



City of San Juan Bautista

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REVISED AGENDA CITY COUNCIL REGULAR MEETING

TUESDAY ~ DECEMBER 20, 2022 ~ 6:00 P.M.

CITY HALL COUNCIL CHAMBERS
311 Second Street
San Juan Bautista, California

– HYBRID MEETING – PUBLIC PARTICIPATION BY ZOOM AND IN PERSON

THIS MEETING WILL BE CONDUCTED PURSUANT TO GOVT. CODE §54953(e)(1)(A).

In order to minimize the spread of the COVID 19 virus the City Council is conducting this meeting by Zoom webinar and will be offering alternative options for public participation. You are encouraged to watch the meeting live on Zoom or Facebook.

THIS MEETING WILL BE OPEN TO THE PUBLIC UNDER THE FOLLOWING CONDITIONS:

All Attendees must comply and wear a face covering if not fully vaccinated and show proof. If providing proof attendees will not need to wear a face covering. If you are exempt from the state face covering guidance or not fully vaccinated, you will be required to wear a mask to attend the meeting; All attendees must comply with any other rules of procedures/instructions announced by the Mayor and/or City Staff. Any violations of the above may result in the Mayor closing the meeting, effective immediately, or clearing the room, as well as other enforcement actions. The meeting will be available through Zoom for those who wish to join or require accommodations with the instructions below:

The meeting can also be accessed by the public in the following methods: Through Zoom (<https://zoom.us/join>) per the instruction stated below, and on Facebook.

Join Zoom Webinar <https://us02web.zoom.us/j/87820408372>

or call 1 (669) 900-6833

Webinar ID: 878 2040 8372

PUBLIC COMMENTS WILL BE TAKEN ON AGENDA ITEMS BEFORE ACTION IS TAKEN BY THE CITY COUNCIL. DURING THE MEETING: TO PROVIDE VERBAL PUBLIC COMMENTS ON AN AGENDA ITEM DURING THIS MEETING CALL THE PHONE NUMBER LISTED ABOVE OR LOG INTO ZOOM AND ENTER THE MEETING ID NUMBER AS LISTED ABOVE.

When the Mayor announces public comment is open for the item which you wish to speak, press *9 on your telephone keypad or if joining by Zoom, use the raise your hand icon. When called to speak, please limit your comments to three (3) minutes, or such other time as the Mayor may decide, consistent with the time limit for all other speakers for the particular agenda item. Comments from other platforms will not be considered during the meeting. If you would like to participate during the meeting you MUST use Zoom.

If you are unable to join the meeting, written comments may be mailed to the Deputy City Clerk at City Hall (P.O. Box 1420, San Juan Bautista, CA 95045), or emailed to deputycityclerk@san-juan-bautista.ca.us not later than 5:00 p.m. on December 20, 2022, and will be read into the record during public comment on the item.

In compliance with the Americans with Disabilities Act, the City will make reasonable arrangements to ensure accessibility to this meeting. If you need special assistance to participate in this meeting, please contact the Deputy City Clerk a minimum of 48 hours prior to the meeting at (831) 623-4661.

If you challenge any planning or land use decision made at this meeting in court, you may be limited to raising only those issues you or someone else raised at the public hearing held at this meeting, or in written correspondence delivered to the City Council at, or prior to, the public hearing. Please take notice that the time within which to seek judicial review of any final administrative determination reached at this meeting is governed by Section 1094.6 of the California Code of Civil Procedure.

A Closed Session may be called during this meeting pursuant to Government Code §54956.9 (d)(2) if a point has been reached where, in the opinion of the legislative body of the City on the advice of its legal counsel, based on existing facts and circumstances, there is a significant exposure to litigation against the City.

Materials related to all items on this agenda are available in the agenda packet on the City website www.san-juan-bautista.ca.us subject to Staff's ability to post the documents before the meeting, or by emailing deputycityclerk@san-juan-bautista.ca.us or calling the Deputy Clerk (831) 623-4661 during normal business hours.

- 1. Call to Order**
Pledge of Allegiance
Roll Call
- 2. Ceremonial Items and Swearing In of Council**
 - A. Adopt a Resolution of the City Council of the City of San Juan Bautista Declaring the Results of the General Municipal Election Held on Tuesday, November 8, 2022**
 - B. Presentation of Plaques Honoring Retiring City Council Members Mary Edge and Cesar Flores, Retiring Planning Commissioner Jackie Morris Lopez, and Retiring City Treasurer Michelle Sabathia, and Recognition by State Legislature of Council Members Flores and Edge**
 - C. Installation of Newly Elected City Council Members Leslie Jordan, EJ Sabathia and Jackie Morris Lopez**
 - D. Selection of Mayor for a One Year Term**
 - E. Selection of Mayor Pro Tem for a One Year Term**
- 3. Public Comment**

This portion of the meeting is reserved for persons desiring to address the Council on matters not on this agenda. The law does not permit Council action or extended discussion of any item not on the agenda except under special circumstances. If Council action is requested, the Council may place the matter on a future agenda.
- 4. Consent Items**

All matters listed under the Consent Agenda may be enacted by one motion authorizing actions indicated for those items so designated. There will be no separate discussion of these items unless requested by a member of the City Council, a staff member, or a citizen.

 - A. Adopt a Resolution of the City Council of the City of San Juan Bautista Proclaiming and Reaffirming the Existence of Local Emergencies in the City**
 - B. Approve the Affidavit of Posting Agenda**
 - C. Approve the Minutes of November 15, 2022 Regular Meeting**
 - D. Approve the Minutes of November 29, 2022 Special Meeting (5:00 p.m.)**
 - E. Approve the Minutes of November 29, 2022, Special Meeting (6:00 p.m.)**
 - F. Approve the Minutes of the October 25, 2022 Special Meeting**
 - G. Adopt a Resolution of the City Council of the City of San Juan Bautista Affirming the City's Conflict of Interest Code Pursuant to Required Biennial Review**
 - H. Adopt a Resolution of the City Council of the City of San Juan Bautista Accepting the Contract for the Franklin Circle Park Project**

- I. Adopt a Resolution of the City Council of the City of San Juan Bautista Accepting the Contract for the Verutti Park Restroom Project
 - J. Appoint Leslie Jordan to the Economic Development Citizens Advisory Committee (EDCAC)
 - K. Adopt a Resolution of the City Council of the City of San Juan Bautista Accepting a Conditional Offer and Waiver of Right To Hearing from the Central Coast Regional Water Quality Control Board (“RWQCB”); Settlement Agreement and Stipulated Entry of Administrative Civil Liability (“ACL”) Order No. R3-2023-004
 - L. Adopt a Resolution of the City Council of the City of San Juan Bautista Approving a Professional Services Agreement with Ridgeline Municipal Strategies LLC to Prepare and Administer Grants and Loans, and Fulfill the City’s Requirements Set Forth by the State and Federal Funding Sponsors to Pay for the Environmental Protection Agency Compliance Projects
 - M. Waive Reading of Ordinances and Resolutions on the Agenda Beyond Title
5. Presentations, Proclamations, Informational Items and Reports
- A. Ralph M. Brown Act Introduction/Refresher – City Attorney Bob Rathie
 - B. City Council and Staff Announcements
This is an opportunity for Council and staff to share the community calendar and announce upcoming dates of interest to the general public.
 - C. Reports from City Council Representatives to Regional Organizations and Committees
 - D. Treasurer’s Report and Monthly Financial Statements
 - E. City Manager’s Report
 - a. Fire Department Update
 - b. Sheriff Department Update
 - c. Commercial Truck Traffic
6. Action Items
- A. Select Ad Hoc Committee to Interview Candidates to Fill Four (4) Vacancies on the Planning Commission
 - B. Select Check Signers for City Bank Account
 - C. Discuss Disposition of Parklet and Direct Staff Accordingly
7. Discussion Items
- A. Noise Ordinance
 - B. Authorize Staff to Post Notice Accepting Applications for City Treasurer Appointment
 - C. Update City Clerk Ordinance to Reflect Appointment Process
 - D. City Calendar: Reschedule January Regular Council Meeting to January 24, 2022 (due to Conflict with New Mayors and Council Members Academy in Sacramento on January 18), and Close City Hall the week of December 26.
 - E. Use of Community Hall for Local Seniors – Mary Edge
 - F. Ordinance for Selection of Planning Commissioners – Council Member Freeman
8. Adjournment

RESOLUTION NO. 2022-XX

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN JUAN BAUTISTA
DECLARING THE RESULTS OF THE GENERAL MUNICIPAL ELECTION HELD ON
TUESDAY, NOVEMBER 8, 2022**

WHEREAS, by Resolution No. 2022-55, adopted at a regular meeting of the San Juan Bautista City Council on June 14, 2022, this Council called and set the 2022 General Municipal Election to be consolidated with the Statewide General Election to be held the same day, on November 8, 2022; and

WHEREAS, by Resolution No. 2022-55 as amended by Resolution No. 2022-62 this Council placed on the municipal election ballot the election of three (3) members of the City Council to each serve a four-year term succeeding those members whose terms end; and

WHEREAS, by Resolution No. 2022-55 as amended by Resolution 2022-62 this Council placed on the municipal election ballot the election of a City Clerk to succeed the clerk who resigned on January 23, 2022, and for which a vacancy continued to exist for more than 60 days; and

WHEREAS, by Resolution No. 2022-55 as amended by Resolution 2022-62 this Council placed on the municipal election ballot the election of City Treasurer to succeed the treasurer who was appointed on January 21, 2021; and

WHEREAS, City has received and this Council has reviewed the official election results compiled by the County of San Benito, copy attached hereto; and

WHEREAS, this is the time and place for the Council to meet and proceed to declare the results of the 2022 General Municipal Election.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAN JUAN BAUTISTA HEREBY RESOLVES AS FOLLOWS:

SECTION 1. The candidates for the three (3) available Council seats and the number of votes cast for those candidates are as follows:

	Vote Count	Percentage
Jackie Morris-Lopez	400	22.21
Leslie Q. Jordan	377	20.93
Edwin J. Sabathia	354	19.66
Jose Aranda	352	19.54
Steve Harris	318	17.66

SECTION 2. On the basis of the official vote count set out in Section 1, this Council declares JACKIE MORRIS-LOPEZ, EDWIN J. SABATHIA and LESLIE Q. JORDAN elected to full four (4) year terms on the San Juan Bautista City Council.

SECTION 3. There were no candidates running for the office of City Clerk of the City of San Juan Bautista.

SECTION 4. There were no candidates running for the office of City Treasurer of the City of San Juan Bautista.

