

**CITY OF LOS BANOS
CITY COUNCIL MEETING MINUTES
APRIL 7, 2021**

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 Faria called the City Council Meeting to order at the hour of 4:03 p.m.

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

ROLL CALL – MEMBERS OF THE CITY COUNCIL PRESENT: Council Members Brett Jones, Ken Lambert, Deborah Lewis, Refugio LLamas, Mayor Tom Faria; ABSENT: None.

STAFF MEMBERS PRESENT: Acting City Manager Brizzee, City Attorney Vaughn, City Clerk/Human Resources Director Mallonee, Finance Director Williams, Community & Economic Development Director Elms, Acting Public Works Director/City Engineer Pezeshk, Acting Police Chief Hedden, Fire Chief Hurley.

CONSIDERATION OF APPROVAL OF AGENDA: Mayor Faria stated that item 5 – Presentation – Proclamation Recognizing Cesar Chavez Day was inadvertently left on the agenda as it was already presented at the March 17, 2021 meeting and staff is requesting that item 7H - City Council Resolution No. 6342 – Accepting Public Improvements for Racquet Club Estates, APN 428-030-021-000, Generally Near San Luis Street to the South, Racquet Club Drive to the East, and Mercey Springs Road to the West (Hassan Ahmadi) also be removed from agenda.

Motion by Lewis, seconded by Lambert to approve the City Council Meeting agenda as submitted, with the removal of item 5 – Presentation – Proclamation Recognizing Cesar Chavez Day and 7H - City Council Resolution No. 6342 – Accepting Public Improvements for Racquet Club Estates, APN 428-030-021-000, Generally Near San Luis Street to the South, Racquet Club Drive to the East, and Mercey Springs Road to the West (Hassan Ahmadi). The motion carried by the following roll call vote: AYES: Jones, Lambert, Lewis, LLamas, Mayor Faria; NOES: None; ABSENT: None.

PRESENTATION – PROCLAMATION RECOGNIZING CESAR CHAVEZ DAY. *This item was removed at the beginning of the meeting with approval of the agenda.*

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 Faria opened the public forum and asked the City Clerk if she had received any comments by email, for which City Clerk Mallonee stated that she received one (1) comment from DUANE BREHM, Los Banos, wrote inquiring as to who is responsible for deciding the height of the shrubs that are supposed to be along Badger Flat Road and Cardoza Road and spoke to how the landscaper is not keeping the top of the shrubs trimmed. No other comments were received and the public forum was therefore closed.

CONSIDERATION OF APPROVAL OF CONSENT AGENDA. Council Member LLamas requested an oral presentation of item 7J – City Council Resolution No. 6344 – Adopting a Revised Budget for the Fiscal Year 2020-2021 as it pertains to the Community Center Fee Account for Replacement of the Boiler at the Los Banos Community Center in the Amount of \$20,870, for which Parks & Recreation Operations Manager Heim presented. Mr. LLamas inquired as to the need for the new boiler and the warranty on the new boiler.

Motion by Lambert, seconded by LLamas to approve the consent agenda as follows: Check Register for #226090 – #226408 in the Amount of \$1,897,614.63; Minutes for the March 17, 2021 City Council Meeting; Minutes for the March 22, 2021 Special City Council Meeting; Minutes for the March 30, 2021 Adjourned City Council Meeting; City Council Resolution No. 6339 – Authorizing the Acting City Manager to Develop and Submit an Application for Statewide Park Development and Community Revitalization Program Grant Funds; City Council Resolution No. 6340 – Authorizing the Submission of an Application to the California Infrastructure and Economic Development Bank (“IBANK”) for Financing a Capital Improvement Project, Authorizing the Incurring of an Obligation Payable to IBank for the Financing of a Capital Improvement Project if IBank Approves Said Application, Declaration of Official Intent to Reimburse Certain Expenditures From the Proceeds of an Obligation, and Approving Certain Other Matters in Connection Therewith; City Council Resolution No. 6341 – Approving the Road Maintenance and Rehabilitation Account Proposed Project List for Fiscal Year 2021-2022; City Council Resolution No. 6342 – Accepting Public Improvements for Racquet Club Estates, APN 428-030-021-000, Generally Near San Luis Street to the South, Racquet Club Drive to the East, and Mercey Springs Road to the West (Hassan Ahmadi); City Council Resolution No. 6343 – Amending the Fiscal Year 2020-2021 Budget by Increasing Revenue in the Amount of \$981,000 and Expenditures in the Amount of \$617,000 in the Building Department Budget Associated with a Growth in Building Permit Activity; City Council Resolution No. 6344 – Adopting a Revised Budget for the Fiscal Year 2020-2021 as it Pertains to the Community Center Fee Account for Replacement of the Boiler at the Los Banos Community Center in the Amount of \$20,870. The motion carried by the following roll call vote: AYES: Jones, Lambert, Lewis, LLamas, Mayor Faria; NOES: None; ABSENT: None.

