

**City of San Juan Bautista**  
**Regular City Council Meeting**  
**July 21, 2009**  
**MINUTES**

**1. Call to Order** at 6:05 p.m. by Mayor Rick Edge

**A. Pledge of Allegiance**

**B. Roll Call**

**Council Members Present:** Mayor Rick Edge, Vice Mayor Ed Laverone, and Council Members Priscilla Council Member Hill, Maggie Council Member Bilich, and Council Member Moore

**Staff Present:** Acting City Manager Steve Julian, City Attorney George Thacher, City Planner Matthew Sundt, City Clerk Linda G. McIntyre, and Deputy City Clerk Trish Paetz.

**2. Approval of the Agenda**

City Attorney Thacher requested adding an item to closed session to discuss and receive direction from Council regarding significant exposure to litigation; apparently Ray Shott, owner of Hell Bent, has a new agenda.

Acting City Manager Julian requested a resolution to continue the fiscal year 2009 budget since the fiscal year 2010 budget was not ready for Council review.

A motion was made by Council Member Hill and seconded by Council Member Bilich to approve the agenda with the addition of Closed Session Item C; conference with legal counsel, pursuant to California Government Code Section 54956.9, regarding potential litigation - one case - threatened refiling of previously dismissed "Hell Bent v. City of San Juan Bautista," and addition of Action Item 6E; Approval of Resolution 2009-XX authorizing a continuation budget appropriation for the period July 21, 2009 through August 18, 2009. The motion passed unanimously.

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

Resident Suzanne Kerns commented that the lawn around the Library is dying, and she wished people would pick up after their dogs.

Promoter Juan Carlos Gonzales stated he would like to bring the rodeo back to town, and has met with owners of the Nyland/Manning property as a different venue.

Resident Rachael Ponce commented that traffic is moving fast on newly-paved Fourth Street, and reminded everyone to slow down. She went on to suggest speed bumps to slow everyone to 25 mph and the need for crosswalks at Fourth and The Alameda before school opens.

Resident Bob Cosio commented he has observed an MCE truck (City public works contractor) parked at the Bluebird store in the morning, and it appears there is no supervision of volunteers from the Sheriff's work program.

Resident Jolene Cosio commented that the City is liable for the workers from the Sheriff's work program. She went on to commend the City Council members that attended the Highway 156 meeting in Hollister last week, that comments were very good and she hopes Council Members support other issues as well as the Highway 156 issue.

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

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

Project Manager Mark Davis stated the downtown portion of the project is 90% complete, the reservoir will be topped off by the middle of next week, the agreement with Procorp for a pellet water softening system should be finalized soon; and they are making adjustments to the adjust the telemetry frequency associated with the water distribution system.

Vice Mayor Laverone commended Project Manager Davis on his reports, and asked if they could be placed on the City's website.

During public comment resident Jolene Cosio commented on whether someone else and not the City should be responsible for the expense of dust abatement and for replacing residents' water heaters.

Project Manager Davis responded that the extensive dust abatement was an additional cost not covered under the contract.

Resident Richard Ponce asked who is monitoring the sidewalk project in regards to areas that will be replaced, and commented on the new fence at the City gateway, and the discarded hand-carved street signs.

Project Manager Davis stated he would discuss the hand-carved signs at the next construction meeting, the fence is a close replication of the fence that was there, and improvements were included in the contract.

Acting City Manager Julian stated he helped make decision with the property owners and the new fence resulted in a cost savings to the City.

Resident Wanda Guibert commented she was upset at the lack of respect for City history and the signs.

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

No report other than what was presented in the packet.

During public comment Bob Cosio commented on the different amounts paid to city contractors.

##### **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**

No report was provided; no questions were asked.

**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.

**H. City Planner Activity Report**

No report other than what was presented in the packet.

**I. Report on Charter Communications Cable Franchise Audit**

Deputy City Clerk Paetz stated there would be a conference call later this week.

**J. Public Meetings and Committee Reports**

Council Member Hill reported on a County Court House meeting, that the design review is 90% complete and they would work on the interior next.

Representative to COG, Mayor Edge, reported on the recent Highway 156 meeting with CalTrans, stating the meeting was held to educate everyone.

**5. Consent Items**

**A. Approve Affidavit of Posting Agenda**

**B. Approve Resolution 2009-XX for Street Closures**

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

**D. Approve Minutes for May 26, 2009 Special City Council Meeting**

Council Member Hill requested the street closures resolution be pulled for discussion.

A motion was made by Council Member Hill and seconded by Vice Mayor Laverone to approve all items on the consent agenda except Items B, Resolution for Street Closures. The motion passed unanimously.

The Farmers Market is currently being held on Thursday and the promoter is requesting it be changed to Sunday. Council Member Hill commented that she had issue with closing Mariposa Street on Sunday for the Farmers Market because it would conflict with parking availability for those attending mass at the Mission, and then suggested the Farmers Market be held between 3:00 p.m. and 7:00 p.m.

