

**Regular Session Meeting Minutes**  
**SAN JUAN BAUTISTA CITY COUNCIL**  
**Tuesday, May 20, 2008**  
**City Hall**

1. **Call to Order:** The meeting was called to order at 6:00 p.m. by Mayor George Dias.

**Pledge of Allegiance:** Mayor Dias led the Pledge of Allegiance.

**Roll Call:** Council Members Present: Mayor George Dias, Council Members Ed Laverone, Rick Edge, Priscilla Hill. Absent: Council member Robert Paradise. Upon motion made by Councilmember Hill, seconded by Councilmember Edge, and unanimously carried 4-1, Councilmember Paradise's absence was excused.

City Staff and Professional Services Persons Present: City Manager Jan McClintock; City Planner Matthew Sundt; City Treasurer, Linda McIntyre; Fire Chief Scott Freels; Project Manager Mark Davis; City Attorney Thacher, City Clerk Trish Paetz; and Laura Wiener-Smolka, Minutes Clerk.

Members of the Public Signing in as Present: Cara Vonk, Jolene Cosio, Rachel Ponce, Tony Madera.

2. **Approval of the Agenda:** Upon motion made by Councilmember Laverone, seconded by Councilmember Hill, and unanimously carried 4-0 (Councilmember Paradise absent), the agenda was approved.
3. **Adjourn to Closed Session:** The Council adjourned to closed session, after which the regular open meeting was reconvened at 7:05 p.m.

4. **Ceremonial Items:**

**A. American Red Cross Proclamation:** Mayor Dias read the City's Proclamation honoring the work of the San Benito and Monterey County American Red Cross in San Juan Bautista, and presented a certificate for a "Hero's Breakfast" in San Juan Bautista to Mr. Franco.

5. **Public Comment- Items Not on the Agenda**

Resident Jolene Cosio asked the Council to direct their attention to concerns she expressed at last month's meeting, i.e., faded stop signs and weeds growing behind Lang Street which are becoming a fire hazard.

She asked various questions, such as the City's schedule for fire hydrant flushing, and expressed concern based on the City's monthly financial reports which show very large fluctuations in total monthly expenditures. She referenced monthly financial statements on the City's website which show total expenditures for the month at \$76,000, and the total for the previous month at \$348,000. Ms. Cosio noted that even after several large expense items, such as \$83,000 to EDA and \$30,000 for well drilling, there still exists very large differences in month to month City expenditures. She went on to comment that monthly financial statements indicate that the City does not make timely payments for County Sheriff's Department services.

Mayor Dias commented that invoices for ongoing consultant/contract services, including Sheriff's Department services, are not received on a regular monthly basis by the City; that when invoiced, the City pays its obligations in a timely manner.

He expressed frustration that at each City Council meeting Ms. Cosio is invited and encouraged to come into City Hall and receive detailed answers and clarifying support documents for each of her questions or concerns about line items in the City's monthly financial reports, yet she has not availed herself of that opportunity.

Resident Rachael Ponzi stated that at the last Council meeting, she spoke about diminished law enforcement services in the community and the number of recent burglaries. At that meeting the City Council agreed that such a committee is needed here time she asked for notification when a date is set to discuss safety issues and formation of a local Neighborhood Watch program. She reported that she has received no information or notices since that time.

Ms. Ponzi asked the City Council to actively participate in a community neighborhood safety program; that the majority of City Council members did not attend the April 30<sup>th</sup> town hall meeting to help provide critical information to voters about ballot for a City sales tax increase. Councilmember Hill advised Ms. Ponzi that the first meeting was to organize and launch the formation of a neighborhood watch program and assured her that she will personally advise Ms. Ponzi of the next meeting.

Mr. Franco reported that the Mission Parish is sponsoring a blood drive on Sunday, May 25<sup>th</sup> at Casa Maria.

