

**City of San Juan Bautista**  
**Regular City Council Meeting**

**November 18, 2008**

**MINUTES**

**1. Call to Order** at 6:04 p.m. by Mayor George Dias III

**A. Pledge of Allegiance**

**B. Roll Call**

**Council Members Present:** Mayor George Dias III, Vice Mayor Rick Edge, and Council Members Priscilla Hill and Ed Laverone

**Council Members Absent:** Robert Paradice

**Staff Present:** Acting City Manager Steve Julian, City Attorney George Thacher and Acting City Clerk Trish Paetz

**2. Approval of Agenda**

City Attorney George Thacher stated that a letter had been received in City Hall this afternoon from Ray Shott's attorney threatening litigation. As a result, Mr. Thacher asked that Item C be added to closed session, specifically, pursuant to California Government Code Section 54956.9, to confer with legal counsel regarding potential litigation – 1 case.

A motion was made by Vice Mayor Edge and seconded by Council Member Hill to approve the agenda with the addition of Closed Session Item C, Conference with Legal Council Regarding Potential Litigation, Pursuant to California Government Code Section 54956.9. The motion passed unanimously.

**3. Public Comment on Items Not on the Agenda**

Lori Elder read a statement, speaking in favor of Hell Bent, repeating for the Council, "make it work", and that it is the public's opinion that the governing body is corrupt.

Benny and Juanita Archibeque spoke in favor of Hell Bent

Speaking in favor of Hell Bent, Charles Wideman asked how many other businesses are operating without an occupational work permit.

Also speaking in favor of Hell Bent, Pete Marsh stated he has returned to San Juan Bautista after 30 years and found the city to be run down, dumpy, and not managed properly.

Ray Shott asked each council member to step up to the issue at hand, as Council Member Hill has. He then read a statement which he was not able to complete in the allotted time 3 minutes.

Mayor Dias stated that because of pending litigation, Council cannot respond to the public's comments on this issue.

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

##### **A. Water Infrastructure Project Report**

Mark Davis stated pre-construction meetings were held this week, and they are looking at breaking ground on the project the week of December 8. Also, progress is being made on the pellet softener design and engineers are involved in redesigning to incorporate that into the project.

##### **B. Monthly Financial Statements – Treasurer’s Report**

No report other than what was presented in the packet.

##### **C. Code Enforcement Report**

No report other than what was presented in the packet.

##### **D. Library Report**

No report other than what was presented in the packet.

##### **E. Fire Chief’s Report**

Council Member Laverone stated a report was not available because Fire Chief Scott Freels is fighting the fires in Southern California.

##### **F. Sheriff’s Report: Monthly Activity**

No report other than what was presented in the packet.

##### **G. Public Works Report – MCE Corporation**

No report other than what was presented in the packet.

During public comment an unidentified resident commented on need for repair of potholes around town. And Jolene Cosio commented that Council should be concerned with the lack of supervision MCE provides their workers.

##### **H. Davidson Sphere of Influence Amendment Application to LAFCo**

Acting City Manager Julian reported that nothing more had been done with the Davidson sphere of influence amendment application at this point in time.

##### **I. Status Report on Municipal Services Review**

Acting City Manager Julian reported that Municipal Services Review concerns services that the county provides to unincorporated areas; for example, fire fighting. Recently LAFCo request comment, regarding whether the City provided water to residences outside the City limits. His response will be that the Tobitt sisters, living up the canyon, have been receiving services for years and years.

##### **J. Status Report on Revenue Sharing Agreement**

Acting City Manager Julian stated he hasn’t done much on this because he has been working on getting some of the City finances in order.

##### **K. National Register Nomination for Third Street District Successful**

Acting City Manager Julian reported the City’s application to nominate the Third Street Historical District to the National Register of Historic places was approved.

**L. Report on Cable Franchise Renewal Activities**

Acting City Clerk Paetz reported the consultant continues to guide the cities (Hollister, Gilroy and San Juan) through the audit.

**M. Committee Reports and Provide Future Direction by the Full City Council**

Council Member Laverone reported at a recent meeting AMBAG appointed a new director. It was found that the previous executive director did not do as good a job as was thought with the finances, consequently, one of the jobs of the new director is to put AMBAG into better financial condition. The effect to the city will be an increase in annual dues.

Vice Mayor Edge stated LAFCO did not meet, but COG held a special meeting to deal with change orders for the Highway 25 bypass.

Council Member Laverone added that, keeping in line with neighboring cities and counties, AMBAG passed a resolution supporting the northerly re-route of Highway 152, which would eliminate the need for a Highway 156 super highway.

**5. Consent Items**

**A. Approve Affidavit of Posting Agenda**

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

**C. Approve Minutes for October 21, 2008 Regular City Council Meeting**

**D. Approve Resolution 2008-46 for Street Closures**

**E. Waive Reading of Ordinances and Resolutions on Tonight's Agenda Beyond Title**

A motion was made by Vice Mayor Edge and seconded by Council Member Hill to approve all items on the Consent Agenda except Item C as the October 21, 2008 Regular Meeting minutes were not available for approval. The motion passed unanimously.