During public comment Mariposa House Restaurant owners Sherry and Jerry Dolfin opposed selling food on the street as it competes with restaurant business.

Mission Café owner Karen Berger had issue with shortage of parking on Mariposa Street the Farmers Market brings.

Resident Jolene Cosio stated she supports farmers markets but this one does not seem to have much produce.

In response to Mayor Edge's question whether the City has an ordinance that addresses Farmers Markets, City Planner Sundt explained the special events ordinance and the responsibility for street closures that falls with the City Council.

Acting City Manager Julian stated the City also provides business licenses for vendors and also can provide insurance for vendors.

Vice Mayor Laverone requested it be made clear whether vendors are providing prepared food or produce.

Farmers Market promoter Juan Carlos Gonzales stated he would agree to not serve food at the Farmers Market and only agricultural or farm products, and change the hours to 3:00 p.m. until 7:00 p.m.

Vice Mayor Laverone requested this item be brought back for review in August, and suggested tabling it until the end of the meeting so the Deputy City Clerk could have time during closed session to bring forth an updated resolution for approval.

Item 5B was continued to the end of the meeting, after closed session report.

## **6. Action Items**

### **A. Valle Vista Landscape and Lighting Maintenance Assessment District No. 1.**

#### **Consideration and Adoption of Three Resolutions:**

Vice Mayor Laverone recused himself because his residence is within three hundred feet of the properties being discussed.

City Attorney Thacher explained each resolution, and stated the increase in rates was approved with the 218 process last year.

#### **i. Order an Engineer's Report for Fiscal year 2009-10**

A motion was made by Mayor Edge and seconded by Council Member Hill to approve Resolution 2009-19 Ordering Preparation of an Engineer's Report for Fiscal Year 2009-10 for Valle Vista Landscape and Lighting Maintenance Assessment District No. 1. The motion passed 4-0-0-1 with Vice Mayor Laverone abstaining.

#### **ii. Approve the Engineer's Report**

A motion was made by Council Member Hill and seconded by Council Member Bilich to approve Resolution 2009-20 Approving the Report Prepared in Connection with the Fiscal Year 2009-10 Levy of Assessments in Connection with Valley Vista Landscape and Lighting Maintenance Assessment District No. 1. The motion passed 4-0-0-1 with Vice Mayor Laverone abstaining.

#### **iii. Declare Intention to Levy and Collect Assessments for Fiscal year 2009-10 and Set Time for Hearing on Said Assessments**

City Attorney Thacher suggested, and it was agreed by Council, that a hearing on the Valle

Vista Landscape and Lighting Maintenance Assessments would be held during the next City Council meeting, August 18, 2009, at 6:00 p.m.

A motion was made by Council Member Hill and seconded by Council Member Bilich to approve Resolution 2009-21 Declaring Its Intention to Levy and Collect Assessments Within Valle Vista Landscape and Lighting Maintenance Assessments District No. 1 for Fiscal Year 2009-10 and Setting the Time and Place for a Hearing on Said Assessment. The motion passed 4-0-0-1 with Vice Mayor Laverone abstaining.

**B. Approve City Council Resolution 2009-22, Joining with the San Benito County Board of Supervisors in Opposition to the Proposed Closure of Fremont Peak State Park.**

Vice Mayor Laverone returned to the meeting at 7:20 p.m.

Mayor Edge commented that the State budget was passed without affecting local State Parks.

A motion was made by Council Member Bilich and seconded by Council Member Hill to approve Resolution 2009-22 where the City Council Joins with the San Benito County Board of Supervisors in Opposition to the Proposed Closures of Fremont Peak State Park. The motion passed unanimously.

**C. Recommendation to Salvage 2001 Crown Victoria Sedan**

A motion was made by Council Member Hill and seconded by Council Member Bilich to approve salvaging the City's 2001 Crown Victoria Sedan police cruiser. The motion passed unanimously.

**D. Introduction of Ordinance 2009-XX Rescinding Chapter 10-4 of the Municipal Code ("Growth Management Ordinance"), and Adopting a New Growth Management Ordinance as Chapter 10-4**

City Planner Matthew Sundt presented the staff report, beginning with a historical review of the City's growth management ordinance (GMO) and the recent San Benito County Superior Court determination that it is invalid, unlawful, and unenforceable (Case #CU-08-00040).

City Planner Sundt stated the intent of the GMO presented tonight is to implement growth management provisions of the San Juan Bautista General Plan and insure that residential development remains within the limits established by the General Plan. The proposed GMO itself only controls the extent of development already planned in the 1998 General Plan and evaluated in the 1998 General Plan Environment Impact Report (EIR). As the proposed GMO reintroduces the original three percent growth cap as addressed in the year 2000 GMO, no new environmental analysis is necessary. This ordinance ensures that residential development will not outpace the City's inability to provide, upgrade and expand essential public facilities and services.