## **6. Presentations, Informational Items, and Reports**

### **A. Closed Session Report**

- a. Confer with Legal Counsel Regarding Litigation Matters with reference to *Lance McAlpine v. City of San Juan Bautista and Matthew Sundt (San Benito County Superior Court Case Number CU-08-00040)*:** Attorney Thatcher reported that no actions were taken by the Council on this matter in closed session.
  - b. Confer with Legal Counsel Regarding One Case of Potential Litigation:** Attorney Thacher reported that the Council directed him to initiate legal proceedings for mitigation of injury to City property.
  - c. Performance Evaluation of City Manager:** Attorney Thacher reported that after performance evaluation of the City Manager, by unanimous vote 4-0 (Councilmember Paradice absent), the Council terminated the services of the City Manager, effective immediately.
- B. Water Infrastructure Project Report:** This agenda item was tabled to a future meeting.
- C. South San Juan Specific Plan Report:** This agenda item was tabled to a future meeting when backup documents are available.
- D. Monthly Financial Statements:** No questions or discussion.
- E. Code Enforcement Report:** There were no questions regarding the City's Code Enforcement Report.
- F. Library Report:** No comments or questions.
- G. Fire Chief's Report:** No comments or questions.
- H. Sheriff's Monthly Activity Report:** No comments or questions.
- I. Report of CLG (Certified Local Government) Grant:** No report.
- J. Status Report on Municipal Services Review and Revenue Sharing Agreement:** No report.
- K. Status Report on Upgrades to the Sewer Plant Capital Improvement Project:** No comments.
- L. Status Report on Tertiary Water Treatment Plant Construction Project:** No report.
- M. Public Works Report:** Mike Briones, Foreman at MCE Corporation,

which was recently contracted for City Public Works services, gave a summary report of recent activities and accomplishments related to City Public Works. He reported that repairs at Abbey Park are underway, as well as weekly mowing of City properties and repair of potholes in the streets; installation of automatic meter reading devices is underway and, when completed, will reduce the City's monthly expenditures for compensation by 200 "man hours."

During his presentation, Mr. Briones reported that security fencing was installed at the City's maintenance yard, replacing the aged, four-foot high perimeter fence. In addition, old non-operational vehicles in the maintenance yard were removed by salvage process at no cost to the City. Mr. Briones spoke about plans to implement regular tree trimming of limbs that encroach on power lines and obstruct street signs. He reported that MCE is preparing application for Proposition 1B grant funds to improve City street signage.

**N. Update on New City Bathrooms at Polk Street:** No report

**O. Report on Cable Franchise Renewal Activities:** No report.

**P. Reports by Public Officials: COG, LAFCO, Water Resources Association, Revolving Loan, AMBAG, Integrated Waste Management:** Councilmember Edge reported that he was unable to attend the last COG meeting. There have been no recent LAFCO meetings.

**Q. Review and Comment on Special Events:** Councilmember Hill reported receiving comments that local Chamber of Commerce event are becoming "known" for a downward trend in quality. She further reported that there were complaints of motorcyclists driving through streets designated for the Chicken Festival Parade route, causing disruptions and safety issues; this was due to a lack of security supervision at the street barricade locations.

Councilmember Hill stated that she would like to explore ways in which the Council and community members could assist the Chamber in revitalizing the quality and popularity of local events.

**R. Committee Reports and Future Direction by the Full City Council:** No reports.

7. **Consent Items:** Items C and D (*approval of minutes*) were tabled to the next meeting. In addition, Item J. (*subdivision of lot on Third Street to create two parcels*) was pulled from the consent agenda for discussion and separate consideration.

Upon motion made by Councilmember Edge, seconded by Councilmember Hill, and unanimously carried 4-0 (Councilmember Paradise absent), the Council approved the remaining consent action items as follows:

**A. Approve Affidavit of Posting Agenda**

**B. Approve Affidavit of Posting Public Hearing**

~~C. Approval of Minutes for March 18, 2008 Regular City Council Meeting~~

~~D. Approval of Minutes for April 15, 2008 Regular City Council Meeting~~

**E. Approval of Minutes for May 9, 2008 Special City Council Meeting**

**F. Waive Reading of Ordinances and Resolutions, on this Meeting Agenda, Beyond Title**

**G. Approve Resolution 2008-15 Authorizing Requested Street Closures for Various Events**

**H. Accept Fiscal Year 2006-07 Independent Audit Report**

**I. Approve Resolution 2008-16 Authorizing Permit for San Juan Preschool Booster Organization to Sell Fireworks as a 4<sup>th</sup> of July Fundraiser to benefit the Preschool**

**J. *Moved from consent items for separate consideration: Adopt Resolution 2008-17 Approving a Parcel Map for Subdivision of One 21,265 sq. ft. Lot Located at 1112-A Third Street (APN 002-25-0-002) to Create Two Parcels:*** Councilmember Laverone excused himself from the meeting to preclude possible public perception of conflict of interest, due to the proximity of his home to the parcel considered in this agenda item.