SECTION 5. The number of votes cast for Measures V and W, asking the voters to vote yes or no on the questions of whether the offices of City Treasurer and City Clerk shall be appointive rather than elective, are as follows:

MEASURE V Vote Count: 444-yes, 346-no; Percentage: 56.20% - 43.80%

MEASURE W Vote Count: 455-yes, 332-no; Percentage: 57.81% - 42.19%

SECTION 6. On the basis of the official vote count set out in Section 5, this Council declares that Measure V and Measure W passed.

THE FOREGOING RESOLUTION WAS ADOPTED at a regular meeting of the San Juan Bautista City Council held on the 20th day of December, 2022, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Leslie Q. Jordan, Mayor

ATTEST:

Don Reynolds, Acting Deputy City Clerk

RESOLUTION NO. 2022-XX

**A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF SAN JUAN BAUTISTA
MAKING FINDINGS AND DETERMINATIONS
UNDER GOVERNMENT CODE §54953 FOR CONTINUING
VIRTUAL AND HYBRID MEETINGS**

WHEREAS, COVID-19 is a viral respiratory disease from which variants have emerged and which has now spread across the world as a pandemic with multiple confirmed cases in California and, as of December 14, 2022, the federal Centers for Disease Control and Prevention (CDC) rated the risk level for community transmission of COVID-19 in San Benito County as High; and

WHEREAS, under authority provided by Government Code section 8625 on March 4, 2020, Governor Newsom issued a Proclamation of State of Emergency in response to the COVID-19 pandemic that remains in effect; and

WHEREAS, on March 17, 2020, the City Council declared a State of Emergency in the City of San Juan Bautista due to COVID-19 that remains in effect; and

WHEREAS, on April 12, May 10, July 8, and October 19, 2021, Governor Newsom proclaimed states of emergency that remain in effect across all counties of California due to extreme and expanding drought conditions; and

WHEREAS, on April 19, 2022, the City Council declared the City of San Juan Bautista to be in a state of emergency pursuant to Water Code section 350 that remains in effect due to the severity of the drought and directed commencement of certain water conservation regulations as provided by Municipal Code Section 6-4-116; and

WHEREAS, on October 17, 2022, Governor Newsom announced the COVID-19 State of Emergency will end on February 28, 2023; and

WHEREAS, the City Council is committed to preserving and nurturing public access and participation in its public meetings; and

WHEREAS, the Legislature enacted Assembly Bill 361 (AB 361), approved by the Governor and filed with the California Secretary of State on September 16, 2021, which amended Government Code section 54953 of the Brown Act (Government Code sections 54950-54963) to allow local agencies to meet fully virtually or in a hybrid format (that is, a meeting format containing both virtual and in-person components) without fully complying with the teleconference rules set forth in Government Code section 54953(b)(3) during a proclaimed state of emergency if state or local officials have imposed or recommended measures to promote social distancing; and

WHEREAS, the Health & Human Services Agency of the County of San Benito has issued a health advisory entitled "COVID-19 What you need to know" that recommends social distancing as a way to slow the spread of a virus including keeping a distance of approximately three feet from the nearest person while in a workplace; and

WHEREAS, The California Department of Industrial Relations Division of Occupational Safety and Health (Cal/OSHA) has promulgated Section 3205 of Title 8 of the California Code of Regulations, which requires most employers in California, including the City, to train and instruct employees about measures, including physical distancing, that can decrease the spread of COVID-19; and

WHEREAS, the City Council authorized the City Manager to enforce the provisions of Municipal Code Section 6-4-116 as of May 1, 2022, until such time as the drought has ended; and

WHEREAS, the City Council desires that the City of San Juan Bautista, including all commissions, committees, and other Brown Act bodies shall continue to be able to hold virtual or hybrid meetings pursuant to AB 361 and Government Code section 54953(e)(1)(A).

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of San Juan Bautista as follows:

Section 1. The City Council has reconsidered the circumstances of the local states of emergency in accordance with Government Code sections 8630(c) and 54953(e)(3)(A), the information related to these matters and the Recitals set forth above are true and correct and are incorporated as findings into this Resolution by this reference.

Section 2. The City Council finds state and local officials continue to recommend measures to promote social distancing and water conservation.

Section 3. The City Council and all other commissions, committees or other Brown Act bodies of the City shall be authorized to continue to meet virtually in accordance with Government Code section 54953(e)(1)(A) without compliance with section 54953(b)(3).

Section 4. This Resolution does not prevent or prohibit the City Council or any commission, committee or other Brown Act body of the City from holding virtual or hybrid meetings (containing both virtual and in-person components) provided such meetings comply with Government Code section 54953(e)(2)(A-G) and with all state and local health orders. Commissions, committees and other Brown Act bodies shall comply with all rules established by the City Council and/or City Manager for attendance at meetings.

Section 5. The City Council shall take action to renew this Resolution every thirty days for as long as any state of emergency continues in force and local officials continue to recommend any measures to promote social distancing, but the City Council may terminate the Resolution at any time. In the event that more than 30 days pass between regular City Council meetings, the City Council shall take action at a virtual or a hybrid meeting to renew this Resolution before deliberating, either at the beginning of the next regular meeting or at a special meeting.

Section 6. If any provision of this Resolution or the application of such provision to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Resolution that can be given effect without the invalid provision or application, and to this end the provisions of this Resolution are severable. The City Council declares that it would have adopted this Resolution irrespective of the invalidity of any particular portion of this Resolution.

Section 7. This Resolution shall take effect immediately upon its adoption.

PASSED AND ADOPTED by the City Council of the City of San Juan Bautista at a regular meeting duly held this 20th day of December 2022, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Mayor

ATTEST:

Don Reynolds, City Manager
Acting Deputy City Clerk

AFFIDAVIT OF POSTING

I, TRISH PAETZ, DO NOW DECLARE, UNDER THE PENALTIES OF PERJURY THAT I AM THE ACTING ADMINISTRATIVE SERVICES MANAGER FOR THE CITY OF SAN JUAN BAUTISTA, AND THAT I POSTED THREE (3) TRUE COPIES OF THE ATTACHED CITY COUNCIL MEETING AGENDA. I FURTHER DECLARE THAT I POSTED SAID AGENDA ON THE 15th DAY OF DECEMBER 2022, AND I POSTED THEM IN THE FOLLOWING LOCATIONS IN SAID CITY OF SAN JUAN BAUTISTA, COUNTY OF SAN BENITO, CALIFORNIA.

1. ON THE BULLETIN BOARD AT CITY HALL, 311 SECOND STREET.
2. ON THE BULLETIN BOARD AT THE CITY LIBRARY, 801 SECOND STREET.
3. ON THE BULLETIN BOARD AT THE ENTRANCE TO THE UNITED STATES POST OFFICE, 301 THE ALAMEDA

SIGNED AT SAN JUAN BAUTISTA, COUNTY OF SAN BENITO, CALIFORNIA,
ON THE 15th DAY OF DECEMBER 2022.



TRISH PAETZ
ACTING ADMINISTRATIVE SERVICES MANAGER

**CITY OF SAN JUAN BAUTISTA
REGULAR CITY COUNCIL MEETING
NOVEMBER 15, 2022, at 6:00 P.M.**

DRAFT MINUTES

1. **CALL TO ORDER** – Mayor Leslie Jordan called the meeting to order at 6:07 p.m. in the City Council Chambers at 311 Second Street, San Juan Bautista, California.

PLEDGE OF ALLEGIANCE – Mayor Jordan led the Pledge of Allegiance.

ROLL CALL

Present: Mayor Jordan; Council Member Edge, Vice Mayor Flores; and Council Members Freels and Freeman

Absent: Council Member Edge

Staff Present: City Manager Don Reynolds, City Attorney Robert Rathie, Assistant City Manager Brian Foucht, and City Treasurer Michelle Sabathia

Mayor Jordan called for a moment of silence in honor of Jim Ostdick.

2. **Closed Session**

- A. **Conference with Labor Negotiators:
City's Designated Representatives, the City Council;
Unrepresented Employee – City Manager Don Reynolds**

Mayor Jordan called for public comment. Seeing no one come forward, she closed the public comment.

Mayor Jordan recessed the open session and convened the closed session at 6:11 p.m.

The open session reconvened at 6:48 p.m.

City Attorney Rathie reported there was no reportable action.

City Attorney Rathie reported Council met in executive session at 5:00 p.m. regarding Public Employee Performance Evaluation pursuant to Gov. Code section 54957(b)(1); City Manager, and there was no reportable action.

3. **Public Comment**

Mayor Jordan called for public comments. Seeing no one come forward, she closed public comment.

4. **Consent Items**

- A. **Adopt a Resolution of the City Council of the City of San Juan Bautista Proclaiming and Reaffirming the Existence of Local Emergencies in the City**
- B. **Approve the Affidavit of Posting Agenda**
- C. **Adopt a Resolution of the City Council of the City of San Juan Bautista Accepting Resignations and Adding Members to the Economic Development Citizens Advisory Committee (EDCAC)**

- D. Approve the Minutes of September 20, 2022**
- E. Approve the Minutes of October 18, 2022**
- F. Waive Reading of Ordinances and Resolutions on the Agenda Beyond Title**

A request was made for Item 4.C to be discussed and considered separately.

A motion was made by Vice Mayor Flores to approve the Consent Calendar Items A, B, D, E, and F. The motion was seconded by Council Member Freeman. The motion passed on a roll call vote of 5 Yes-0 No.

Item C

It was announced Fran Fitzharris withdrew her application and Deanna Snyder was to be appointed in her place.

A motion was made by Council Member Freeman to approve the Consent Calendar Item C, as amended. The motion was seconded by Vice Mayor Flores. The motion passed on a roll call vote of 5 Yes-0 No.

5. Presentations, Proclamations, Informational Items and Reports

A. Proclamation for Small Business Saturday

Mayor Jordan read the proclamation into the record.

Jill Pagarán commented in support of the proclamation.

B. Proclamation for Native Heritage Month

Mayor Jordan read the proclamation into the record.

C. City Council and Staff Announcements

Council and staff announced upcoming events and reported on previous events/happenings attended.

Council Member Freeman requested City Attorney prepare an ordinance amending the Planning Commission process.

Mayor Jordan called for public comment.

Dan DeVries spoke in honor of Jim Ostdick.

Council Member Freeman and Council Member Edge spoke in honor of Jim Ostdick.

Jackie Morris-Lopez spoke in honor of Jim Ostdick.

Seeing no further comment, Mayor Jordan closed public comment.

D. Reports from City Council Representatives to Regional Organizations and Committees

Council reported on meetings attended.

E. Treasurer's Report and Monthly Financial Statements by City Treasurer Michelle Sabathia

City Treasurer Michelle Sabathia provided a brief summary of the staff report and fielded questions from the Council.

Mayor Jordan called for public comment.

Irvin Fegley inquired about the warrant list. City Treasurer Sabathia responded.

Seeing no further comment, Mayor Jordan closed public comment.