**6. Action Items**

**Ai. Adopt a Resolution Setting Forth Findings, Approving an Addendum to a Previously Approved Negative Declaration Pursuant to the California Environmental Quality Act, and Requesting the San Benito County Local Agency Formation Commission to take Proceedings to Annex to the City of San Juan Bautista Approximately 49.65 acres of Unincorporated Territory Within Sphere of Influence**

**Aii. Introduce an Ordinance Amending Section 11.02.040 of the San Juan Bautista Municipal Code (Zoning Map and District Locations and Boundaries) to Establish, for the Purpose of an Annexation Application, a Pre-zoning Designation of "Agriculture" ("A") to Approximately 49.65 acres of Property Contiguous with the City of San Juan Bautista.**

City Planner Matthew Sundt presented a staff report, stating the City Council considered this application on April 17, 2007, at which time the City Council did not act on the application but instead directed staff to initiate the County/City Tax Agreement process before it would consider the ordinance and resolution. Staff initiated work to obtain a tax agreement but to date no agreement has been signed with the County. This has frustrated the property owner

(Dr. Ted Stephens) who has spent \$18,000 on an economic fiscal analysis, and has thwarted the Master Tax Agreement between the County and the City that is necessary to implement the San Juan Bautista General Plan. However, the City Council did approve the Initial Study/Negative Declaration for this application on May 15, 2007 (Resolution 2007-15).

The City Manager is currently working with the Chief Administrative Officer for the County on this tax agreement, but unless the City submits an application to LAFCO to annex the Stephens property, the state mandated performance schedule associated with tax agreements will not be initiated. Simultaneous to the City Manager's negotiations with County staff on the Tax Agreement it is imperative that the City submit the annexation application to LAFCO in order to implement the mandatory schedule as outlined in Sections 99 and 99.1 of the California Revenue and Taxation Code.

Staff has worked diligently to negotiate a property tax exchange agreement with the county staff (County Auditor and CAO) since April 2007. Unfortunately, 18 months have lapsed and there is still no tax agreement between the County and the City. Therefore, by directing staff to immediately submit the Stephens Annexation application to LAFCO the "clock" will start as stipulated by state law (i.e., Sections 99 and 99.1). By "starting the clock" the City will have implemented the first steps in the administrative process to bring the tax agreement to a conclusion. It is important to note that initiating the LAFCO application process will not guarantee that an agreement will be approved, but it will force a state mandated schedule pertinent to the responsible entities associated with the tax agreement process and will establish the administrative process.

In order for City staff to proceed to San Benito County LAFCO with an annexation application, the city council would need to do the following: (1) adopt a resolution setting forth findings, approving an addendum to a previously approved negative declaration pursuant to CEQA, and requesting the San Benito County LAFCo to take proceedings to annex to the City approximately 49.65 acres of unincorporated territory within sphere of influence, and (2) introduce an ordinance amending section 11.02.040 of the municipal code (zoning map and district locations and boundaries) to establish, for the purpose of an annexation application, a pre-zoning designation of "agriculture" to approximately 49.65 acres of property contiguous with the City.

During public comment Jim Sleznick asked what the benefit is of annexing that property, stating there are other properties to develop. He suggested this item be deferred for the next City Council to consider.

Jolene Cosio commented that it makes sense to defer it; the property has a leaking water pipe; and it will be difficult to maintaining roads on the property. She then stated that she checked with the County Assessors office and the combined taxes amount to only \$10,000.

There was discussion about what area of the hill is involved (the backside), and the stability of the property.

Council Member Laverone commented that only the backside of the hill, amounting to 20 acres is buildable.

Mayor Dias called a five minute break at 7:09 p.m. as Council Member Laverone needed to leave the dais.

Vice Mayor Edge stated that the City would realize revenue when the parcel is split and developed, and agreed that the front of the hill could not be developed because it is unstable.

Mayor Dias stated that he wants the City to have control over what is done with the property, and speculated that there would probably not be any development for ten years. He then asked staff if Dr. Stephens was outstanding in payment to the City for any of the Planner's work that has been completed; and City Planner Sundt responded, yes.

Whereupon a motion was made by Mayor Dias and seconded by Council Member Laverone that work on the project stop until applicant's payment to the City is brought current. The motion passed unanimously.

**B. Consider Whether to Fill City Council Vacancy (Resulting from Council Member Paradice's Resignation) by Appointment or Special Election, Pursuant to Government Code Section 36512(b)**

City Attorney Thacher stated that if Council wants to appoint someone to fill Mr. Paradice's unexpired council seat, according to government code, the deadline would be on or before December 3, 2008.

Whereupon, Council called a special meeting for Tuesday, December 2, 2008 at 5:00 p.m. to appoint to the unexpired seat vacated by Mr. Paradice.

A motion was made by Council Member Laverone and seconded by Council Member Hill to appoint to fill the seat vacated by Bob Paradice, and direction was given to staff to post a notice requesting candidate applications be submitted to the City Clerk. The motion passed unanimously.

City Attorney Thacher stated that Council could certify the election at that meeting.

**7. Set Future Agenda items and Status**

Vice Mayor Edge suggested council establish new rules for the Community Center.

**8. Comments**

**A. City Council:** No comments were received.

**B. City Manager:** No comments were received

**C. City Attorney:** No comments were received.

Before going into closed session, Council allowed public comment on closed session items.

Greg Mayer spoke in support of Hell Bent.

Hell Bent business owner Ray Shott finished reading his statement.

Mary and Trish Cwikla spoke in favor of Hell Bent.

Emily Renzel stated that the motorcycle business is not compatible with the City's mixed use zoning.

Whereupon, Council went into closed session at 7:55 p.m.

**9. Closed Session**

**A. The City Council will meet in closed session pursuant to California Government Code Section 54956.9(a) to confer with legal council 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.**

**B. The City Council will meet in closed session pursuant to California Government Code Section 54956.9(a) to confer with legal counsel regarding existing litigation: San Juan Bautista v. Nyland Family Trust – 1 case), Case number CU-07-00178.**

**C. The City Council will meet in closed session pursuant to California Government Code Section 54956.9 to confer with legal counsel regarding potential litigation – 1 case.**

**10. Closed Session Report**

When City Council resumed open session at 8:35 p.m. City Attorney Thacher reported there was nothing to report.

**11. Adjournment**

A motion was made to adjourn the meeting at 8:40 p.m.