Mayor Dias asked if the size of the parcel was large enough to ensure that a split into two parcels would result in sizes conforming to City Code. The City Planner estimated that the split would result in the second parcel being larger than the 6,000 sq. ft. minimum size requirement.

Upon motion made by Mayor Dias, seconded by Councilmember Edge, and unanimously carried 3-0 (Councilmember Paradise and Laverone absent), the Board adopted Resolution 2008-17 for the requested subdivision, with the caveat that both of the two resulting parcels meet City Code for minimum parcel size.

Councilmember Laverone was summoned to return to the City Council meeting.

## 8. Action Items

### **A. Consider Selection of New Check Signer on City Bank Account at San Benito Bank and Approve Associated Resolution #2008-18:**

Council members suggested that Mayor Dias be designated as primary co-signer with existing primary co-signer, Councilmember Edge, for checks drawing upon the City's account at San Benito Bank. It was also suggested that, until a new City Manager is hired, there be an additional co-signer, without full access to the account, in the case of Mayor Dias' absence; that the appropriate person for such authorization is City Treasurer Linda McIntyre.

Upon motion made by Councilmember Hill, seconded by Councilmember Edge, and unanimously carried 4-0 (Councilmember Paradise absent), the Council adopted Resolution #2008-18 authorizing Mayor Dias account access and as one of the two primary co-signors for City warrants, and further authorizing Linda McIntyre to serve as co-signor (without full account access) when necessary.

### **B. Consider Resolution 2008-19 Authorizing Staff to Apply for Monterey Bay Unified Air Pollution Control District Grant Funds for Purpose of Providing Incentives to Recruit Gas Service Station Business to Locate within the City:**

Trish Paetz reported that she completed a draft application for the grant. Councilmember Laverone made a motion to authorize staff to make application for the grant funding. The motion was seconded by Councilmember Edge and unanimously carried 4-0 (Councilmember Paradise absent).

### **C. Consider Placing on Ballot Whether City Clerk and City Treasurer Positions Should Be Appointed or Elected:**

During discussion of this item, it was pointed that the City could save cost of election, as much as \$30,000, if City Clerk and City Treasurer positions were filled by appointment rather than ballot. In addition, there was discussion about encountering difficulties recruiting someone to run for election on the ballot.

Jolene Cosio commented that she believes the persons in those positions should live in the City. Attorney Thacher commented that if they are elected positions, city residency and voter registration are requirements.

Councilmember Edge stated that if City residency is a required qualification, it may be difficult to staff the positions because San Juan Bautista is a small community. He further commented that neither of the

two positions have policy or decision making responsibilities or authority to carry out the public's requests; the positions are salaried and require levels of experience and competency in various and necessary skills that are job specific (such as accounting). In addition, Councilmember Edge pointed out that both positions take direction for job-related duties and prioritization of projects, and both are supervised, evaluated, and can be terminated by majority of the elected City Councilpersons.

In summary, Councilmember Edge stated that he is not exactly sure what, if any, value or benefit is gained by use of the election process as the means to hiring persons for the two positions.

During discussion the consensus was that local residency and first hand knowledge of the community is very desirable asset; however, requiring residency in the City for employment in the two positions is extremely limiting because of the small population in San Juan Bautista City limits and previous difficulties in recruiting even one candidate. During discussion, it was pointed out in the past it has been difficult to recruit candidates for the ballot. Council Member Laverone pointed out that when this same issue was placed on the local ballot in the past, the citizens voted it down.

Councilmember Hill made a motion that the November ballot include the opportunity for citizens to vote whether the hiring process and appointment for the two City positions be a selection process of the City Council rather than by election. Councilmember Edge seconded the motion, and the motion was carried by majority vote 3-1 (Councilmember Laverone voting no; Councilmember Paradise absent).

Attorney Thacher noted that if the community votes for the appointment process and, at the same time, a candidate is elected, that elected person would serve a four year term, delaying implementation of the appointment process to be delayed until 2012. In addition, he pointed out that the Council's next agenda item entails election order and specifications to be given to the County Clerk. He suggested that the election order be amended to incorporate the action just made by the City Council to approve an additional ballot item.

**D. Consider Resolution #2008-20 Calling a General Municipal Election to be Held on November 4, 2008; Requesting Consolidation of said Election with the November 4, 2008 Statewide General Election; and Requesting that the County Render Services in Connection with Said Consolidated Election:** Resolution #2008-20 was read aloud with modified language to reflect Council's action in the previous agenda item was incorporated into

Resolution #2008-20 to provide County Clerk with request for election service and specifications for preparation of the local November ballot.