- F. City Manager's Report**
 - a. Fire Department Update**
 - b. Sheriff Department Update**
 - c. Commercial Truck Traffic**

Hollister Fire Chief Bob Martin Del Campo provided a brief update regarding fire department happenings.

City Manager Don Reynolds provided a brief report, accompanied by a PowerPoint, regarding city activities and fielded questions from the City Council.

Mayor Jordan called for public comment.

Cynthia Orozco, Midnight Express Owner, spoke to clarify comments regarding Midnight Express.

Michael Ponce requested information regarding water proposals.

Seeing no further comments, Mayor Jordan closed public comment.

- 6. Public Hearing (To be opened and continued to November 29, 2022)**
 - A. Open a Public Hearing to Hear and Consider Objections to the Proposed Abatement of the Public Nuisance at 451 San Juan Hollister Road in the City. (Hearing will be continued in accordance with CA Govt. Code §§54955, 54955.1 and San Juan Bautista Municipal Code §13-1-425).**

City Attorney Rathie provided a brief summary of the evenings public hearing process and previous meeting proceedings.

Mayor Jordan opened the public hearing.

Mayor Jordan called for public testimony.

Property Owner Cynthia Orozco testified in objection to the abatement and requested the Council remove the nuisance.

Mayor Jordan closed public testimony.

There were no Council comments or inquiries.

City Attorney Rathie announced the public hearing would be continued to November 29 at 5:00 p.m. and reported on legal accordances.

- 7. Action Items**
 - A. Approve a Resolution of the City Council of the City of San Juan Bautista Authorizing the Mayor to Execute an Amended and Restated Joint Use Agreement Between the Aromas-San Juan Unified School District and the City of San Juan Bautista**

City Manager Reynolds summarized the staff report and fielded questions from the Council.

Mayor Jordan called for public comment. Seeing no one come forward, she closed public comment.

A motion was made by Council Member Freeman to approve a resolution of the City Council of the City of San Juan Bautista authorizing the Mayor to execute an amended and restated Joint Use Agreement between the Aromas-San Juan Unified School District and the City of San Juan Bautista. The motion was seconded by Council Member Edge. The motion passed on a roll call vote of 5 Yes-0 No.

B. Authorize Staff to Post Accepting Applications for Planning Commission

Mayor Jordan called for public comment. Seeing no one come forward, she closed public comment.

A motion was made by Vice Mayor Flores authorizing staff to post accepting applications for Planning Commission. The motion was seconded by Council Member Freeman. The motion passed on a roll call vote of 5 Yes-0 No.

8. Discussion Items

A. Consider Changes to the City Sign Ordinance

Assistant City Manager Brian Foucht presented the staff report and fielded questions.

Mayor Jordan called for public comment.

Cara Vonk, Jackie Morris-Lopez, Wanda Guibert, Mirjana Tomas, and Fran Fitzharris spoke in favor of amending the ordinance.

Jill Pagan spoke against amending the ordinance.

Seeing no further comments, Mayor Jordan closed public comment.

Council directed staff to prepare an ordinance amending the existing Code.

B. Funding for Senior's Program and the Benefits of Forming a Non-Profit – Council Member Edge

This item was considered out of order and tabled to be heard after Item 8.C.

C. Parklet Encroachment Permit Requirements

Assistant City Manager Brian Foucht presented the staff report and fielded questions from the Council.

Mayor Jordan opened public comment.

Wanda Guibert, Jackie Morris-Lopez, Margot Tankersley, Fran Fitzharris, and Jill Pagan spoke in support of reconsideration of parklet requirements.

Irvin Fegley stated Section 7-8-255 was clear.

Mirjana Tomas spoke in support of removing parklets.

Seeing no further comment, Mayor Jordan closed public comment.

Mayor Jordan announced this would be on a future agenda as an action item.

B. Funding for Senior's Program and the Benefits of Forming a Non-Profit – Council Member Edge

This item was considered out of order.

Council Member Edge presented the report and requested support.

Mayor Jordan called for public comment.

Jackie Morris-Lopez spoke in favor.

Seeing no further comment, Mayor Jordan closed public comment.

Council unanimously supported this effort.

D. Execute an Agreement for the Purchase of Conservation Credits to Mitigate the Adverse Impacts Caused by the Decommissioning of the Wastewater Treatment Plant as a Result of Building the City's New Sewer Force Main Project

City Manager Reynolds presented the staff report and fielded questions from the Council.

Mayor Jordan called for public comment. Seeing no one come forward, she closed public comment.

E. Municipal Election Update (County 30 day canvas of election before results finalized. December Meeting: recognize outgoing Council members, swear in new Council members, and appoint Mayor and Vice Mayor)

City Manager Reynolds provided update on the preliminary election results and announced there would be a special meeting held for the changing of the guard.

9. Recess

Mayor Jordan called a recess at 9:41 p.m. The meeting reconvened at 9:58 p.m.

10. Closed Session:

**B. Conference with Labor Negotiators:
City's Designated Representatives, the City Council;
Unrepresented Employee – City Manager Don Reynolds**

Mayor Jordan called for public comment.

Jackie Morris-Lopez spoke in support of a short-term contract with benchmarks.

Seeing no further comment, Mayor Jordan closed the public comment.

Mayor Jordan recessed the open session and convened the closed session at 10:02 p.m.

The open session reconvened at 10:11 p.m.

City Attorney Rathie reported the Council was unanimously in favor of extending the contract for three years with a salary at \$165,575 a year and four-month severance payments with benefits coverage.

11. Action Items (Continued)

- A. Report on Recommendation(s) re City Manager's Salary, Salary Schedule and/or Compensation through Fringe Benefits per CA Govt. Code §54953(c)(3) and Consider Amending the Employment Agreement with City Manager Don Reynolds**

Mayor Jordan called for public comment. Seeing no one come forward, she closed public comment.

A motion was made by Vice Mayor Flores directing City Attorney Rathie to prepare an amended employment contract with City Manager Reynolds. The motion was seconded by Council Member Freeman. The motion passed on a roll call vote of 5 Yes-0 No.

12. Adjournment

There being no further business, Mayor Jordan adjourned the meeting at 10:14 p.m.

Respectfully submitted,

Don Reynolds, City Manager/Acting City Clerk

**CITY OF SAN JUAN BAUTISTA
REGULAR CITY COUNCIL MEETING
NOVEMBER 29, 2022, at 5:00 P.M.**

DRAFT MINUTES

1. **CALL TO ORDER** – Mayor Leslie Jordan called the meeting to order at 5:00 p.m. in the City Council Chambers at 311 Second Street, San Juan Bautista, California.

PLEDGE OF ALLEGIANCE – Council Member Edge led the Pledge of Allegiance.

ROLL CALL

Present: Mayor Jordan; Council Member Edge, and Council Member Freeman

Absent: Vice Mayor Flores (excused) and Council Member Freels (excused)

Staff Present: City Manager Don Reynolds, City Attorney Robert Rathie, and Assistant City Manager Brian Foucht

2. **PUBLIC COMMENT – ONLY ON ITEMS ON THE AGENDA**

Mayor Jordan noted public comment was to be taken at the time the agenda item is taken up by the Council.

3. **CONSENT ITEMS**

- A. **Adopt a Resolution of the City Council of the City of San Juan Bautista Making Findings and Determinations Under Government Code §54953 for Continuing Virtual and Hybrid Meetings**
- B. **Approve the Affidavit of Posting Agenda**
- C. **Adopt a Resolution of the City Council of the City of San Juan Bautista Regarding Approval of a Second Amendment to the Employment Agreement for City Manager Adopt a Resolution of the City Council of the City of San Juan Bautista Authorizing Street Closures in the City of San Juan Bautista**

A motion was made by Council Member Freeman to approve the Consent Calendar in its entirety. The motion was seconded by Council Member Edge. The motion passed on a roll call vote of 3 Yes-0 No-2 Absent (Flores/Freeman).

4. **PUBLIC HEARING**

- A. **Continue a Public Hearing from the November 15, 2022 Regular Meeting to Hear and Consider Objections to the Proposed Abatement of the Public Nuisance at 451 San Juan Hollister Road in the City**

City Attorney Robert Rathie provided a brief summary of the evenings process and previous meeting proceedings.

Public Comments:

Mayor Jordan called for public comments.

Property Owner Cynthia Orozco testified she objected to the nuisance declaration and was given no ability to abate. She requested the property not go into abatement.

Seeing no further comments, Mayor Jordan closed public comment and the Public Hearing.

Staff Closing Comments:

City Attorney Robert Rathie clarified the next steps of the process to get the property abated.

Assistant City Manager Brian Foucht provided step by step description of the procedure and proceeding process of application of development permit, CEQA review, development review, environmental review, issuance of development permit, and monitoring of abatement actions.

Council Member Comments:

A motion was made by Council Member Edge to overrule the objection and declare the property for abatement. The motion was seconded by Council Member Freeman. The motion passed on a roll call vote of 3 Yes-0 No-2 Absent (Flores/Freeman).

5. ACTION ITEMS

B. Adopt a Resolution of the City Council of the City of San Juan Bautista Appointing Certain EDCAC Members to the 2023-2028 CEDS Strategy Committee

Assistant City Manager Brian Foucht provided a staff report.

Mayor Jordan called for public comment. Seeing no one come forward, she closed public comment.

A motion was made by Council Member Edge to appoint Stephanie Correia as the EDCAC representative with Fran Fitzgerald as the alternate and Mayor Leslie Jordan as the City Council representative. The motion was seconded by Council Member Freeman. The motion passed on a roll call vote of 3 Yes-0 No-2 Absent (Flores/Freeman).

6. ADJOURNMENT

There being no further business, Mayor Jordan adjourned the meeting at 5:35 p.m.

Respectfully submitted,

Don Reynolds, City Manager/Acting City Clerk

**CITY OF SAN JUAN BAUTISTA
REGULAR CITY COUNCIL MEETING
NOVEMBER 29, 2022, at 6:00 P.M.**

DRAFT MINUTES

1. **CALL TO ORDER** – Mayor Leslie Jordan called the meeting to order at 6:00 p.m. in the City Council Chambers at 311 2nd Street, San Juan Bautista, California.

PLEDGE OF ALLEGIANCE – Council Member Freeman led the Pledge of Allegiance.

ROLL CALL

Present: Mayor Jordan; Council Member Edge, and Council Member Freeman

Absent: Vice Mayor Flores (excused) and Council Member Freels (excused)

Staff Present: City Manager Don Reynolds, General Counsel Robert Rathie, and Assistant City Manager Brian Foucht

2. **PUBLIC COMMENT – ONLY ON ITEMS ON THE AGENDA**

Mayor Jordan noted public comment was to be taken at the time the agenda item is taken up by the Council.

