

**CITY OF LOS BANOS
CITY COUNCIL MEETING MINUTES
APRIL 5, 2023**

***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.*

CALL TO ORDER: Mayor Pro Tem Lambert called the City Council Meeting to order at the hour of 6:01 p.m.

PLEDGE OF ALLEGIANCE: Police Commander Reyna led the pledge of allegiance.

ROLL CALL – MEMBERS OF THE CITY COUNCIL PRESENT: Council Members Doug Begonia, Brett Jones, Kenneth Lambert, Deborah Lewis; **ABSENT:** Mayor Paul Llanez.

STAFF MEMBERS PRESENT: City Manager Pinheiro, City Attorney Vaughn, Police Commander Reyna, City Clerk/Human Resources Director Mallonee, City Treasurer Lawrence, Fire Chief Tualla, Community & Economic Development Director Souza Elms, Public Works Director/City Engineer Than, Interim Finance Director Kuhn

CONSIDERATION OF APPROVAL OF AGENDA: Motion by Jones, seconded by Begonia to approve the agenda as submitted. The motion carried by the affirmative action of all Council Members present, Llanez absent.

PRESENTATIONS: CERTIFICATE OF RECOGNITION – EMPLOYEE OF THE MONTH FOR MARCH 2023 – JENNIFER CANCHOLA, ACCOUNTANT I; CERTIFICATE OF RECOGNITION – POLICE OFFICER NOAH JONES BECOMING A MEMBER OF THE POLICE ACTIVITIES LEAGUE “PAL” GIANTS HALL OF FAME. Mayor Pro Tem Lambert presented and read the Certificates of Recognition, for which Jennifer Canchola and Noah Jones were in attendance to accept.

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 Pro Tem Lambert opened the public forum and asked those at the meeting if they would like to speak: REFUGIO LLAMAS, Merced County Veterans Services Officer and invited Council to the Veterans Stand Down event being held on May 5, 2023 and explained the services they will be offering; KATHY BALLARD, inquired as to if there will be a public forum on item 9 for which Mayor Pro Tem Lambert said there would be an opportunity for the public to speak; CELI, with the Boys & Girls Club of Merced County, spoke regarding how they are housed at the College Greens Facility in coordination with Parks & Recreation and the

upcoming fundraiser being held on April 28, 2023 in Merced; ROY TODD, Los Banos Chamber of Commerce, spoke regarding the April 15, 2023 Downtown Spring Street Faire sponsored by Sutter Health, April 7, 2023 they will be celebrating the 15th anniversary and would like to see Council there, the next mixer is at Los Banos Memorial Sutter Health on April 27, 2023, the Chamber received an email confirmation that we were awarded ARPA funds and how they appreciated that and how it will be a big help, the Chamber has taken on the Mother's Day in the Park event being held on May 13, 2023 at Pacheco Park, how they have been working on their website and getting it tuned up to look like San Benito Chamber of Commerce's website to be the hub for all information for the business community; STEPHEN HAMMOND reminded everyone about Easter weekend and all the activities going on, special services going on and invited all to attend the Easter services at Bethel Community; BLANCHE JORGE, resident of downtown Los Banos, spoke regarding how the Los Banos Elks Lodge will have a beer booth at the fair and encouraged all to visit, they will be attending the Veterans Stan Down and how they have gotten several grants for veterans, i.e. veterans getting a new home or project roomkey and how they will always provide for them, the April 17, 2023 fundraiser event called the Young Bucks with proceeds to go to good works here in the Community, the commercial buildings in downtown Los Banos and how fast these homes are sold, and how the Downtown area is a place to work, play, and shop. Mayor Pro Tem Lambert asked the City Clerk if she had received any, for which there was one: City Clerk Mallonee stated she received the following comments that are on file with the City Clerk: MISSY McKEE wrote regarding the need for a bigger animal shelter, with all the school shooting happening is there any ways we can get bulletproof doors and windows in case of a shooter. No one else came forward to speak and the public forum was closed.

CONSIDERATION OF APPROVAL OF CONSENT AGENDA. Motion by Begonia, seconded by Jones to approve the consent agenda as follows: Check Register for #237894 - #238186 in the Amount of \$1,666,830.17; City Council Resolution No. 6621 – Authorizing the City Manager to Approve a Purchase Order with Lehr Auto for Automated License Plate Reader (ALPR) Camera and Software. The motion carried by the affirmative action of all Council Members present, Llanez absent.