PUBLIC HEARING – TO RECEIVE PUBLIC COMMENT AND CONSIDERATION OF A RECOMMENDATION TO AMEND TITLE 9, CHAPTER 3, ARTICLE 30 OF THE LOS BANOS MUNICIPAL CODE AS IT RELATES TO ACCESSORY DWELLING UNITS AND TO CONSIDER AN EXEMPTION FROM THE REQUIREMENTS OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) PURSUANT TO SECTION 15061(B)(3) OF THE CEQA GUIDELINES; ORDINANCE NO. 1190 – AMENDING AND RESTATING ARTICLE 30 CHAPTER 3 OF TITLE 9 OF THE LOS BANOS MUNICIPAL CODE RELATING TO ACCESSORY DWELLING UNITS TO IMPLEMENT NEW STATE LAW REQUIREMENTS RELATING TO ACCESSORY DWELLING UNITS. (FIRST READING & INTRODUCTION). Community & Economic Development Director Elms presented the staff report, which included a PowerPoint presentation.

Mayor Faria opened the public hearing and asked the City Clerk if she had received any comments by email, for which City Clerk Mallonee stated that she received no comments.

There was Council Member and staff discussion regarding the guidelines and requirements of these accessory dwelling units as they relate to the new state requirements. Consequences of non-compliance with these requirements would be grants potentially being held back and the possibility of imposed fines.

Motion by Lewis, seconded by Lambert to waive the first reading of Ordinance No. 1190 – Amending and Restating Article 30 Chapter 3 of Title 9 of the Los Banos Municipal Code Relating to Accessory Dwelling Units to Implement New State Law Requirements Relating to Accessory Dwelling Units. The motion carried by the following roll call vote: AYES: Jones, Lambert, Lewis, LLamas, Mayor Faria; NOES: None; ABSENT: None.

Motion by Lewis, seconded by Lambert to introduce Ordinance No. 1190 – Amending and Restating Article 30 Chapter 3 of Title 9 of the Los Banos Municipal Code Relating to Accessory Dwelling Units to Implement New State Law Requirements Relating to Accessory Dwelling Units. The motion carried by the following roll call vote: AYES: Jones, Lambert, Lewis, LLamas, Mayor Faria; NOES: None; ABSENT: None.

CONSIDERATION OF A SOLID WASTE RATE REVIEW STUDY AND PROPOSITION 218 NOTICE TO COMMERCIAL CUSTOMERS. Acting Public Works Director/City Engineer Pezeshk presented the staff report and introduced Garth Schultz with R3 Consulting Group, Inc. who spoke in great detail to the Solid Waste Rate Review Study, which included a PowerPoint presentation.

There was Council Member and staff discussion regarding the sizes of the garbage carts that will be used for both residential and commercial customers, the minimum charges for the services, and how commercial locations will have pickup frequency options. It was also discussed that charges related to the exchanging of carts will only be imposed if a customer requests an exchange, not if Mid-Valley is exchanging the cart because of damages.

Motion by Lambert, seconded by Lewis to direct staff to initiate the Proposition 218 process as it relates to commercial solid waste rates based on the findings of a rate review. The motion carried by the following roll call vote: AYES: Lambert, Lewis, Mayor Faria; NOES: LLamas; ABSENT: None.