3. **CONSENT ITEMS**

Request was made for each item to be considered separately.

- A. **Approve the Affidavit of Posting Agenda**

A motion was made by Council Member Freeman to approve Consent Calendar Item A. The motion was seconded by Council Member Edge. The motion passed on a roll call vote of 3 Yes-0 No-2 Absent (Flores/Freeman).

- B. **Adopt a Resolution of the City Council of the City of San Juan Bautista Approving the Application to the Rural United States Department of Agriculture (USDA) for Grant/Loan Funds to Build the City's Force Main to Hollister**

City Manager provided a staff report and fielded questions from the Council.

Mayor Jordan called for public comment. Seeing no one come forward, she closed public comment.

A motion was made by Council Member Freeman to approve Consent Calendar Item B. The motion was seconded by Council Member Edge. The motion passed on a roll call vote of 3 Yes-0 No-2 Absent (Flores/Freeman).

4. ADJOURNMENT

There being no further business, Mayor Jordan adjourned the meeting at 6:06 p.m.

Respectfully submitted,

Don Reynolds, City Manager/Acting City Clerk

**CITY OF SAN JUAN BAUTISTA
SPECIAL CITY COUNCIL MEETING
OCTOBER 25, 2022, at 5:00 P.M.**

DRAFT MINUTES

1. **CALL TO ORDER** – Mayor Leslie Jordan called the meeting to order at 5:20 p.m. in the City Council Chambers at 311 Second Street, San Juan Bautista, California. This meeting was a hybrid meeting, as such, some members were in attendance at a zoom location.

PLEDGE OF ALLEGIANCE – Vice Mayor Flores led the Pledge of Allegiance.

ROLL CALL

Present: Mayor Jordan; Vice Mayor Flores; and Council Members Freels and Freeman

Absent: Council Member Edge (excused)

Staff Present: City Manager Don Reynolds, General Counsel Robert Rathie, Assistant City Manager Brian Foucht, and RGS Clerk Advisor Norma Alley

2. **PUBLIC COMMENT**

City Attorney Robert Rathie reported on the closed session regarding Public Employee Performance Evaluation pursuant to Gov. Code section 54957(b)(1); City Manager, which was held at a City Council Special meeting immediately preceding this meeting. He stated there was one public comment received from Rachel Ponce. He reported that during closed session the Council received information, provided direction, and there was no reportable action. It was noted the preceding meeting adjourned out of closed session at 5:15 p.m.

Mayor Jordan noted public comment was to be taken at the time the agenda item is taken up by the Council.

3. **ACTION ITEMS**

- A. **Approve Affidavit of Posting Agenda**

Mayor Jordan called for public comments. Seeing no one come forward, she closed the public comments.

A motion was made by Vice Mayor Flores to approve the Affidavit of Posting Agenda. The motion was seconded by Council Member Freels. The motion passed on a roll call vote of 4 Yes-0 No-1 Absent (Edge).

- B. **Adopt a Resolution of the City Council of the City of San Juan Bautista (1) Declaring a Public Nuisance to Exist on the Parcel Commonly Known as 451 San Juan Hollister Road, and (2) Directing the City Manager to Post, Publish, and Mail Notice of Hearing to Consider Abatement of Said Public Nuisance**

City Attorney Robert Rathie provided a brief summary of the evenings process and previous meeting proceedings.

No additional comments from staff.

Applicant Comments:

Matt Kelley, Kelley Engineering, representative of Orozco family, provided a brief update on the project and expectations for moving forward.

Anne Hall provided a brief update on the project and requested a meeting with the applicant, Kelley Engineering, and the City's engineering consultant to provide clarity on the project.

Nena Patani, Orozco legal counsel, spoke on the purpose of a declaration of a nuisance and potential disturbance of the water and flood plain. She stated the applicant did want to comply, but there was no clarity on what the issue was.

Property Owner Cynthia Orozco stated she was willing to work with the City to abate the issue, requested invoices of which she had not received, and stated she had several questions of what is owed exactly in order to resolve the issue as quickly as possible.

Council Member Comments:

Council Member Freels asked if the pile of soil was in the flood plain. Assistant City Manager Brian Foucht answered yes and it was still there.

Council Member Freeman asked if the study had been completed and reviewed by staff. City Attorney Robert Rathie responded the study had been partially completed and is not complete. Assistant City Manager Brian Foucht said the areas adjacent to the property was not complete, but when the study was complete it would characterize the nature of the violation(s).

Public Comment:

Mayor Jordan called for public comment. Seeing no one come forward, she closed the public comment.

Applicant's Rebuttal:

Property Owner Maria Orozco reported the pile of dirt was hauled onto the property and was out of the flood plain.

Anne Hall stated the dirt stock piled was approved under the 2020 grading permit.

Nina Patani reported the stock pile of dirt was imported onto the property and not placed in the flood plain at the direction of the city. Second, the report was specifically commissioned to learn if there is an issue with the flood plain and disturbed in any significant way. She stated her client did not have the report or the benefit of the information in that report, so in order to work on solving a problem that may exist has not been defined as that report has not been released.

Staff Rebuttal and Final Comments:

4. ADJOURNMENT

There being no further business, Mayor Jordan adjourned the meeting at 6:06 p.m.

Respectfully submitted,

Don Reynolds, City Manager/Acting Deputy City Clerk

RESOLUTION NO. 2022-XX

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
SAN JUAN BAUTISTA AFFIRMING THE CITY'S
CONFLICT OF INTEREST CODE PURSUANT TO
REQUIRED BIENNIAL REVIEW**

WHEREAS, in 1991 the City adopted a Conflict of Interest Code ("Code") pursuant to the Political Reform Act ("Act"); and

WHEREAS, the Act requires the City to update its Code biennially, during which update in 2022 the City Council determined, based on current employee and consultant structure, that changes are required to the list of designated positions; and

WHEREAS, as a result, Appendix B of the Code reflects revisions.

NOW, THEREFORE, THE COUNCIL OF THE CITY OF SAN JUAN BAUTISTA DOES RESOLVE AS FOLLOWS:

Attached Appendix B currently in place in the Code is affirmed. All other appendices and the balance of the Code shall remain unchanged.

PASSED AND ADOPTED this 20th day of December, 2022, at a regular meeting of the San Juan Bautista City Council, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Mayor

ATTEST:

Don Reynolds, Acting Deputy City Clerk

APPENDIX B

Designated Positions
Form 700

<u>CATEGORY</u>	<u>POSITION</u>
	<u>Planning and Building</u>
1	Asst. City Manager – Community
	Development Director
4, 5	Building Official
	<u>Public Works</u>
1	Public Works Supervisor
3,4	Water Pollution Control Superintendent
4	Industrial Waste Inspectors
	<u>City Clerk</u>
1	City Clerk
1	Deputy City Clerk
	<u>City Engineer</u>
1	City Engineer
	<u>Finance</u>
1	City Accountant
	<u>Fire Department</u>
1	Fire Chief



CITY OF SAN JUAN BAUTISTA STAFF REPORT

AGENDA TITLE: ACCEPTANCE OF THE FRANKLIN CIRCLE PARK PROJECT

MEETING DATE: December 20, 2022

SUBMITTED BY: Julie Behzad, Project Engineer

DEPARTMENT HEAD: Don Reynolds, City Manager

RECOMMENDED ACTION(S):

That the City Council:

1. Adopt the attached resolution accepting the contract for the Franklin Circle Park in the final contract amount of \$216,940.66.
2. Authorize the City Engineer to sign the Notice of Completion; and
3. Direct the City Clerk to file said Notice of Completion with the County Recorder's Office.

BACKGROUND INFORMATION:

Project Description

The proposed project installed a professionally designed park in the raised median at the end of Franklin Street in Franklin Circle. The design was derived with a collaboration of community input with the designers of the park. The Park includes a Bocce Ball Court, a Hopscotch Court, Barbecue Grill with an ash receptacle, picnic tables, seating areas, planting areas, and trees. The Park is fully ADA accessible. The project included installation of the landscaping and irrigation.

The project was expected to take 75 calendar days after the Notice to Proceed has been issued. There were some added furnishings that were long lead time items that extended the final completion of the park.

Advertising-Bid Process and Results

A Notice to Bidders was published once in the Hollister Free Lance. Staff sent the Notice to Bidders to eight Builders Exchanges, covering Alameda County, Santa Clara County, Contra Costa County, the Peninsula area, and the San Francisco Bay Area.

Eight (8) bids were received and opened on October 13, 2021. The lowest responsible and responsive bidder was Joes Landscaping and Concrete, Inc.

Project Award and Construction Phase

The project was awarded on November 16, 2021 in the amount of \$189,701, with the total construction contract of \$197,044.66. The total budget was \$208,701 including contingency, design and inspections.

During the construction phase of the project, three change orders were authorized in the total amount of \$27,239.66. Change order 1 was to remove and replace the damaged vertical curb and asphalt on the perimeter of the park. The project was substantially complete in April 2022.

Change Orders 2 and 3 were to add new furnishing which were not part of the original scope of the project. These items were specifically added to provide special place to install the dedication plaques to honor the residents who were involved from the beginning phase of the project. The final construction contract amount is \$216,940.66.

The original contract specification also included the continuous maintenance of the park to be provided by the contractor, complete as specified during progress of the work, after installation, and for a period of one full year (365 days) after preliminary acceptance. The landscaping was preliminary accepted in April 2022. Joe Landscaping and Concrete; per the contract; will be responsible to maintain the landscaping through April 2023. There is a bid item specified for maintenance where the funds will be held to compensate the contractor through the maintenance period.

Recommendations

Staff recommends the acceptance of this project as the work has been completed in accordance with plans and specifications.

Staff additionally recommends authorizing the City Clerk to file the Notice of Completion attached.

Fiscal Impact

Budget was \$208,701. Partial funding of the project was from Per-capita Grant Funds in the amount of \$100,952, which was able to add \$952 to the original \$100,000. \$30,201 will come from developer paid Park Facility Impact funds, \$62,000 from Park-in-Lieu developer revenues, and remainder of the project (\$23,600) was funded by City's Park Development Revenues. This project came in at \$216,940, and was approximately \$7,300 over budget. Ongoing maintenance and repair costs will be completed by City staff.

