

# MINUTES

## City of San Juan Bautista

### REGULAR MEETING OF THE CITY COUNCIL

Tuesday, October 21, 2008

**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:** Mayor George Dias, Council Members Ed Laverone, Rick Edge, and Priscilla Hill. **Absent:** Councilmember Robert Paradise.

**2. Approval of the Agenda:** Mayor Dias requested that agenda item 7.E., regarding the annexation of 49.65 acres within the Stephens property boundaries, be postponed to a future agenda. Upon motion made by Councilmember Edge, seconded by Councilmember Laverone, and unanimously carried 4-0 (Paradise absent), the agenda was approved as modified.

**3. Presentations - Proclamation for Philanthropy Day:** Mayor Dias publically presented a Proclamation declaring that the San Juan Bautista City Council nominated Pat and Regina Garrett to receive special recognition in San Benito County on Philanthropy Day.

**4. Public Comment on Items Not on the Agenda:** Local resident Georganna Goularte reported that a forum for organization of the Parks and Recreation Advisory Committee will be held October 22, and she encouraged Councilmembers to attend.

Rachel Ponce commented that it is good to see the local residents show their community spirit by volunteer work in San Juan Bautista. She spoke about Hellbent Motorcycles disturbing the community and operating without a valid City business license and asked the Council to uphold the City ordinances and General Plan.

Richard Ponce spoke in support of Mrs. Ponce's request and the local residents who have complaints about the Hellbent Motorcycles business operating in San Juan Bautista.

Mayor Dias requested that the Assistant City Attorney explain the current status of the matter. Attorney Rathie stated that the applicant's attorney filed an appeal of the Planning Commission's decision; however, the attorney is out of town until November. With consensus of the City Council, Mayor Dias stated that the Council wishes to hold a special meeting as soon as possible and requested the City Attorney contact the applicant's attorney.

## 5. Presentations, Informational Items and Reports

**A. Water Infrastructure Project Report:** Project Manager Mark Davis reported that the sale of the City's Certificates of Participation ("bonds") was successful and generated \$11.1 million; monies will be wired to the City bank accounts on October 23; and that the City can now move forward with construction of its infrastructure projects.

In response to questions from the Mayor and Council, Mr. Davis explained that \$770,000 will be deposited in an account at Wells Fargo Bank for the reserve fund requirement; the actual project funds will be wired to San Benito Bank for deposit in a project-specific account which has been set up by the City Manager; both accounts will earn interest.

Resident Tony Boch noted that deposits in the City's two accounts do not add up to \$11.1 million. Mr. Davis explained that the cost of COP issuance was \$300,000, and approximately \$395,000 is dedicated to pay off the City's line of credit with San Benito Bank and an old well production loan. Mr. Davis noted that the remaining funds of \$9.6 million for the projects will be enhanced by a CalTrans grant of \$883,000.

In response to Mr. Boch's suggestions, Mr. Davis assured that new water mains will be in place before the City begins repaving Fourth Street.

**B. Monthly Financial Statement Reports:** There were no questions or comments regarding the Treasurer's reports.

**C. Code Enforcement Report:** Councilmember Laverone noted that 12 of the 16 code enforcement items reported were not health and safety issues, and suggested that the City Manager intercept and screen code enforcement reports before they are forwarded to the enforcement officer.

**D. Library Report:** There were no questions or comments.

**E. Fire Chief's Report:** There were no questions or comments.

**F. Sheriff's Report of Monthly Activity:** There were no questions or comments.

**G. Public Works Report by MCE Corporation:** There were no questions or comments.

**H. Davidson Sphere of Influence Amendment Application to LAFCO:** There were no updates and no comments.

**I. Status Report on Municipal Services Review and Revenue Sharing**

**Agreement:** There were no questions or comments.

**J. Report on Cable Franchise Renewal Activities:** Acting City Clerk Paetz reported the charter cable audit is in progress, and a telephone conference call meeting will be held next week.

**K. Committee Reports and Provide Future Direction by Full City Council:**

Councilmember Laverone reported that AMBAG is in the processing of appointing a new general manager. Councilmember Edge reported that LAFCO did not meet last month; COG passed a resolution in support of Hwy 152 improvements as to priority.

**6. Consent Items:** Councilmember Laverone requested separate consideration of consent item D. Councilmember Laverone moved to approve the remaining consent items, and the motion was seconded by Councilmember Hill. Councilmember Edge stated that he is abstaining from voting on Item C., as he was not present at the September meeting. By unanimous 4-0 vote (Paradice absent), consent agenda items A, B, C, E, and F were approved, with Councilmember Edge abstaining on Item C.

