meet their goals instead of cutting back watering, i.e. fixing water lines, those that water too much, being more concerned about the hot summers and people losing landscaping that they have invested in are good for the atmosphere, if we are going to cut the water bills in half, and how this is just a temporary way to bank the water savings and trying to get to the state mandated 28%.

Motion by Silveira, seconded by Faria to adopt City Council Resolution No. 5718 – Revising the Schedule of Landscape Irrigation from Two (2) Days a Week to one (1) Day a Week. The motion carried by the affirmative action of all City Council Member present, Stonegrove absent.

The City Council took a short 5-10 minute recess.

**CONSIDERATION OF THE SELECTION OF AN EXECUTIVE SEARCH FIRM FOR THE CITY MANAGER RECRUITMENT. (To be continued to the January 7, 2016 Adjourned Meeting)** City attorney Vaughn stated that staff is asking for a continuance of this item to allow Council Member Stonegrove to participate on this item.

Motion by Faria, seconded by Silveira to continue this item to January 7, 2016 at 5:00 PM in the City Hall Council Chambers, 520 J Street, Los Banos. The motion carried by the affirmative action of all City Council Member present, Stonegrove absent.

**ADVISEMENT OF PUBLIC NOTICES (Two Reports).** Senior Planner Elms stated that there will be two public hearings at the January 13, 2016 Planning Commission Meeting: Consider and make a recommendation to the Los Banos City Council to adopt a proposed ordinance to regulate and create a process for Temporary Uses on private (non-residential) property in the City of Los Banos; Consider a Tentative Parcel Map No. 2015-04 to subdivide approximately 4.2 acres into 2 parcels in the Highway Commercial zoning district (H-C), located at 2160 E. Pacheco Boulevard.

**CITY MANAGER REPORT.** No report.

**CITY COUNCIL MEMBER REPORTS.**

**COUNCIL MEMBER FARIA:** Wished Mr. Carrigan the best on his future endeavors.

**DEBORAH LEWIS:** Wished City Manager Carrigan the best on his new job and thanked him for his services.

**SCOTT SILVEIRA:** Stated that Vondel McKenzie asked him to announce the Martin Luther King Jr. March being held on January 18, 2016 and wished Mr. Carrigan all the luck in the world with his new job.

**ELIZABETH STONEGROVE:** Absent

**MIKE VILLALTA:** Wished Mr. Carrigan all the best at the City of Merced, they have enjoyed his services the last 3 years, Merced is lucky to get him and will have a great experience just as we have. He spoke regarding the Christmas Golden Agers Dinner and how great it was and encouraged all seniors to go to the dinners, congratulated all the proclamations received for service they provide to Los Banos and encouraged others to do it, to also get involved with Vital and the Community Center.

**CLOSED SESSION – PUBLIC EMPLOYMENT, CITY MANAGER, PURSUANT TO GOVERNMENT CODE SECTION 54957 (To be continued to the January 7, 2016 Adjourned Meeting).** Motion by Villalta, seconded by Faria to continue this item to January 7, 2016 at 5:00 PM in the City Hall Council Chambers, 520 J Street, Los Banos. The motion carried by the affirmative action of all City Council Member present, Stonegrove absent.

**ADJOURNMENT – ADJOURN TO 5:00 PM, THURSDAY, JANUARY 7, 2016 IN THE CITY HALL COUNCIL CHAMBERS, 520 J STREET, LOS BANOS, TO CONSIDER THE SELECTION OF AN EXECUTIVE SEARCH FIRM FOR THE CITY MANAGER RECRUITMENT AND TO HOLD A CLOSED SESSION – PUBLIC EMPLOYMENT, CITY MANAGER, PURSUANT TO GOVERNMENT CODE SECTION 54957.** Motion by Lewis, seconded by Silveira the meeting was adjourned at the hour of 9:18 PM to 5:00 P.M., Thursday, January 7, 2016 in the City Hall Council Chambers, 520 J Street, Los Banos, to Consider the Selection of an Executive Search Firm for the City Manager Recruitment and to hold a Closed Session – Public Employment, City Manager, Pursuant to Government Code Section 54957. The motion carried by the affirmative action of all City Council Members present, Stonegrove absent.

APPROVED:

/s/ Michael Villalta  
Michael Villalta, Mayor

ATTEST:

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