

RESOLUTION NO. 2009-03

**RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF SAN JUAN BAUTISTA
ORDERING THE CITY MANAGER TO
ABATE A NUISANCE EXISTING AT
101 THE ALAMEDA**

-o0o-

WHEREAS, by Resolution No. 2008-52 this Council declared that a public nuisance presently exists on property commonly known as 101 The Alameda (APN 002-047-009) (sometimes hereafter “the property”) as a result of the operation of illegal aspects of the business in operation on the property; and

WHEREAS, by said resolution this Council also directed posting, publishing, and mailing of a “Notice to Abate Nuisance,” to include a public hearing set to be heard on Tuesday, January 20, 2009, at City Hall before this Council; and

WHEREAS, said hearing was called and duly continued to Tuesday, February 17, 2009, 6:00 p.m., at City Hall, to be held in accordance with Article 4 of Chapter 13-1 of the San Juan Bautista Municipal Code; and

WHEREAS, the continued hearing was called and held on said continuance date, and all persons present were invited to state objections to the abatement proposed in the Notice;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAN JUAN BAUTISTA HEREBY RESOLVES AS FOLLOWS:

SECTION 1. At the continued hearing, the following person made the following described objection to the proposed abatement of nuisance: Edward L. Chun. Mr. Chun is an attorney for the property owners. Mr. Chun stated that the property owners have initiated an unlawful detainer action against the business operator at 101 The Alameda, and that the action should result in the operator, and thus the business creating the nuisance, being off the property within approximately 20 days. Mr. Chun therefore requested that the Council not take action to direct abatement, because his detainer action will effectively result in the nuisance being abated.

SECTION 2. This Council responds as follows to the objection set out in Section 1 hereof: On the basis that the nuisance has been in existence for a number of months, and that this Council desires a swift and early abatement by any means, including City’s taking all appropriate steps, the objection is overruled. **HOWEVER**, on the strength of Mr. Chun’s representations, this

Council directs that any and all action directed and ordered by Section 3 hereof be deferred until and if it becomes apparent to the City Manager that the unlawful detainer action has not been successful or is taking an inordinate period of time to resolve.

SECTION 3. Subject to the final sentence in Section 2, above, having overruled the objection as set out above, this Council hereby directs and orders the City Manager to abate the nuisance subject of this resolution. Without limitation, the City Manager shall (a) demand that the property owner, within 10 days of such demand, cause the business operator immediately to cease the illegal aspects of the business operation on the property, (b) in the event of failure of the property owner to cause the operator to so cease, direct the City Attorney to take appropriate abatement action against both the owner and business operator, (c) take steps, as set out in Article 4 of Chapter 13-1 of the Municipal Code, to recover all costs incurred by City associated with abatement proceedings.

THE FOREGOING RESOLUTION was adopted at a regular meeting of the San Juan Bautista City Council on the 17th day of February, 2009, by the following vote:

AYES: Edge, Hill, Moore, Bilich

NOES: None

ABSENT: None

ABSTAIN: Laverone

Rick Edge, Mayor

ATTEST:

Trish Paetz, Deputy City Clerk