Attachment

Resolution 2022- XX
Notice of Completion

RESOLUTION 2022 – XX

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN
JUAN BAUTISTA ACCEPTING THE CONTRACT FOR THE FRANKLIN CIRCLE PARK
PROJECT**

WHEREAS, the City budgeted funds for Franklin Circle Park project in Fiscal Year 2021-22; and the design was completed in 2021; and

WHEREAS, the project included installing a Bocce Ball Court, a Hopscotch Court, Barbecue Grill with an ash receptacle, picnic tables, seating areas, planting areas, and trees. The project also included installation of the landscaping and irrigation and is fully ADA accessible; and

WHEREAS, the project was awarded on November 16, 2021, and substantially completed by April 2022; and

WHEREAS, during the construction phase of Franklin Circle Park project, three change orders were authorized in the amount of \$27,239.66. The final construction contract amount is \$216,040.66; and

WHEREAS, the contractor will be responsible to maintain landscaping for a period of one year after preliminary acceptance of April 2022; and

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of San Juan Bautista that;

1. Authorizes the City Engineer to sign the Notice of Completion for the acceptance of this project as the work has been completed in accordance with plans and specifications.
2. Additionally, authorizing the City Clerk to file the Notice of Completion with the County Recorder's Office

PASSED AND ADOPTED at a regular meeting of the San Juan Bautista City Council on the 20th day of December 2022 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

-----, Mayor

Don Reynolds, Acting Deputy City Clerk

Record at the Request of
and When Recorded Mail to:

City of San Juan
Bautista
311 2Nd Street
San Juan Bautista, CA
95045

SPACE ABOVE THIS LINE IS FOR RECORDER'S USE

NOTICE OF COMPLETION

NOTICE IS HEREBY GIVEN, pursuant to Civil Code Section 9204, that:

- 1) On November 16, 2021, the City of San Juan Bautista, a Municipal Corporation, entered into an agreement with **Joe's Landscaping and Concrete** for the **Franklin Circle Park Project**, San Juan Bautista, California.
- 2) The owner of the public improvements is the City of San Juan Bautista, a Municipal Corporation, located at 311 2nd Street, San Juan Bautista, CA 95045.
- 3) The contractor is **Joe's Landscaping and Concrete** at 802 Inyo Avenue, Newman, CA 95306.
- 4) The surety is "**Granite Surety Insurance Company**".
- 5) The project was completed in **October 2022** and accepted by the City Council of the City of San Juan Bautista on **December 20, 2022**.

CITY OF SAN JUAN BAUTISTA, a Municipal Corporation

By _____
_____,
City Engineer

I, the undersigned, declare that I am the City Engineer for the City of San Juan Bautista. I have read the forgoing Notice of Completion and know and understand the contents thereof and that the facts stated therein are true and correct. I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on____, at San Juan Bautista, California.

_____, City Engineer



CITY OF SAN JUAN BAUTISTA STAFF REPORT

AGENDA TITLE: ACCEPTANCE OF THE VERUTTI PARK RESTROOM
INSTALLATION

MEETING DATE: December 20, 2022

SUBMITTED BY: Julie Behzad, Project Engineer

DEPARTMENT HEAD: Don Reynolds, City Manager

RECOMMENDED ACTION(S):

That the City Council:

1. Adopt the attached resolution accepting the contract for the Verutti Park Restroom Installation in the final contract amount of \$256,586.98.
2. Authorize the City Engineer to sign the Notice of Completion; and
3. Direct the City Clerk to file said Notice of Completion with the County Recorder's Office.

BACKGROUND INFORMATION:

Project Description

The proposed project installed a prefabricated restroom building at the location of and replacing the existing portable restroom facility. The project also included installing services needed to support the installation. The building was designed to complement the existing San Juan Bautista building styles with Concrete "S" tile roof and white stucco finish. The building has an ADA accessible Men's and Women's Restroom with a Mechanical Room between them. The restrooms are easily serviceable and have been overseen by Public Works Staff. The project was expected to take 100 calendar days after the Notice to Proceed was issued. The expected long lead time of the structure, outside light fixtures and several unforeseen unknown services at the park caused the delay in completion of the project.

Advertising-Bid Process and Results

A Notice to Bidders was published in the Hollister Free Lance. Staff sent the Notice to Bidders to eight Builders Exchanges, covering Alameda County, Santa Clara County, Contra Costa County, the Peninsula area, and the San Francisco Bay Area.

Five (5) bids were received and opened on October 13, 2021. lowest responsible and responsive bidder was Monterey Peninsula Engineering.

Project Award and Construction Phase

The project was awarded on November 16, 2021, with the total construction contract of \$267,240 and substantially completed by October 2022.

During the construction phase of the project, five change orders were authorized in the amount of \$14,346.98. The final construction contract amount is \$256,586.98 which is less than the City Council approved construction budget of \$267,240.

Recommendations

Staff recommends the acceptance of this project as the work has been completed in accordance with plans and specifications.

Staff additionally recommends authorizing the City Clerk to file the Notice of Completion attached.

Fiscal Impact

Ongoing maintenance and repair costs will be completed by City staff. There will be _____ savings realized from cancelling the rental portable restroom facility and service.

Partial funding of the project was from State Proposition 68 Per Capita Grant Funds in the amount of \$77,000, Parking and Restroom Fund \$125,000 and remainder of the project was funded by City Developer Paid Park Impact Funds (\$54,568.98). The budget approved November 16, 2021, with the Contract Award estimated \$65,240 from the Park Impact Fund and a total cost of \$267,240.

Attachment

Resolution 2022- XX
Notice of Completion

RESOLUTION 2022 – XX

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN
JUAN BAUTISTA ACCEPTING THE CONTRACT FOR THE VERUTTI PARK
RESTROOM INSTALLATION PROJECT**

WHEREAS, the City budgeted funds for Verutti Park Restroom Installation project in Fiscal Year 2021-22; and the design was completed in 2021; and

WHEREAS, the project installed a prefabricated restroom building at the location of and replacing the existing portable restroom facility, services needed to support the new restrooms including ADA accessible Men's and Women's Restroom with a Mechanical Room between them; and

WHEREAS, the project was awarded on November 16, 2021, and substantially completed by October 2022; and

WHEREAS, during the construction phase of Verutti Restroom Installation project, Five change orders were authorized in the amount of \$14,346.98. The final construction contract amount is \$256,586.98; and

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of San Juan Bautista that;

1. Authorizes the City Engineer to sign the Notice of Completion for the acceptance of this project as the work has been completed in accordance with plans and specifications.
2. Additionally, authorizing the City Clerk to file the Notice of Completion with the County Recorder's Office

PASSED AND ADOPTED at a regular meeting of the San Juan Bautista City Council on the 20th day of December 2022 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

-----, Mayor

Don Reynolds, Acting Deputy City Clerk

Record at the Request of
and When Recorded Mail to:

City of San Juan
Bautista
311 2Nd Street
San Juan Bautista, CA
95045

SPACE ABOVE THIS LINE IS FOR RECORDER'S USE

NOTICE OF COMPLETION

NOTICE IS HEREBY GIVEN, pursuant to Civil Code Section 9204, that:

- 1) On November 16, 2021, the City of San Juan Bautista, a Municipal Corporation, entered into an agreement with **Monterey Peninsula Engineering** for the **Verutti Park Reatroom Installation Project**, San Juan Bautista, California.
- 2) The owner of the public improvements is the City of San Juan Bautista, a Municipal Corporation, located at 311 2nd Street, San Juan Bautista, CA 95045
- 3) The contractor is **Monterey Peninsula Engineering** at 192 Healy Avenue, Marina, CA 93933.
- 4) The surety is "**The Continental Insurance Company**".
- 5) The project was completed in **October 2022** and accepted by the City Council of the City of San Juan Bautista on **December 20, 2022**.

CITY OF SAN JUAN BAUTISTA, a Municipal Corporation

By _____
-----,

City Engineer

I, the undersigned, declare that I am the City Engineer for the City of San Juan Bautista. I have read the forgoing Notice of Completion and know and understand the contents thereof and that the facts stated therein are true and correct. I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on____, at San Juan Bautista, California.

-----, City Engineer

RESOLUTION 2022-XX

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN JUAN
BAUTISTA ACCEPTING RESIGNATIONS AND ADDING MEMBERS TO
THE SAN JUAN BAUTISTA
ECONOMIC DEVELOPMENT CITIZENS ADVISORY COMMITTEE (EDCAC)**

WHEREAS, expansion of the local tax base, creation of new employment opportunities, improvements to the quality of life and collaboration with other public entities are important economic development goals of the City; and

WHEREAS, the City of San Juan Bautista may access significant resources to promote and advance local economic development including Federal Economic Development Administration grants, assistance from the Governor's Office of Business and Economic Development, and locally developed pooled resources; and

WHEREAS, the San Benito County Economic Development Corporation will embark upon a Comprehensive Economic Development Strategy (CEDS) that will contribute to effective local economic development through a locally-based, regionally-driven economic development planning process that will enable acquisition Federal Economic Development Administration funding in support of City business improvement and economic development priorities; and

WHEREAS, the CEDS will focus on key economic concerns and broad community interests through a comprehensive community engagement program that will include the San Juan Bautista community; and

WHEREAS, the San Juan Bautista Business Forum is an open, informal and ongoing discussion group that desires a means for the business community to formally engage with the City Council regarding initiatives that will create and maintain a resilient and vibrant business and employment climate in San Juan Bautista that serves visitors and residents alike; and

WHEREAS, effective and organized formal communication regarding economic development requires a concerted partner-driven effort involving local education, the arts and culture, education, transportation, land development, public and private investment priorities, marketing and promotion;

WHEREAS, the City Council established the EDCAC via Resolution 2021-74 and desires to accept resignations and appoint members of the Committee;

WHEREAS, the City Council has previously accepted resignations, reviewed valid applications and appointed members to the Committee;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of San Juan Bautista hereby appoints one (1) member to the San Juan Bautista Economic Development Citizens Advisory Committee according to the purpose, membership and terms described in Attachment 1.

THE FOREGOING RESOLUTION was adopted by the City Council of the City of San Juan Bautista at its regular meeting held on the 20th day of December, 2022, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Mayor Leslie Q. Jordan

ATTEST:

Don Reynolds, Acting Deputy City Clerk

Attachment 1

City of San Juan Bautista Economic Development Citizens Advisory Committee

<u>Name</u>	<u>Affiliation</u>	<u>Appointed</u>	<u>Expires</u>
Beverly Meamber Leslie Jordan	Resident	12/20/22	12/31/24
Deanna Snyder	Corporation Employee	10/18/22	12/31/24
Darlene Boyd	SBC Measure G Oversight	12/31/21	12/31/24
Fran Fitzharris	SJB Business Association; Food Service business owner	12/31/21	12/31/24
Heliena Watson	DT Business Owner, Retail	12/31/21	12/31/25
Kim Calame	DT Business Owner, Food Service	5/24/22	12/31/25
Lizz Sanchez Turner	ED Consultant Business Owner	12/31/21	12/31/25
Patricia Bains	DT Business Owner, Retail	12/31/21	12/31/25
Stephanie Correia	Business Owner, Real Estate	12/31/21	12/31/26
Susie Velez	DT Business Owner, Retail	12/31/21	12/31/26
Teresa Lavagnino	San Juan School Education/ Recreation	12/31/21	12/31/26

AUTHORITY: Resolution 2021 – 65; Resolution 2022-37

MEMBERSHIP:

The Economic Development Citizens Advisory Committee (CCAC) shall be established with eleven (11) voting members.

