

MINUTES
City of San Juan Bautista
REGULAR MEETING OF THE CITY COUNCIL
February 17, 2009

1. **CALL TO ORDER:** The meeting was called to order by Mayor Edge at 6:00 p.m.

A. Pledge of Allegiance: Mayor Edge led the Pledge of Allegiance.

B. Roll Call: Mayor Rick Edge and Council Members Ed Laverone, Priscilla Hill, Andy Moore, and Maggie Bilich.

2. **APPROVE AGENDA:** Vice Mayor Laverone requested Item 7D, Approve Resolution 2009-XX Authorizing Elimination of Non-Resident Library Card Fee, be moved to the Consent Agenda for approval.

Upon motion made by Vice Mayor Laverone, seconded by Council Member Bilich, and unanimously carried, the meeting agenda was approved as presented.

3. **CEREMONIAL ITEMS:**

A. Presentation of Hunger Fighter Proclamation: Deputy City Clerk Paetz reported that the Proclamation is not ready at this time, but that she will complete it and deliver it to Second Harvest before their meeting on March 19th.

4. **PUBLIC COMMENTS ON NON-AGENDA ITEMS:** Fourth Street resident Tony Boch asked the Council if the sidewalk repairs and paving on Fourth Street are part of the City's water/sewer infrastructure project. Mayor Edge explained that the repaving will be done upon completion of the water/sewer main portion of the infrastructure project.

Resident Jolene Cosio commented that while in City Hall today a resident reported to staff that she put a check for her water bill into the door slot at City Hall after hours and it was stolen by someone who altered the payee and cashed the check. Mrs. Cosio suggested that a locked receptacle box be installed for after hour payments. In response to the Mayor's inquiry, City Manager Julian stated that staff is looking for a secure, removable box to avoid interfering with the door being completely opened.

Mrs. Cosio expressed concern that contractors working on the City infrastructure project are dumping concrete and plastic waste materials by the reservoir.

Project Manager Mark Davis explained that the area is steeply sloped, and concrete refuse from the meter replacement project is being used to stabilize erosion during the rainy seasons; that the area will be finished off with compacted dirt and planted with native vegetation. It was suggested that the concrete be covered with dirt on at least a weekly basis for the sake of esthetics, especially prior to weekends.

Resident Bob Cosio stated that when reviewing the City's financial reports, he noted disbursements to Stephen B. Julian and Julian Company. Mr. Cosio asked for an explanation of the relationship between the payees. City Manager Julian stated that has conducted his service business as Stephen B. Julian dba Julian Company since 1987.

In response to Mr. Cosio's inquiry about the cost of residential water meters, including installation, the City Manager informed that the cost to the City for installation varies with the specifics of each site. Mr. Cosio asked for an average cost. City Manager Julian explained that he cannot determine an accurate average cost until staff has time to review and analyze bookkeeping records showing disbursement data within a specified time period for meter purchases and associated installation costs such as prorated payroll and/or payment to independent contract services.

Mr. John Flores, U.S. Census Bureau representative, reported that the Bureau conducts a national census every ten years, and the next census year is 2010. He explained that the City's population count is used during the ensuing ten-year period to determine allocation amounts of various funding to the City. Mr. Flores explained that if, for example, 50 residents are not counted, the City would lose \$500,000 in funding over the ten-year period.

During his presentation, Mr. Flores requested that the City adopt a proclamation supporting the census and designate a liaison to assist in the collection of census data. In addition, local residents may apply for a census taking job, including part time in the evenings and Saturdays, during 2010.

Wanda Guibert stated that she is a member of the Historic Resources Board and that there is a need for education and training in areas such as the Brown Act and building codes.

Seventh Street resident Ernest Franco invited Council members and the public to donate at the Blood Drive on March 1st which will be held 9:00 am to 1:30 pm at Casa Maria.

In response to Mr. Richard Ponce's comment, the City Manager stated that the sidewalk and street paving project on Fourth Street is part of a transportation grant (STIP) which includes improvements to roadways, sidewalks, and appurtenances.