**A. Approve Affidavit of Posting Agenda**

**B. Approve Minutes for August 2008 Regular City Council Meeting**

**C. Approve Minutes for September 2008 Regular City Council Meeting**

**E. Approve Resolution 2008-37 Appointing Stephen Julian as PARSAC Alternate**

**F. Waive Reading of Ordinances & Resolutions on Agenda Beyond Title**

**D. Approve Resolution 2008-38 for Street Closures:** Councilmember Laverone asked if sponsors for the Veterans car show submitted a permit application. City Manager Julian responded affirmatively, and Resolution #2008-38 was approved with motion made by Councilmember Laverone, seconded by Councilmember Edge, and unanimously carried 4-0 (Paradice absent).

**7. Action Items**

**A. Approve Resolution #2008-39 Authorizing Services Contract with Bryant L. Jolley, CPA, for Fiscal Year 2008 Audit:** The City Manager stated that Mr. Jolley is a well-qualified CPA, specializing in services tailored to small cities and their budgeting constraints. Upon motion made by Councilmember Hill, seconded by Councilmember Edge, and unanimously carried 4-0 (Paradice absent), the Council approved Resolution #2008-39, authorizing execution of the services contract with Bryant L. Jolley, CPA, for Fiscal Year 2008 Audit, as presented,

**B. Approve Amendment to Montgomery Watson Harza Contract for Engineering Services During Construction of Water Reservoir and Authorize City Manager to Sign Contract:** The City Manager stated that he and the City Attorney recommend approval of an amendment to this contract to ensure the City has on site

coverage and immediate services if a need arises during project construction, particularly the reservoir construction phase.

The City Attorney answered questions from resident Jolene Cosio regarding pending litigation in the City's Eminent Domain proceedings associated with acquiring land necessary to proceed with the reservoir. He explained the City has an order of immediate possession; that if a mutual agreement and settlement is not realized and litigation against the City goes forward, a judgment could only pertain to compensations and not possession.

Upon motion made by Councilmember Hill, seconded by Councilmember Laverone, and unanimously carried 4-0 (Paradice absent), the Council approved Resolution #2008-40, authorizing execution of an amendment to the City's contract with Montgomery Watson Harza for engineering services, as presented.

**C. Approve Resolution #2008-41 Authorizing Execution of Contract with San Benito Engineering for Construction Engineering and Survey for City Infrastructure Project:** The City Manager recommended approval of the proposed contract with San Benito Engineering to provide additional engineering services, if needed, and inspection of delivery mains, connections, and other specifications during construction of the City infrastructure project.

Upon motion made by Councilmember Laverone, seconded by Councilmember Hill, and unanimously carried 4-0 (Paradice absent), the Council approved Resolution #2008-41, authorizing execution of a contract with San Benito Engineering for inspection of project work and as needed engineering services, as presented.

**D. Approve Resolution #2008-42 Authorizing Execution of Contract with Hanna & Brunetti for Construction Management and Observation (Inspection) of City Infrastructure and Reservoir Projects:** The City Manager noted that each of the recommended contract service providers are needed in specific and specialized areas and phases for construction of the City's infrastructure project. He explained that Hanna & Brunetti will ensure state mandated record keeping, such as job related worker injuries, compliance with prevailing wage standards.

Upon motion made by Councilmember Laverone, seconded by Councilmember Hill, and unanimously carried 4-0 (Paradice absent), the Council approved Resolution #2008-41, authorizing execution of a contract with Hanna & Brunetti for construction management services and on site inspections, as presented.

~~E. Approve Resolution 2008 ## Setting Forth Findings, Making an Environmental Determination Pursuant to CEQA, and Requesting San Benito County LAFCO to Take Proceedings to Annex to the City of San Juan Bautista Approximately 49.65 Acres of Unincorporated Territory Within the City's Sphere of Influence~~

**F. Approve Resolution 2008-43 Determining that Real Properties within the Proposed San Juan Bautista Third Street Commercial Historic District Meet Criteria for the National Register and for State Historic Resources Commission**

**Approval:** City Manager Julian reported that City Planning has identified Third Street and its commercial buildings as qualifying for State Historic Resources Commission approval and consideration for inclusion in the National Register. The City Manager explained that if City's Third Street area is so designated, the City's opportunities to be successful obtaining grant funds will be expanded considerably; as would for the owners of the buildings to be successful obtaining personal grants and matching funds for restoration projects as well as business tax benefits.