PUBLIC HEARING – TO RECEIVE PUBLIC COMMENT AND CONSIDERATION OF A CONDITIONAL USE PERMIT #2023-01 AND A CATEGORICALLY EXEMPTION FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) PURSUANT TO SECTION 15301, EXISTING FACILITIES TO ALLOW THE USE OF A TYPE 47 ALCOHOL LICENSE FOR THE ON-SALE OF GENERAL ALCOHOL FOR A BONA-FIDE EATING PLACE, THE ROUNDUP SPORTS BAR LOCATED AT 830 I STREET, MORE SPECIFICALLY IDENTIFIED AS ASSESSOR'S PARCEL NUMBER: 026-143-003; CITY COUNCIL RESOLUTION NO. 6622 – FINDING THE PROPOSED PROJECT TO BE CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT PURSUANT TO SECTION 15301, EXISTING FACILITIES AND APPROVING CONDITIONAL USE PERMIT #2023-01 TO ALLOW FOR THE ON-SALE OF GENERAL ALCOHOL UNDER A TYPE 47 ALCOHOL LICENSE AT 830 I STREET; MORE SPECIFICALLY IDENTIFIED AS ASSESSOR'S PARCEL NUMBER: 026-143-

003. Community & Economic Development Director Souza Elms presented the staff report, which included a PowerPoint presentation.

Mayor Pro Tem Lambert opened the public hearing. No one came forward to speak and the public hearing was closed.

Motion by Begonia, seconded by Jones to adopt City Council Resolution No. 6622 – Finding the Proposed Project to be Categorically Exempt from the California Environmental quality Act Pursuant to Section 15301, Existing Facilities and Approving conditional Use Permit #2023-01 to Allow for the On-Sale of General Alcohol Under a Type 47 Alcohol License at 830 I Street; More Specifically Identified as Assessor's Parcel Number: 026-143-003. The motion carried by the affirmative action of all Council Members present.

ORDINANCE NO. 1202 – REPEALING IN PART AND AMENDING SECTION 2-3.126 OF ARTICLE 1 CHAPTER 3 TO TITLE 2 OF THE LOS BANOS MUNICIPAL CODE RELATING TO CITY MANAGER (FIRST READING & INTRODUCTION). City Attorney Vaughn presented the staff report.

Mayor Pro Tem Lambert invited the public to come forward to speak. KATHY BALLARD stated that a 5-0 vote is out of line for the norm to terminate a City Manager, how she has called numerous cities, and different counties in the State of California and it is 2/3 or a simple majority, feels that this is for job security, to give that to an employee is something you are penalizing future council and future mayor, you should not mess with the ordinances that you have, you should alter the contract to match the ordinance, and to think hard on it and not give it a rubber stamp of approval.

Council Member Lewis stated that based on the last vote of the contract that it's pretty well understood that she's not going to vote for this one, there's no constitutional thing that says that you have to have a 2/3 vote here at the City although it's the general practice of general law cities and most cities who are not general law, she has never heard of a city doing this, how this is being done backwards and we broke our own city law to do this and we are trying to clean it up and do away with this portion of the ordinance, she does not know any City Council that would strap their hands with a 5-0 vote and give the City Manager a Cesar-type security, does not understand it at all, in this way with a 5-0 vote if you have 4 people that disapprove, that one person can keep the City Manager in their position, this is kind of what is going on in our country right now, she feels this is shameful, how our current city manager is an at will employee, how we have some Department Heads who are at will also and if for some reason our city manager is not pleased with the services they are offering that can be terminated at will, we have taken away the at-will privilege for the city manager but keep it for the few Department Heads and feels that we should give the same contract to all the at will employees, she's never seen anything like this before, thoroughly disgusted and this is a nefarious act as far as she is concerned and hopes that Council doesn't vote for this but she doubts that this is what will happen tonight. Council Member Jones stated that it seems like we have a habit of breaking our own laws, when just last year by a simple majority fired the city manager and went 21

days without a city manager which goes against our bylaws, to come up here and preach about what it right and to say this goes against principles, the only reason we are here is to correct what three lousy officials did and to prevent that from happening again, there is no guarantee that they will be here tomorrow, whoever sits up here next we have to trust that they next group that sits up here will do best by the city, we know that by going forward with this vote we have at least four years of going on the right path, and that is why we are right here right now it to fix your guy's unnecessary problems that you created for the city.