Membership requirements or considerations include the following:

Members shall reside, operate a business within, have gainful employment with, or be involved in a substantial, meaningful way with, entities whose mission and activity includes education, social services, health services, historic preservation activities, culture and the arts.

Members shall take an interest in issues associated with economic development, business development, resiliency, the arts, culture, historic preservation, recreation and public education.

Members may have special knowledge, expertise, or skills related to economic development, business operation, public private partnerships including finance, federal state and local economic development programs. Members may also have special knowledge or experience in the arts and culture, education, recreation, transportation or other qualifications related to economic development. Special knowledge, skills, or expertise is not mandatory for appointment to the committee.

The committee may call upon representatives of other organizations or departments, and the general public as resources on certain topics related to the purpose, tasks and responsibilities of the committee.

APPOINTMENTS

Appointments to the EDCAC shall be made by the City Council based on review of applications submitted on the City of San Juan Bautista standard application form.

TERMS

Initial appointment of committee members shall be as follows:

Initial appointment of Committee members shall be staggered as follows:

Four (4) members: three (3) year term

Four (4) members: four (4) year term

Three (3) members: five (5) year term

If the initial appointments are made mid-term, the appointments shall minimally be for the terms listed above [e.g. the "one (1) year terms" may actually be one (1) year and five (5) months terms or one (1) year and two (2) month terms].

After the initial appointments, all terms will be for two (2) year periods. All terms shall expire upon the last day of December of the appropriate year.

The City Council may remove at any time and without cause any member of the EDCAC.

PURPOSE

The purpose of the EDCAC is as follows:

- 1) Stimulate the provision of enhanced resources for local business development and support;
- 2) Establish and maintain communication with City staff and City Council regarding business support, development and overall economic development;
- 3) Establish and maintain an ongoing liaison with economic development resources in San Benito County and State and Federal agencies.

To accomplish these purposes, the Committee may conduct the following activities, including but not limited to:

- 1) Host an active forum for exchange of ideas and information and otherwise reach out to the business community, residents, and visitors to promote business development;
- 2) Evaluate and determine the economic needs of the business community and residents;
- 3) Interact proactively with a broad spectrum of economic development interests;
- 4) Recommend strategies to the City Council to provide resources directly to local businesses.

DEPARTMENT: The City of San Juan Bautista Community Development Department

CITY OF SAN JUAN BAUTISTA

APPLICATION FOR COMMISSIONS AND BOARDS

Check one: ☐ Planning Commission/Historic Resources Board
☒ Economic Development Citizens Advisory Committee
☐ Urban Growth Boundary-Sphere of Influence Ad-Hoc Committee

1. Applicant Name: Leslie Jordan
2. Current Residence: 46 Monterey Street
Mailing Address P.O. Box 517
E-mail Address: lesliejordan203@gmail.com
3. Telephone Number: (Home) _____ (Work) _____ (Cell) 203-612-0761
4. How long have you been a resident of San Juan Bautista? 9 years
5. Are you currently serving or have you served on a City of San Juan Bautista Board, Commission, or City Council?
If yes, which one? Yes, City Council Term currently serving 2018-2022
Term currently serving _____
6. What motivated you to apply for this Board or Commission? You may attach a separate sheet of paper. I want to continue to serve the residents of San Juan Bautista and I believe that this is the next logical step for me. I was part of the brain storming that went into the formation of the EDCAC. I am an active member in this community and City and want to see it not only shine, but prosper.
7. What skills or attributes can you bring to this Board or Commission? You may attach a separate sheet of paper.
Having served on the City Council for the last 4 yrs and Mayor the last 2 yrs working closely with EDC and Renee Wells. I attend the Committee meetings as a whole and sit in on the subcommittees. I am a member of the CEDS group representing San Juan Bautista. I have a working relationship with Assemblymember Rivas' office, Senator Caballero's office and most importantly Congresswoman's Lofgren's office.
8. The primary role of a Board or Commission member is to provide advice to the City Council on policy issues that are within the scope of that Board or Commission. With this in mind, what steps would you take to effectively exercise this specific Board or Commission role? You may attach a separate sheet of paper.
I will engage with the members of the Council, City Staff, and any other resource necessary to gain an understanding of items/issues/projects that could fall under the purview of the EDCAC. I will act in a manner that in a manner that serves the betterment of the City and not myself;
9. List any relevant education, training or experience that demonstrates your ability to effectively serve on this Board or Commission. You may attach a separate sheet of paper.
I have been on the City Council for the last 4 years and served as Mayor for the last 2 years on the Council. Aside from the CA League of City trainings, I have also taken several training courses through the Institute For Local Government Planning Commissioners Training. I have attended and/or reviewed all the Planning Commission meetings over the last 4 yrs. I sit in on all Business and EDCAC meetings. I am a member in good standing of several Committees in and around the City. As stated earlier, I have been involved with the EDCAC before the idea came before the Council. I am fully qualified to effectively serve on this Committee.

CITY OF SAN JUAN BAUTISTA
APPLICATION FOR COMMISSIONS AND BOARDS

Applicant's Name Leslie Jordan

10. List and provide a brief description of your current or last occupation, Water/Wastewater Systems Operator - WQ and Environmental Compliance and Operations of 70+ water and wastewater systems; Lead Instructor for Gavilan College's Water/Wastewater Program; Council Member/Mayor for the City of San Juan Bautista; Liason between small water systems, Assemblymember Rivas' office, and State Agencies
11. Have you attended a City Council, Board or Commission meeting, Town Hall meeting or Public Workshop? If so, please describe what you learned and what improvements you would suggest the City consider.
I have attended City Council mtgs, almost all Planning Commission and Historic Resources Board mtgs, every Town Hall mtg and all Public Workshops. I have learned how to and what it takes to present oneself in a professional manner and that we serve at the pleasure of our community. I have recommended that both the Council and PC/HRB attend training on the roles and responsibilities of ones respective position
12. Describe your involvement in community activities, volunteer and civic organizations.
Rotary, Seniors Committee, City Council, San Juan Committee-DBA San Juan Bautista Business Association, SBC Water Assoc Fire District Adhoc Committee, SJB Safety Committee
13. Do you have any physical or mental constraints which may limit your ability to perform the duties of a Board or Commission member? If yes, what can be done to accommodate these constraints? No

(Note: Pursuant to the Americans with Disabilities Act, the City of San Juan Bautista will make reasonable efforts to accommodate persons with qualified disabilities during the Boards and Commissions interview process. If you require special accommodations, please contact the City Clerk at least five days in advance of any scheduled interview.)

I certify under penalty of perjury that all statements I have made on this application are true and correct. I hereby authorize the City of San Juan Bautista to investigate the accuracy of this information from any person or organization, and I release the City of San Juan Bautista and all persons and organizations from all claims and liabilities arising from such investigation or the supplying of information for such investigation. I acknowledge that any false statement or misrepresentation on this application or supplementary materials will be cause for refusal of appointment or immediate dismissal at any time during the period of my appointment.

YOUR APPLICATION IS NOT COMPLETE UNTIL IT IS SIGNED AND RETURNED.

IMPORTANT NOTICE

A Board or Commission member is a public official. As such, it is necessary to provide contact information to the public. Please note that all information provided on this form becomes a public record after it is officially filed. Please do not include any information on this form that you do not want posted on the City's web site and the City's Official Roster.

Applicants appointed to the Planning Commission and Historical Resources Board are required to file the Fair Political Practices Commission (FPPC) Statements of Economic Interest (Form 700), which are also a public record. A copy of this form is available in the City Clerk's office or by visiting www.fppc.ca.gov.

Signature of Applicant  Date November 9, 2022

Please mail, fax, or deliver to: City Hall, P.O. Box 1420, 311 Second St., San Juan Bautista, CA 95045, FAX: 623-4093.



CITY OF SAN JUAN BAUTISTA CITY COUNCIL REPORT

AGENDA TITLE: ACCEPT CONDITIONAL OFFER AND WAIVER OF
RIGHT TO HEARING; SETTLEMENT AGREEMENT AND
STIPULATED ENTRY OF ADMINISTRATIVE CIVIL
LIABILITY ("ACL") ORDER NO. R3-2023-004

MEETING DATE: December 20, 2022

DEPARTMENT HEAD: Don Reynolds, City Manager

RECOMMENDED ACTION(S):

It is recommended that the City Council adopt the attached Resolution and authorize the City Manager to sign and deliver the Central Coast Regional Water Quality Control Board (RWQCB) attached letter "accepting the conditional offer and waiver of right to hearing; settlement agreement and stipulation for entry of Administrative Civil Liability (ACL) Order No. R3-2023-0004."

SUMMARY

The original Settlement Agreement (Administrative Civil Liability – ACL No. R3-2022-0031), for wastewater permit violations and fines with the RWQCB was executed in October 2022, addressing violations and penalties from 2007 to March 30, 2022.

This new proposed ACL relates to payment of mandatory minimum penalties (MMPs) for violations occurring after March 30, 2022 through September 30, 2022. There were 11 violations that occurred during this time, with MMPs of \$3,000 each, for payment due to the "State Water Pollution Cleanup and Abatement Account" of \$33,000.

BACKGROUND INFORMATION:

Between February 2020 and the December 2021, the City and RWQCB negotiated the violations and penalties (MMPs) that occurred in 2007, and continue to occur today. Between the summer of 2020 and January 2022, the City cleaned up its Wastewater Treatment Plant. But the WWTP is not designed to remove salts. The levels of chloride will not be below the City's permit levels until a new source of water can be blended with the ground water, because the ground water has levels of salts that are higher than the permit limits for the treated effluent.

While the City negotiated the original settlement agreement, it did not disagree that violations occurred. It argued instead about how old some of the violations were, and the ability of the City to apply payment of penalties towards a compliance project. It was successful in removing fines from as far back as 2007 due to a recent court case that prohibited the RWQCB to reach too far into the past to collect old penalties. It was also successful in arguing that violations that occurred

up until 2018 could be applied to a local compliance project. The City's status as a disadvantaged community (DAC) changed in 2018; to apply fines to a compliance project, it is required to be a DAC.