City Planner Sundt informed the City Council that the Planning Commission recommends that Section 10-4-145.A be amended with the word "not" so as to not allow an automatic roll over from year to year of any unused housing construction allocations. But staff recommends that Section 10-4-145.A not be amended on the basis that the 1998 SJB General Plan allows up to 1,200 residential units and a population of up to 3,200 by the year 2015 (2015 is the General Plan "sunset" date) and as the General Plan anticipates this, and as the General Plan is the guiding document for the city, future development should not be

constrained and implementation of the General Plan development goals should not be hindered.

There was discussion about the amount of infill available in the City.

When Council Member Moore asked if future subdivision could go to a vote of the people, City Attorney Thacher explained that the GMO would be subject to a referendum, and developments are subject to a vote of the city council, and not a vote of the people.

City Attorney Thacher suggested “automatically” be removed in “B” remove “roll over”.

During public comment, Wanda Guibert commented it was ironic the General Plan is adhered to selectively.

Resident Cara Vonk, not in attendance at the meeting tonight, provided in an e-mail the following comment:

“No rollover should still satisfy state housing requirements of 147 units over five years (the state number reported by staff). Of the approximate 750 housing units currently existing in SJB, this means that 22 or 23 units may be built per year. The GMO applies to subdivisions only. Single family and duplexes are exempt from the allocation process. Twenty-three times 5 years equals 115 units. The balance of 32 units over five years to equal the necessary 147 units can be provided by infill single family, duplex, mixed use, and second units (and possibly the trailer park spaces).”

Mayor Edge stated he would support the Planning Commission’s recommendation; and commented that calculating roll overs can be unwieldy for present and future staff.

A motion was made by Vice Mayor Laverone and seconded by Council Member Hill to accept the Planning Commission’s recommendation, integrate said recommendation into the ordinance presented tonight, and introduce the ordinance Rescinding Chapter 10.4 of the Municipal Code (“Growth Management Ordinance”), and adopt a New Growth Management Ordinance as Chapter 10-4 of the Municipal Code. The motion passed unanimously.

#### **E. Approve Resolution Continuing Budget**

Acting City Manager Julian explained that when the City receives clarification on State funding we should be able to develop the City’s fiscal year 2010 budget.

Vice Mayor Laverone estimated the City would probably lose 18% of the revenue normally received from the State.

During public comment, when Jolene Cosio asked when Council would review contracts, Mayor Edge responded they would begin during the August Council meeting..

A motion was made by Council Member Hill and seconded by Vice Mayor Laverone to approve Resolution 2009-23 Authorizing a Continuation Budget Appropriation for the Period July 21, 2009 through August 18, 2009. The motion passed unanimously.

## **7. Discussion Items**

### **A. Proposal to Make Franklin Street Between Second and Third Streets One-way**

Acting City Manager Julian reported he had contracted the traffic engineer but has yet to get a date to meet. He speculated that, in regards to installing speed bumps on Fourth Street, we would probably have to wait until the street is finished and traffic flow resumes around town before this can be addressed.

### **B. Study Session for Fiscal Year 2010 Budget**

#### **i. Mills Act and the Fiscal Year 2010 Budget**

#### **ii. New Year's Resolutions Proposed by SJ Neighbor's at their Town Hall Meeting**

This item was continued to the next meeting.

## **8. Set Future Agenda Items and Status**

Vice Mayor Laverone requested that the Bracewell contract be presented for review, and then Golden State Planning.

## **9. Comments**

### **A. City Council**

Vice Mayor Laverone stated volunteers from the Sheriff's work program need supervision and this could be done by staggering breaks.

**B. City Manager:** Nothing.

**C. City Attorney:** Nothing.

Whereupon, Council went into closed session at 8:05 p.m.

## **10. 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 existing litigation: San Juan Bautista versus Nyland Family Trust – 1 case), Case Number CU-07-00178.**

**B. The City Council will meet in closed session pursuant to California Government Code Section 54956.9(a) to confer with legal counsel and its negotiator regarding the purchase of real property.  
Property: Vacarezza Parcel at 930 Mission Vineyard Road  
Negotiating Party: For City, City Manager; for Property owner, Owners Vacarezza  
Negotiations: All Terms and Conditions**

**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 - one case - threatened refileing of previously dismissed "Hell Bent v. City of San Juan Bautista."**

## **11. Closed Session Report**

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

## **Item #5B Continued: Street Closure Resolution**

Deputy City Clerk Paetz presented Resolution 2009-24 with changes discussed earlier.

A motion was made by Mayor Rick and seconded by Council Member Bilich to approve Resolution 2009-24. The motion passed unanimously.

**12. Adjournment**

A motion was made to adjourn the meeting at 8:38 p.m.