PRESENTATION BY MID-VALLEY DISPOSAL, LLC. Acting Public Works Director/City Engineer Pezeshk presented the staff report and introduced Joseph Kalpakoff, President of Mid-Valley Disposal, LLC. who spoke in more detail to the services they will be providing starting July 1, 2021 and what they have been doing to prepare for the transition, which included a PowerPoint presentation.

There was Council Member and staff discussion regarding what waste items will be placed in what carts and how there will be educational fliers sent out to the public regarding more information on this as well as other information such as when residents should be putting their carts out to the street and when they should be removed from the street. It was further discussed that there will be one cart exchange per year at no cost when a customer requests it and that any carts that are damaged will be replaced at no cost. The new carts to be used have chips embedded in them with address information and a computer in the garbage trucks will be able to read the chip information.

Informational item only, no action taken.

NEW POLICE DEPARTMENT FACILITY UPDATE. Acting City Manager Brizzee presented the staff report and introduced Scott Murphy, Project Manager with Vanir, Russ Taylor, Architect with The Taylor Group and Acting Police Chief Hedden who spoke in more detail to the progress on the new Police Department Facility, which included a PowerPoint presentation.

There was Council Member and staff discussion regarding funds being used and/or sought for this project as well as discussion relating to the design of the facility.

Informational item only, no action taken.

CONSIDERATION OF APPROVAL OF CITY COUNCIL RESOLUTION NO. 6345 – AUTHORIZING THE MAYOR OF LOS BANOS TO ENTER INTO A MEMORANDUM OF UNDERSTANDING FOR THE MERCED COUNTY OPERATIONAL AREA HAZARDOUS MATERIALS RESPONSE TEAM. Fire Chief Hurley presented the staff report, which included a PowerPoint presentation.

There was Council Member and staff discussion regarding the memorandum of understanding and how it would allow for more personnel to be involved in situations that deal with hazardous materials. Firefighters that respond to these types of situations will not be presently compensated for these special assignments, however it is something that could be considered in the future.

Motion by Lewis, seconded by Jones to adopt City Council Resolution No. 6345 – Authorizing the Mayor of Los Banos to Enter into a Memorandum of Understanding for the Merced County Operational Area Hazardous materials Response Team. The motion carried by the following roll call vote: AYES: Jones, Lambert, Lewis, LLamas, Mayor Faria; NOES: None; ABSENT: None.

CONSIDERATION OF APPROVAL OF CITY COUNCIL RESOLUTION NO. 6346 – EXPRESSING SUPPORT FOR ACTIONS TO FURTHER STRENGTHEN LOCAL DEMOCRACY, AUTHORITY, AND CONTROL AS RELATED TO LOCAL ZONING AND HOUSING ISSUES. Acting City Manager Brizzee presented the staff report, noting that Council Member Lewis requested this action and offered her the opportunity to speak to this item further for which she did and thanked the City Council for their support.

Motion by Lambert, seconded by Lewis to adopt City Council Resolution No. 6346 – Expressing Support for Actions to Further Strengthen Local Democracy, Authority, and Control as Related to Local Zoning and Housing Issues. The motion carried by the following roll call vote: AYES: Jones, Lambert, Lewis, LLamas, Mayor Faria; NOES: None; ABSENT: None.

CONSIDERATION OF SELECTION OF AN EXECUTIVE SEARCH FIRM TO ASSIST THE CITY COUNCIL IN THE RECRUITMENT OF A NEW CITY MANAGER. City Attorney Vaughn presented the staff report, which included a PowerPoint presentation.

By consensus, the City Council agreed to interview WCP, Alliance Resource Consulting, Inc., Bob Murray & Associates, and CPS HR Consulting at a future special or adjourned city council meeting.

COVID-19 STATUS UPDATE. Acting City Manager Brizzee provided an update on COVID-19 referencing the Merced County COVID-19 website and all the information that it provides regarding COVID-19, tier information, and vaccine availability.