5. PRESENTATIONS, INFORMATIONAL ITEMS, AND REPORTS:

A. Mills Act Historic Preservation Program: City Planner Matthew Sundt spoke about the Mills Act Program and the need for this type of assistance to owners of historic buildings in the City, particularly commercial buildings on Third Street that are in need of structural repair and improvement. Mr. Sundt cited examples of Mills Act preservation projects in the area, such as the City of Monterey and explained details of the program, noting that owners of qualified buildings pay reduced property taxes to the local municipal government for 14 to 18-years in exchange for specified improvements to the buildings; the amount of property taxes waived and specific parameters are established by the City Council and can include a cap on revenue lost to the City.

Mr. Sundt stated that he included a proposal and scope of work, costing \$2,500, to allow him to carry out seven tasks with assistance from the City Manager, City Planner, and a volunteer from the City Council, Historic Resources Board, or Planning Department.

With consensus of the Council, Mayor Edge requested that this item be placed on the next meeting agenda for consideration by the Council.

B. Water Infrastructure Project Report: Project Manager Mark Davis reported that construction on the reservoir project began the week of February 9; he is working with the contractor on issues of dust, dirt, and mud and will ask that special attention be given to high traffic and visible areas prior to weekends. Mr. Davis reported that quotes for the pellet softener system are under due diligence review; that quoted amounts are within the original budget estimated costs. During his report, Mr. Davis projected that the distribution system and reservoir upgrades should be completed by September.

In response to Vice Mayor Laverone's suggestion, the City Manager stated that he will ask MCE to ensure refuse such as plastic and asphalt do not find their way into the landfill near the reservoir site.

Vice Mayor Laverone commented that the Water Resources Association is requesting an update on the City's infrastructure project at their April meeting.

During public comments, Mr. Tony Boch volunteered to serve on an oversight committee. He expressed concern about coordination of installing water meters on Fourth Street and the cost of change orders for the infrastructure project. Mr. Davis explained that he and the City Manager, City Engineer, and Council Member Hill attend construction meetings on a weekly basis, and there is a constant flow of information and high level of coordination for each aspect of the project.

Mr. Davis also explained that the term, "change order," is actually a misnomer. The original scope of the project included various tests (such as the jar testing) which would later define specifications for bid requests; that bids submitted by manufacturers further define specifications; and basically this project's "change orders" do not increase the overall cost of the project. Mr. Davis noted that one change order reduced the cost by \$166,000.

Resident Bob Cosio expressed his concern that money could be saved by not running a line to Well 3; that everyone is hooked up except for one individual who should be required to pay for the line if his plans are to subdivide. Jolene Cosio expressed her opinion that there are "red flags," such as the location of the pellet system on property outside the City limits. Ms. Cosio said she believes the Council should have more control over the project.

The City Manager explained that engineering specifications are being followed. Mr. Davis stated that the location is the site for the water treatment plant. He noted that it is not the type of facility residents would want to have in town, and that changing the location would require a lengthy and costly CEQA process.

March Quintita Sasaree stated that she is a new resident and is concerned about the green tanks behind the cemetery. She asked if there are plans to move the tanks. Mayor

Edge explained that the tanks are permanent. He stated that residents are welcome to come to City Hall and ask questions.

Mr. Ponce commented that, in the past, when the City installed sidewalks, the property owners paid the cost; including himself. He noted that three of the properties on Fourth Street are owner occupied; the remainder are rental income properties. Mr. Ponce expressed concern that City COP (Certificates of Participation) monies will be spent for sidewalks to enhance owners' properties; the COP funds are paid back through residents paying higher water bills.

Mayor Edge assured Mr. Ponce that this is an issue of concern to the Council and a workable resolution is being pursued by the City in order to remedy this in an equitable manner.