As stated in the Resolution, the total penalties to be paid in the original settlement agreement were \$981,000. Of that amount \$111,000 were too old and were dismissed, leaving \$870,000. While in DAC status, \$696,000 in penalties accrued, and after 2018, \$174,000 accrued up until March 30, 2022. The City is able to apply \$696,000 towards the EPA Compliance project (Force Main to Hollister), and has to pay \$174,000 for the more current fines to the RWQCB "Pollution Clean-Up and Abatement Fund," and for all fines going forward. The RWQCB promised to assess penalties on a regular basis and not allow time to pass as it did in the original settlement. The City acknowledges that its WWTP will not be able to remove chlorides and sodium from its water source, and may incur one or two violations per month until the compliance project is in operation.

DISCUSSION:

On November 21, 2022, the City received the letter attached to the proposed Resolution known to the RWQCB as an Expedited Payment Letter ("EPL"). It includes the Notice of Violation ("NOV"). It explains that the City, according to its own self reporting records, has continued to violate its NPDES permit by sending too much salt to the creek between April 30 and September 30, 2022. This State regulatory agency is required by law to provide several paths towards resolution of these penalties and payment. These include negotiations and public hearings if the City sees a need to protest the penalties. But as stated above, these violations were expected, and the City does not protest their own self-reporting. So, this is an effort to expeditiously resolve these outstanding penalties, waiving the City's right to protest and request a hearing before the RWQCB.

To participate in this expedited process, conditions must be met by the City and by the RWQCB. The Notice of Violation (NOV) identifies in its attachment the 11 violations. The City's wastewater operator has confirmed these violations occurred. On Page 2 of the letter, it summarizes the "Permittee's Options for Response to Offer." To pursue this expedited path, the City must sign the "acceptance and waiver" letter also attached to the Resolution. Pending a 30-day public notice period, the RWQCB's Executive Officer will sign it, and approximately 30-days after that date the City will have to pay the penalties (\$33,000). The City must reply by December 21, 2022.

If approved by Council, the attached resolution will authorize the City Manager to sign the Letter Accepting the Conditional Offer and Waiver of Right to Hearing to settle these penalties.

FISCAL IMPACT:

The City can expect to receive these NOV's and expedited payment letters until June 30, 2024 when the force main to Hollister is open for business. If this is \$33,000 per six months, there will be three more of these coming, or \$100,000-\$110,000 more to pay in violations.

ATTACHMENTS:

Proposed Resolution with RWQCB Letter, NOV, and Letter of Acceptance

RESOLUTION NO. 2022- XX

A RESOLUTION OF THE CITY OF SAN JUAN BAUTISTA ACCEPTING OF CONDITIONAL OFFER AND WAIVER OF RIGHT TO HEARING; SETTLEMENT AGREEMENT AND STIPULATED ENTRY OF ADMINISTRATIVE CIVIL LIABILITY ("ACL") ORDER NO. R3-2023-004

WHEREAS, on February 25, 2020, the Central Coast Regional Water Quality Control Board ("RWQCB") placed the City on notice regarding the payment of mandatory minimum penalties ("MMPs") under California Water Code Section 13385 for alleged violations of the City's expired 2009 Wastewater Permit, reaching back more than a decade, related to the City's treated municipal wastewater discharged into No-Name Creek; and

WHEREAS, for a variety of reasons, the City agreed to a settlement agreement instead of proceeding to a hearing before the RWQCB; and

WHEREAS, in August 2020, the City and the Environmental Protection Agency (EPA) reached agreement on an Administrative Order on Consent, addressing the same problems alleged by the RWQCB, and has designed and funded the \$18 million "compliance" project to decommission its wastewater plant after sending its wastewater to the Hollister Treatment Plant; and

WHEREAS; the RWQCB has independent enforcement authority over the exact same issue identified by the EPA, and they have exercised that authority by seeking substantial fines and penalties from the City amounting to more than \$900,000; and

WHEREAS, the City does not deny that the violations occurred, but negotiated a settlement with the RWQCB concerning the ability to apply the payment of MMPs (fines and penalties) to its compliance project negotiated with the EPA; and

WHEREAS, initially the RWQCB determined that the City was no longer eligible to apply the MMPs to the cost of a portion of the EPA compliance project due to its recent change in status and current ineligibility as a "disadvantaged community" (DAC); and

WHEREAS, after consideration of many variables and legal conditions, the City and RWQCB came to agreement during the summer of 2022, to a total fine of \$981,000, removing the oldest violations valued at \$111,000, leaving fines to be paid of \$870,000, and of that amount, the fines that occurred while the City was in DAC status totaling \$696,000 would be applied to the cost of the EPA Compliance project, and starting after 2018 through April 30, 2022, \$174,000 would be paid directly to the RWQCB and not applied to the City's compliance project; and

WHEREAS, on October 18, 2022, the City received the fully executed "Settlement Agreement," also referred to as the Stipulated Administrative Civil Liability Order No. R3-2022-0031 ("ACL") consistent with those terms agreed upon as described above, which addresses violations through March 30, 2022; and

WHEREAS, the ACL is clear that the City is responsible for violations that occur after April 2022, and that the RWQCB would notify the City promptly when the penalties occur, and fines ("mandatory minimum penalties" or MMPs) will be applied; and

WHEREAS, on November 21, 2022, the attached “Enforcement Program: Expedited Payment Letter (“EPL”) No. R3-2023-004, Conditional Offer to Participate in an Expedited Payment Program Relating to Violations of National Pollution Discharge Elimination Permit (“NPDES”) for City of San Juan Bautista Wastewater Treatment Plant San Benito County, WDR Order No. R3-2009-0019, NPDES No. CA0047902, WDID No. 3 350102001 for 11 new violations between April 30, 2022 and September 30, 2022 resulting in MMPs at \$3,000 each for a total of \$33,000; and

WHEREAS, as it relates to the original executed ACL, the City has agreed to pay the new violations going forward, as it will continue to exceed levels of chloride and sodium in its NPDES Permit until the wastewater is received by the Hollister Wastewater Treatment Plant; and

WHEREAS, the November 21, 2022 notice asks the City to agree to this payment of violations, and to do so by delivering the signed attached Letter of Acceptance by December 21, 2022.

NOW, THEREFORE, BE IT RESOLVED THAT THE CITY COUNCIL OF THE CITY OF SAN JUAN BAUTISTA NOW HEREBY FINDS:

1. That the recitals in this Resolution and accompanying staff report are true and correct and are hereby made a part of this Resolution.
2. It acknowledges that the City continues to violate its NPDES Permit due to high levels of sodium and chloride in its source of water, and accepts the attached conditional offer and waiver of right to hearing; settlement agreement and stipulation for entry of administrative civil liability (ACL) Order No. R3-2023-004.
3. Authorize the City Manager to sign the attached Letter of Conditional Offer and send it to the RWQCB in time to meet the December 21, 2022 deadline, and issue payment to the RWQCB’s “State Water Pollution Cleanup and Abatement Account” for 11 violations in the amount of \$33,000 for MMPs between April 30, 2022, and April September 30, 2022 when required.

PASSED AND ADOPTED by the City Council of the City of San Juan Bautista at a regular meeting held on the 20th day of December 2022, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

Mayor

Don Reynolds, Acting Deputy City Clerk

Attachments:

1. November 21, 2022 Letter from the Central Coast Regional Water Quality Control Board
2. Acceptance of Conditional Offer



Central Coast Regional Water Quality Control Board

November 21, 2022

Don Reynolds
City Manager
San Juan Bautista
PO Box 1420
San Juan Bautista, CA 95045
Email: citymanager@san-juan-bautista.ca.us

**Via Electronic Mail and Certified Mail
No. 7020 1810 0002 0768 1896**

Dear Mr. Reynolds:

ENFORCEMENT PROGRAM: EXPEDITED PAYMENT LETTER (EPL) NO. R3-2023-0004, CONDITIONAL OFFER TO PARTICIPATE IN EXPEDITED PAYMENT PROGRAM RELATING TO VIOLATIONS OF NPDES PERMIT FOR CITY OF SAN JUAN BAUTISTA WASTEWATER TREATMENT PLANT, SAN BENITO COUNTY, WDR ORDER NO. R3-2009-0019, NPDES NO. CA0047902, WDID NO. 3 350102001

This letter is to notify the City of San Juan Bautista (hereinafter "Permittee" or "you") of alleged violations of the California Water Code identified in the Central Coast Regional Water Quality Control Board's (Central Coast Water Board) water quality data system and to allow you to participate in the Central Coast Water Board's expedited payment program to address \$33,000 in liability, which may be assessed pursuant to Water Code sections 13385 and 13385.1.

NO PAYMENT IS YET DUE IN RESPONSE TO THIS LETTER

NOTICE OF VIOLATION:

Based on information in the California Integrated Water Quality System (CIWQS), the Central Coast Water Board's Assistant Executive Officer alleges that from April 30, 2022, through September 30, 2022, the Permittee violated the effluent limitations identified in the notice of violation (NOV) attached as Exhibit A. The Permittee will have the opportunity to address the alleged violations as discussed below. To assist the Permittee in reviewing the alleged violations, the attached NOV/Exhibit A provides instructions for accessing the alleged violations within CIWQS.

STATUTORY LIABILITY:

Subdivisions (h) and (i) of California Water Code section 13385 require the assessment of a mandatory minimum penalty of \$3,000 for specified serious and non-serious (formerly named "chronic") effluent limit violations. The Permittee is also potentially

JANE GRAY, CHAIR | MATTHEW T. KEELING, EXECUTIVE OFFICER

subject to discretionary administrative civil liabilities of up to ten thousand dollars (\$10,000) for each day in which the violation occurs, plus ten dollars (\$10) for each gallon discharged but not cleaned up in excess of 1,000 gallons. These mandatory minimum penalties and discretionary administrative civil liabilities may be assessed by the Central Coast Water Board or the State Water Board (collectively "the Water Boards"), beginning with the date that the violations first occurred. The formal enforcement action that the Water Boards use to assess such liability is an administrative civil liability complaint, although the Water Boards may instead refer such matters to the Attorney General's Office for prosecution. If referred to the Attorney General for prosecution, the Superior Court may assess up to twenty-five thousand dollars (\$25,000) per violation. In addition, the Superior Court may assess up to twenty-five dollars (\$25) per gallon discharged but not cleaned up in excess of 1,000 gallons.

CONDITIONAL OFFER TO PARTICIPATE IN EXPEDITED PAYMENT PROGRAM:

The Permittee can avoid the issuance of a formal enforcement action and settle the alleged violations identified in the attached NOV by participating in the Central Coast Water Board's expedited payment program. Details of the proposed settlement are described below and addressed in the enclosed documents.

To promote resolution of these alleged violations, the Central Coast Water Board enforcement staff makes this Conditional Offer. The Permittee may accept this offer, waive the Permittee's right to a hearing, and pay the mandatory minimum penalty as indicated on Exhibit A for the violations described. If the Permittee elects to do so, subject to the conditions below, the Central Coast Water Board will accept that payment in settlement of any enforcement action that would otherwise arise out of the violations identified in the NOV. Accordingly, the Central Coast Water Board enforcement staff will forego issuance of a formal administrative complaint, will not refer the violations to the Attorney General, and will waive its right to seek additional discretionary civil liabilities for the violations identified in the NOV.