ADVISEMENT OF PUBLIC NOTICES (One Report). Community & Economic Development Director Elms stated that a Public Hearing will be held at the Los Banos Planning Commission Meeting on April 14, 2021 to consider a Categorical Exemption from the California Environmental Quality Act and Site Plan Review #2021-01 for a proposed twelve foot (12') tall 1,362 square foot shade sail canopy requested by the City of Los Banos Parks & Recreation Division to be located at 620 Vineyard Drive aka Vineyard Basin B park, APN 082-030-040.

CITY MANAGER REPORT. Acting City Manager Brizzee spoke regarding the April 19, 2021 soft opening of the dog park and thanked the Council for their support of the IBank funding application for the new police facility. He made a report pursuant to Government Code Section 54953(c)(3) regarding executive compensation as follows: On March 18, 2021, based upon an annual performance review, the Fire Chief's salary was increased to \$12,520 monthly (\$150,242 annually) retroactive to October 16, 2020 and on March 19, 2021, based upon an annual performance review, the Community and Economic

Development Director's salary was increased to \$9,813 monthly (\$117,756 annually) retroactive to February 1, 2021.

REPORT/UPDATE ON MERCED COUNTY ASSOCIATION OF GOVERNMENTS (MCAG), PENINSULA CLEAN ENERGY (PCE), AND MEASURE V COMMITTEE.

Mayor Faria stated that MCAG has received a variance waiver of treated wood waste for at the Billy Wright Landfill which means treated wood material can continue to be received at that location. The Bus is offering free bus rides to and from COVID-19 vaccine appointments. Riders must show proof of a vaccine appointment in order to get a free ride. Other transit services, such as Dial-a-Ride and Paratransit are offering the same free service and customers must note that they are going to a vaccination appointment at the time of booking. Peninsula Clean Energy continues their search for someone to represent Los Banos on their Citizens' Advisory Committee. More information on this can be found on Peninsula Clean Energy's website or by calling City Hall.

CITY COUNCIL MEMBER REPORTS.

REFUGIO LLAMAS: Council Member LLamas thanked Acting City Manager Brizsee for his reports he provides to the public and for being proactive with things.

BRETT JONES: No report.

KEN LAMBERT: Council Member Lambert thanked all of the presenters for all the information they provided to Council.

DEBORAH LEWIS: Council Member Lewis thanked Council for their support on item 13 on tonight's agenda. She asked the Acting City Manager to let Council know when the next update from Buxton would be provided and also requested the City's lobbyist to come before the Council and provide information on what it is they do so Council can further decide if the money being utilized for these services are benefitting the City. She spoke to the public forum comment received at the beginning of the meeting relating to the hedges located around the Anderson Homes area and she would like staff to get in touch with the landscaper responsible for the those areas to trim the hedges as they were intended to be instead of letting them grow into the trees.

MAYOR TOM FARIA: Mayor Faria spoke to how he is excited about the dog park opening and how it is another step toward making out City a better place to live for our residents.

CLOSED SESSION – CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION; INITIATION OF LITIGATION PURSUANT TO PARAGRAPH (4) OF SUBDIVISION (D) OF GOVERNMENT CODE SECTION 54956.9: ONE POTENTIAL CASE. No reportable action, direction given to staff only.

CLOSED SESSION – CONFERENCE WITH LEGAL COUNSEL – PENDING LITIGATION; PURSUANT TO PARAGRAPH (1) OF SUBDIVISION (D) OF

GOVERNMENT CODE SECTION 54956.9: ONE CASE; CITY OF MERCED ET. AL. V MERCED COUNTY ASSOCIATION OF GOVERNMENTS. No reportable action, direction given to staff only.

ADJOURNMENT. Motion by Lewis, seconded by Lambert to adjourn the meeting at 8:45 p.m. to Monday, April 12, 2021 to hold a City Council Priority Workshop, which will be held virtually.

APPROVED:

/s/ Manuel Thomas Faria III
Manuel Thomas Faria III, Mayor

ATTEST:

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