Motion by Jones, seconded by Begonia to waive the first reading of Ordinance No. 1202 – Repealing in Part and Amending Section 2-3.126 of Article 1 Chapter 3 to Title 2 of the Los Banos Municipal Code Relating to City Manager. The motion carried by the affirmative action of all Council Members present, Lewis voting No and Llanez absent.

Motion by Jones, seconded by Begonia to introduce Ordinance No. 1202 – Repealing in Part and Amending Section 2-3.126 of Article 1 Chapter 3 to Title 2 of the Los Banos Municipal Code Relating to City Manager. The motion carried by the following roll call vote: AYES: Begonia, Jones, Lambert; NOES: Lewis; ABSENT: Llanez.

CANCELLATION OF THE REGULAR CITY COUNCIL MEETING SCHEDULED FOR WEDNESDAY, MAY 3, 2023 DUE TO THE MAY DAY FAIR. Motion by Jones, seconded by Begonia to cancel the May 3, 2023 City Council Meeting due to the May Day Fair. The motion carried by the affirmative action of all Council Members present, Llanez absent.

ADVISEMENT OF PUBLIC NOTICES. (Three Reports). Community & Economic Development Director Souza Elms stated that there will be a public hearing at the April 12, 2023 Planning Commission Meeting to consider a Categorical Exemption from the California Environmental Quality Act (CEQA) pursuant to Seton 15301 , Existing Facilities and Cottage Food Operation #2023-01 for Alessandra Coninck at 2280 Emory Cut, APN 424-200-035; and a Categorical Exemption from the California Environmental Quality Act (CEQA) and a Motile Food Vendor Permit #2023-03 to allow the operation of a mobile food vending vehicle on private property for Pedro Roman dba Taqueria Don Peter at 1560 E. Pacheco Boulevard, APN 428-150-013; and a Categorical Exemption from the California Environmental Quality Act (CEQA) and Conditional Use Permit #2023-02 to allow a place of worship for Everlasting Church within the General Industrial Zoning District at 115 W. G Street, Suite A, APN 081-110-037.

CITY MANAGER REPORT. City Manager Pinheiro gave a big thanks to the Parks & Recreation team for the Easter Egg Hunt event, he spoke regarding the recent Career Fair at Pacheco High School, and gave a big congratulations to City employees Jennifer Canchola and Noah Jones for their recognition earlier at tonight's meeting.

REPORT/UPDATE ON MERCED COUNTY ASSOCIATION OF GOVERNMENTS (MCAG), PENINSULA CLEAN ENERGY (PCE), MEASURE V COMMITTEE, AND SAN JOAQUIN VALLEY AIR POLLUTION CONTROL DISTRICT (SJVAPCD), AND LOS BANOS DOWNTOWN PROPERTY & BUSINESS IMPROVEMENT DISTRICT

(LBDBID). Council Member Lewis stated that a bulletin was sent out by our staff regarding the Annual Air Toxics Report and she is happy to share it with anyone who is interested.

CITY COUNCIL MEMBER REPORTS

DEBORAH LEWIS: Would like to give a shout out to our Parks & Recreation staff on the 2nd Annual Easter Egg Hunt event and how great everything was and hopes that the Fire Chief's event for installing the smoke alarms went along well too.

DOUGLAS BEGONIA, JR.: Stated that the Boys and Girls Club is in his district and see's them in the building and he will be stopping by to check it out over the next few days.

BRETT JONES: Stated that for those that don't know, there is a little addition to our website, and gave credit to Mayor Llanez, a list of city projects and encouraged all to go check it out, and spoke regarding how there is still time to purchase tickets for the Downtown Association Casino Night event being held on April 29, 2023.

KENNETH LAMBERT: Congratulated Ms. Canchola and Noah Jones for the recognition tonight.

PAUL LLANEZ: Absent

CLOSED SESSION: CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION, SIGNIFICANT EXPOSURE TO LITIGATION PURSUANT TO GOVERNMENT CODE SECTION 54956.9(B): ONE POTENTIAL CASE. Mayor Pro Tem Lambert stated that staff has their direction.

ADJOURNMENT. Motion by Jones, seconded by Begonia, the meeting was adjourned at 6:47 p.m. The motion carried by the affirmative action of all Council Members present, Llanez absent.

APPROVED:

/s/ Paul Llanez
Paul Llanez, Mayor

ATTEST:

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