Resolution #2008-20, as amended, was adopted by the City Council, upon motion made by Councilmember Hill, seconded by Councilmember Edge, and carried by majority vote 3-1 (Councilmember Laverone voting no; Councilmember Paradise absent) unanimously 4-0 (Councilmember Paradise absent).

**E. Consider Adoption of Resolution 2008-21 Amending New San Benito County Integrated Waste Management Regional Agency Franchise Agreement:** Attorney Thacher explained that at the time Norcal Waste Management's bid for providing services within the City was accepted by City Council, a Waste Management Regional Agency Franchise Agreement was entered into by the City and Norcal. It came to light that inadvertently the Norcal fee structure for services was not incorporated in the agreement.

Upon motion made by Councilmember Laverone, seconded by Councilmember Edge, and unanimously carried 4-1 (Councilmember Paradise absent), the Council adopted Resolution 2008-21 amending the agreement with Norcal to include its fee structure as originally intended.

**F. Public Hearing and Vote Count regarding Valle Vista Landscape and Lighting Maintenance Assessment District No. 1 in Creek-bridge Subdivision:** Councilmember Laverone excused himself from the meeting to preclude possible public perception of conflict of interest, due to the proximity of his home to the affected subdivision.

Mayor Dias requested postponing this item until information providing answers to affected homeowner questions can be provided. Attorney Thacher stated that he was instructed to rewrite the resolution to reflect significantly lower assessments as determined by recent a recent study and analyses of pertinent data. He explained that if the Council approves adoption of the revised resolution, affected property owners will then have an opportunity to vote; that if City Council postpones adoption of the resolution beyond deadline, the matter will be on hold for a year, pending next opportunity for a ballot.

Resident Mark Moreno commented that affected homeowners are not informed regarding revised assessment rates, and requested postponing this item until the Council's next meeting. Mayor Dias explained the timeline for placing the assessment on the ballot and suggested that a special meeting be held within the week Tuesday of the following week to provide opportunity for Valle Vista homeowners to obtain answers to their

questions and the new rate information. By consensus of the Council (Dias, Hill, Edge), this agenda item was deferred.

**i. Consider Adoption of Resolution Ordering Preparation of Engineer's Revised Report for Proposed Fiscal Year 2008-09 Assessments:**

By consensus of City Council, this item was tabled to the next meeting.

**ii. Consider Adoption of Resolution Approving Engineer's Revised Report:**

By consensus of City Council, this item was tabled to the next meeting.

**iii. Consider Adoption of Resolution Declaring Intention to Levy and Collect Assessments re Valle Vista Landscape and Lighting Maintenance Assessment District No. 1 for Fiscal Year 2008-09:**

By consensus of City Council, this item was tabled to the next meeting.

**G. Nomination and Appointment of Three Members to Newly Created Parks and Recreation Advisory Board for the City of San Juan Bautista:**

This item was tabled to the next meeting to allow time to make the application form available to the public.

**H. Discuss and Provide Staff Direction on Community Center Rental and Policies:**

Councilmembers agreed that as the Parks and Recreation Advisory Board forms and develops recommendations, the Council will be discussing the recommendations and refining and amending the initial policy drafts for use of the Community Center. It was agreed by the Councilmembers that the intention is that the Community Center be available on a reasonable basis for community use, and direction was given to staff to include in the rental fee for community use the City's available chairs and tables.

**9. Future Agenda Items:** Valle Vista Landscape and Lighting Maintenance Assessment; Parks and Recreation Advisory Board

**10. Comments**

**A. City Council:** Councilmember Hill reported that she has received complaints of people smoking outside entrances to bars which creates smoke that rises and enters into apartments on the second floor. Attorney Thacher noted that State has expanded smoking laws to forbid smoking within twenty feet of buildings used by the public. He suggested that affected residents call the Sheriff's Department to report when the problem occurs.

**B. City Manager:** Council members discussed need to set a special

meeting to review options for covering duties and work of City Manager.

**C. City Attorney:** The City Attorney discussed reports of some business owners not complying with mandated trash pickup and dumping refuse in City containers. He suggested that staff ensure that Norcal Waste Management Services has a list of all businesses in the City.

- 11. Adjourn:** Upon motion made by Councilmember Edge, seconded by Councilmember Laverone, and unanimously carried, the meeting was adjourned at 7:58 p.m.

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Mayor George Dias III

ATTEST:

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Trish Paetz, Acting City Clerk