C. Monthly Financial Statement Reports: There were no questions from Councilmembers. It was noted that City financial reports are published on its website and are available for review and copying at City Hall. Mayor Edge asked if there were any comments or questions from the public.

Resident Bob Cosio asked about the services and time period covered by the City's payment to Bracewell Engineering for \$139,000. City Manager Julian stated that he cannot answer Mr. Cosio's question at this time; that upon request, office staff can provide a copy of the actual invoice, at which point he can provide an answer to Mr. Cosio's inquiry.

In response to an inquiry regarding a "deficit" reflected by year to date General Fund income reported as \$274,523 and expenditures as \$534,708. Vice Mayor Laverone explained that revenue in the City's budget comes in at various times during the year, such as property taxes; also, budgeted expenses paid early in the fiscal year can contribute to the appearance of a "deficit."

D. Code Enforcement Report: There were no questions or comments.

E. Library Report: There were no questions or comments.

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

G. Sheriff's Report of Monthly Activity: Vice Mayor Laverone noted that there was a burglary and arson incident on December 23, 2008 that is not reflected in the Sheriff's monthly activity report. The City Manager will follow up on this discrepancy.

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

I. Housing Element Update: City Planner Sundt reported that the City is required to update its Housing Element by August 31, 2009. He stated that he prepared a proposal to update the City's Housing Element for a cost of \$15,000. The public may obtain copies of the proposal from the City Manager or Deputy City Clerk. Mr. Sundt noted that the City's growth ordinance was invalidated; that he is in communication with Cathy Creswell, Deputy Director, Department of Housing and Community Development regarding the

City's Housing Element; and that it is important to proceed quickly on the Housing Element update to enable the City to be eligible for Community Development block grants.

City Manager Julian stated that he will bring Mr. Sundt's proposal to the Council for consideration.

J. Status on National Register Historic District: Effective January 9, 2009, the City's historic area became a National Register Historic District. The Council commended local volunteers for their work in helping to obtain this status for the City.

K. Davidson Sphere of Influence Amendment Application to LAFCo: No report.

L. Status Report on Municipal Services Review: No report.

M. Status Report on Revenue Sharing Agreement: No report.

N. Fiscal Year 2009 Budget Progress Report: City Manager Julian stated that the draft budget is near completion and will be ready for review by Council.

O. Report on Cable Franchise Renewal Activities: Deputy City Clerk Paetz reported that a letter, drafted by Consultant Sue Buske, was sent to Charter Cable requesting that a refund of \$1300 be made to the City. She noted that she received information that Charter Cable is planning to file bankruptcy. Vice Mayor Laverone reported that Charter filed for reorganization today.

P. Public Meetings and Committee Reports: Council Member Moore reported that the Air Resource Board relocated from Hollister to Santa Cruz County. Vice Mayor Laverone reported that the San Benito County Water Resources Association will inspect individual properties and conduct a water use assessment at no cost. He noted that the City contributes financially to the WRA, but City residents do not avail themselves of services provided by WRA and are the least represented users in the County.

Q. Draft Minutes for January 20, 2009: Deputy City Clerk Paetz reported that the January 20 minutes were not available for approval at this time.

6. CONSENT ACTION ITEMS: Upon motion made by Councilmember Hill, seconded by Councilmember Bilich, the following consent action items were unanimously approved by Council.

A. Affidavit of Posting Agenda for February 17, 2009 Regular Meeting of the San Juan Bautista City Council

B. Waive Reading Beyond Title of Ordinances & Resolutions on Meeting Agenda

C. Approve Ordinance 2009-02 Amending Municipal Code: (1) Certain Provisions of Chapter 5-4, Repealing Chapter 5-5, and Relocating Certain Provisions of said Repealed Chapter 5-5 to Chapter 5-4 regarding Collection of Refuse and Recycling; and (2) Adopt Resolution 2009-02 Adding Reference to Recycled Products Purchase Preference in Chapter 2-8:

D. Approve Minutes of November 18, 2008 Regular City Council Meeting (with

correction of typographical errors)

E. Approve Minutes of December 16, 2008 Regular City Council Meeting (with correction of typographical errors)

F. Approve Resolution 2009-03 Authorizing Elimination of Non-Resident Library Card Fee

7. ACTION ITEMS:

A. Present and Accept Fiscal Year 2008 Audit: City Treasurer Wendy Becker stated that the City adopted new accounting software which resulted in a cost savings and helped expedite the City's annual audit. She reported that a new auditing firm was retained; that the audit went very smoothly; the auditors found everything to be in order and found no exceptions.