Manager Julian spoke about a recent presentation which was attended by five local building owners to gain information from State Historical Commission representatives. He recommended adoption of Resolution #2008-43, and stated that, if approved, Mr. Sundt will present the City's application for consideration on November 7 in Sacramento.

Councilmember Hill noted that until the City's growth management ordinance issues are resolved, the City will be precluded from numerous grant funding opportunities.

Upon motion made by Councilmember Hill, seconded by Councilmember Laverone, and unanimously carried 4-0 (Paradice absent), the Council approved adoption of Resolution #2008-43 as presented.

**G. Adopt Resolution #2008-44 for Approval of City Council's Written Response for Submission to the San Benito County Grand Jury:**

City Manager Julian reviewed a draft of the City Council's response to the San Benito County Civil Grand Jury Report of July 31, 2008. He commented that the Report makes erroneous findings which are offensive to the City's credibility and integrity, and not based on review of City records and documents which are readily available at City Hall and publically displayed on the City's website.

Councilmember Edge stated that he believes the grand jury system is a valuable process; however, in this case it appears that the current Grand Jury did not do its homework in terms of making requests to the City for documents, financial statements and audits and directing its inquiries to City officials.

For example, the Grand Jury Recommendation R-11 advises the City to publically disclose the last two years' audited financial statements. City Manager Julian noted that the City's financial statements are reviewed at public City Council meetings and made readily available to the public as well as posted on the City's website.

Grand Jury Finding F-5 states that the City is in the process of discussing with "unidentified others" about the potential of annexing adjoining lands, and implies that there are cost burdens to the local citizens. The City Manager commented that the

owners of the two parcels have requested annexation to mitigate errors made years ago at the County level when it recorded boundary documents which bifurcated the owners' properties and even a dwelling unit. There are no "unidentified others" that the Council is aware of. All costs associated with the annexation process are paid for by the property owners.

It was noted that Recommendation R-14 of the Grand Jury Report is particularly offensive as it implies the existence of illegal or fraudulent activity by advising the City Council to "publically disclose the name(s) of its hired consultants and advisors on any intended or anticipated annexations and what it has done to assure that these people have no conflict of interest with the City in regards to the proposed annexations."

The Council noted that its consultants are reputable, licensed professionals whose identities are published and well known, and that they attend City Council meetings to make reports on a regular or as needed basis; that if the Grand Jury has knowledge of some conflict of interest impropriety, they have a responsibility to advise the City and report the information to the District Attorney for follow-up investigation and appropriate prosecution.

The Council thanked Manager Julian for his work in preparing the Council's written response.

Upon motion made by Councilmember Hill, seconded by Councilmember Edge, and unanimously carried 4-0 (Paradice absent), the Council approved adoption of Resolution #2008-44, approving City Council's written response to the Grand Jury for submission to the County Superior Court Judge.

**H. Approve Agreement with San Benito County for Construction of Public Restroom Facilities at Abbe Park:** During review and discussion of this item, it was noted that Supervisor Bothelo has been instrumental in securing a up to \$200,000 from the County Parks & Recreation Funds to assist the City in the installation of restroom facilities at Abbe Park.

Upon motion made by Councilmember Hill, seconded by Mayor Dias, and unanimously carried 4-0 (Paradice absent), the Council approved adoption of Resolution #2008-45, approving execution of an agreement with the County of San Benito for funding installation of restrooms at Abbe Park.

**8. Set Future Agenda Items and Status:** Councilmember Edge commented that, as he has stated previously, he believes the City Council should take issues requiring study rather than using the committee process. Councilmember Laverone said he likes the committee system but agrees that the City is too small for the system to work effectively. It was agreed to put this item on the agenda after the upcoming election.

Councilmember Hill requested that a future agenda include revision of the city Ordinance for craft fairs and review of the City's business license process.

**9. Comments**

**A. City Council:** None.

**B. City Manager:** None.

**C. City Attorney:** None.

**10. Adjourn to Closed Session:** At 7:20 p.m., the Council adjourned to closed session to confer with legal counsel regarding: litigation filed in San Benito County Superior Court on April 3, 2008, entitled Lance McAlpine v. City of San Juan Bautista and Matthew Sundt, case number CU-08-00040, and existing litigation, entitled San Juan Bautista v. Nyland Family Trust.

**11. Reconvene to Open Session and Report Actions Taken in Closed Session:** Council gave direction to the City Manager and City Attorney. No matters required to be reported out.

**12. Adjourn Meeting:** The meeting was properly adjourned 8:00 p.m.