Upon motion made by Mayor Edge, seconded by Vice Mayor Laverone, and unanimously carried, the Fiscal Year 2008 Audit was accepted as presented.

B. Public Hearing: Consider Adoption of Resolution 2009-04 for Abatement of Nuisance at 101 The Alameda: Vice Mayor Laverone stated that members of his family own the subject property, and to avoid the appearance of conflict of interest, he excused himself and left the meeting during consideration of this agenda item.

The City Attorney reviewed previous discussions and actions regarding the situation at 101 The Alameda. Mayor Edge opened a public hearing to receive comments and/or objections to the Council's adoption of a Resolution for Abatement of Nuisance.

Attorney Edward Chung stated that he is representing the owners of the property; that he is objecting to action by the City Council because he does not believe it is necessary at this point in time. He explained that the tenants at 101 The Alameda are two rent payments in arrears, and the owners have filed an eviction action in Superior Court; the tenant/defendant was served today. Mr. Chung stated that he expects the property owners to prevail and the tenant to be out of the premises within 30 day (60 days if the tenant files an answer and the matter goes to trial).

Upon motion made by Councilmember Hill, seconded by Councilmember Bilich, and carried 4-0, with Vice Mayor Laverone abstaining, the Board overruled the objection stated during the public hearing and adopted Resolution 2009-04, with the understanding that the City Attorney will not take action until it becomes apparent that the property owner's eviction proceeding is not successful.

C. Review of Community Hall Facility Use Rules: Councilmember Moore stated that he is making inquiries in surrounding communities about policies and generally accepted fees for use of a community hall. This item was deferred to a future meeting agenda by unanimous consensus of the Council.

D. Approve Resolution 2009-XX Authorizing Elimination of Non-Resident Library Card Fee: Offered for approval under Consent Agenda.

8. FUTURE AGENDA ITEMS: The Council discussed setting a special meeting for a budget study session, review of City contracts, rules and fees for use of the community center, and a closed session evaluation of the City Manager's performance. It was noted that a workshop on the Brown Act would take some time to put together. Vice Mayor Laverone reported that he will be out of town and unable to attend the March regular City Council meeting.

9. COMMENTS:

A. City Council: Council Member Hill reported that there will be a Neighborhood Watch meeting at City Hall on February 26, at 7:30 p.m.

Council Member Hill noted that Mr. Tod duBois is apparently referring to his meetings as "Town Hall" meetings, which implies they are sponsored by the City and is confusing to residents. She suggested that the City Manager contact Mr. duBois and request that he use a different name for his meetings.

B. City Manager: None.

C. City Attorney: None.

10. ADJOURN MEETING TO CLOSED SESSION: At 7:53 p.m., the Council adjourned to closed session to confer with legal counsel regarding litigation, City of San Juan Bautista v. Nyland Family Trust, San Benito County Superior Court Case Number CU-07-00178, and; and litigation Shott v. City of San Juan Bautista, San Benito County Superior Court Case Number CU-08-00183.

11. RECONVENE TO OPEN SESSION and REPORT ACTIONS TAKEN IN CLOSED SESSION: The meeting was reconvened in open session at 8:05 p.m. The City Attorney reported that Council took no actions in closed session.

12. Adjourn Meeting: Upon motion made by Councilmember Hill, seconded by Vice Mayor Laverone, and unanimously carried, the meeting was properly adjourned 8:06 p.m.