The expedited payment program does not address liability for any violation that is not specifically identified in the NOV.

PERMITTEE'S OPTIONS FOR RESPONSE TO OFFER:

If you accept this offer, please complete and return the enclosed "Acceptance of Conditional Offer and Waiver of Right to Hearing; Settlement Agreement and Stipulation for Entry of Administrative Civil Liability Order No. R3-2023-0004 (Upon Execution)" (Acceptance and Waiver) no later than December 21, 2022. The returned Acceptance and Waiver will be held, pending a 30-day public notice period, and then will be countersigned by the Executive Officer and returned to you with instructions for payment. *No payment is due at the time the Permittee returns the signed Acceptance and Waiver form to the Central Coast Water Board.*

If the Permittee chooses to contest any of the violations alleged in the NOV, please identify each violation and the basis for its challenge (e.g., factual error, affirmative defense, etc.) on or before the above due date. Central Coast Water Board staff will evaluate the contested violations and take the following actions:

1. Where the available evidence supports the removal of alleged violations, Water Board staff will expunge those violations from the CIWQS database and take no further action against the Permittee for those violations.
2. Water Board staff will provide the Permittee with a revised NOV reflecting any changes warranted by the above evaluation and provide another opportunity to submit a signed Acceptance and Waiver.
3. If the above evaluation resolves all of the alleged violations, Central Coast Water Board staff will notify the Permittee that no further action is necessary.

If the Permittee chooses not to submit an Acceptance and Waiver at any stage of the process described above and therefore rejects the offer, or elects to reserve the right to address any contested matters and resolve only uncontested violations via this offer, Central Coast Water Board staff will contact the Permittee regarding the initiation of formal enforcement action with regard to any unresolved violations. In a formal enforcement action, the liability amount sought and/or imposed may exceed the liability amount set forth in this Conditional Offer. Moreover, the cost of enforcement is a factor which can be considered in assessing the liability amount.

CONDITIONS FOR CENTRAL COAST WATER BOARD ACCEPTANCE:

Federal regulations require the Central Coast Water Board to publish any proposed settlement of an enforcement action addressing NPDES permit violations and provide at least 30 days for public comment [40 C.F.R. section 123.27(d)(2)(iii)]. Upon receipt of the Permittee's Acceptance and Waiver, Central Coast Water Board enforcement staff will publish a notice of the proposed settlement of the violations.

If no comments are received within the 30-day period, and unless there are new material facts that become available to the Central Coast Water Board, the Executive Officer will execute the Acceptance and Waiver as a settlement agreement and stipulation for entry of administrative civil liability order assessing the uncontested mandatory minimum penalty amount pursuant to Water Code section 13385.

If, however, significant comments are received in opposition to the settlement, this Conditional Offer may be withdrawn. In that case, the Permittee's waiver pursuant to the Acceptance and Waiver will also be treated as withdrawn, and the unresolved violations will be addressed in a revised offer or a liability assessment proceeding. In the latter case, at the liability assessment hearing the Permittee will be free to make arguments as to any of the alleged violations, and the Permittee's agreement to accept this Conditional Offer will not in any way be binding or used as evidence against the Permittee. The Permittee will be provided with further information on the liability assessment proceeding.

In the event the Acceptance and Waiver is executed by the Executive Officer as a stipulated order, Central Coast Water Board staff will then send you that order in a separate letter. Payment of the assessed amount will then be due and payable as specified in the letter that will accompany the Executive Officer's signed stipulated order. Failure to pay the penalty within the required time period may subject the

Mr. Reynolds

- 4 -

November 21, 2022

Permittee to further liability. *Again, please note that no payment is due at the time the Permittee returns the signed Acceptance and Waiver form to the Central Coast Water Board.*

CONTACT PERSONS:

Should you have any questions about the Notice of Violation or the Conditional Offer, please contact Leah Lemoine at (805) 549-3159 or leah.lemoine@waterboards.ca.gov, or Tamara Anderson at (805) 549-3334 or tamara.anderson@waterboards.ca.gov.

Sincerely,

Thea S. Tryon
Digitally signed
by Thea S. Tryon
Date: 2022.11.21
11:46:24 -08'00'

Thea S. Tryon
Assistant Executive Officer

Attachments:

1. Exhibit A - Notice of Violation
2. Acceptance of Conditional Offer and Waiver of Right to Hearing; Settlement Agreement and Stipulation for Entry of Administrative Civil Liability Order No. R3-2023-0004 (Upon Execution)

cc via email:

Central Coast Water Board:

Thea Tryon
Harvey Packard
Leah Lemoine
Todd Stanley

File Location: R:\RB3\Enforcement\EPLs\2023-0004-SJB WWTP\SJB MMP EPL 23-0004 Offer.docx

ECM Primary Indexing # 255337

EPL No. R3-2023-0004 – Exhibit A
Stipulated ACL Order No. R3-2023-0004
City of San Juan Bautista Wastewater Treatment Plant

Exhibit A – Notice of Violation
City of San Juan Bautista Wastewater Treatment Plant
Mandatory Minimum Penalty Violations Requiring Enforcement
Alleged Violation Dates: April 30, 2022 – September 30, 2022

The enforcement staff of the Regional Water Quality Control Board, Central Coast Region (Central Coast Water Board) reviewed information submitted by this facility to determine whether the discharger is subject to mandatory minimum penalties (MMPs) pursuant to subdivisions (h) and (i) of California Water Code section 13385. The following table lists this facility's alleged violations of Waste Discharge Requirements Order No. R3-2009-0019, National Pollutant Discharge Elimination System Permit No. CA0047902 from April 30, 2022, through September 30, 2022, for which the Central Coast Water Board has not assessed MMPs. Final calculation of MMP amounts owed and definitions of some of the terms used in this document are listed below the table.

For additional information about the alleged violations listed in the table, please refer to [the State Water Resources Control Board CIWQS Public Reports webpage](#) and select the "Mandatory Minimum Penalty (MMP) Report" link located under the "Violations Reports" category. Once in the Mandatory Minimum Penalty Reports search page, select Region 3 along with the beginning and ending dates shown in this exhibit, select Run Report, and then select your facility to access the list of violations. Expand the "Effluent MMP Violations" section of the page by selecting the "+" icon to the left of the section title. To view details of a violation, select the "Violation ID" number. For chronic (non-serious) violations, select the "Chronic" link in the "MMP Type" column to see a list of the three or more violations preceding each chronic violation within 180 days and thus qualifying the chronic violation as an MMP.

EPL No. R3-2023-0004 – Exhibit A
 Stipulated ACL Order No. R3-2023-0004
 City of San Juan Bautista Wastewater Treatment Plant

#	Violation Number	Violation Date	Pollutant	Pollutant Type	Limitation Period	Limit	Result	Units	% Over Limit	Serious or Non-Serious (Chronic) Violation	Date 180 Days Prior	No. of Viols within 180 days	Mandatory Minimum Penalty
1	1106680	4/30/22	Chloride	Group 1	Monthly Average	200	303	mg/L	52%	S	11/1/21	N/A	\$ 3,000
2	1106681	5/31/22	Chloride	Group 1	Monthly Average	200	311	mg/L	56%	S	12/2/21	N/A	\$ 3,000
3	1106678	6/30/22	Total Coliform	Other	Single Sample	2300	2420	MPN/100 mL	N/A	C	1/1/22	7	\$ 3,000
4	1106679	6/30/22	Sodium	Group 1	Monthly Average	250	253	mg/L	1%	C	1/1/22	8	\$ 3,000
5	1106682	6/30/22	Chloride	Group 1	Monthly Average	200	339	mg/L	70%	S	1/1/22	N/A	\$ 3,000
6	1109939	7/18/22	Total Coliform	Other	Single Sample	2300	2420	MPN/100 mL	N/A	C	1/19/22	10	\$ 3,000
7	1109935	7/31/22	Chloride	Group 1	Monthly Average	200	339	mg/L	70%	S	2/1/22	N/A	\$ 3,000
8	1109936	8/31/22	Sodium	Group 1	Monthly Average	250	256	mg/L	2%	C	3/4/22	9	\$ 3,000

EPL No. R3-2023-0004 – Exhibit A
 Stipulated ACL Order No. R3-2023-0004
 City of San Juan Bautista Wastewater Treatment Plant

#	Violation Number	Violation Date	Pollutant	Pollutant Type	Limitation Period	Limit	Result	Units	% Over Limit	Serious or Non-Serious (Chronic) Violation	Date 180 Days Prior	No. of Viols within 180 days	Mandatory Minimum Penalty
9	1109937	8/31/22	Chloride	Group 1	Monthly Average	200	344	mg/L	72%	S	3/4/22	N/A	\$ 3,000
10	1109938	9/30/22	Sodium	Group 1	Monthly Average	250	252	mg/L	1%	C	4/3/22	10	\$ 3,000
11	1109940	9/30/22	Chloride	Group 1	Monthly Average	200	342	mg/L	71%	S	4/3/22	N/A	\$ 3,000

Total Penalty: \$33,000

Total Mandatory Minimum Penalty Amount for Effluent Violations
 (6 Serious Violation + 5 Non-Serious Violations) × \$3,000 = \$33,000

For Group 1 pollutants, a violation is serious when the limit is exceeded by 40% or more, and non-serious (referred to as "chronic" in CIWQS) when the limit is exceeded by less than 40%.

For "Other" (i.e., Other Effluent Violation) pollutants, a violation is non-serious when the limit is exceeded by any amount. For the purposes of MMP enforcement, Other Effluent Violations are not categorized as serious.

Serious violations are subject to a mandatory minimum penalty of \$3,000 each.

Non-serious (also known as chronic) violations are subject to a mandatory minimum penalty of \$3,000 each when four or more occur in any period of six consecutive months (period commencing on the date that one of the violations occurs and ending 180 days after that date). The first three violations in that period are not assessed a mandatory minimum penalty.

EPL No. R3-2023-0004 – Exhibit A
 Stipulated ACL Order No. R3-2023-0004
 City of San Juan Bautista Wastewater Treatment Plant

Term	Definition
Units	mg/L = milligrams per liter MPN / 100 mL = most probable number per 100 milliliters
N/A	Not Applicable
CIWQS	California Integrated Water Quality System database used by the Water Boards to manage violation and enforcement activities, as well as other data types relevant to water quality protection.
Violation Number	Identification number assigned to a violation in CIWQS.
Violation Date	Date that a violation actually occurred, with the exception that for some violation types, such as a monthly average, the last day of the reporting period is used. If the occurrence date is unknown, the date used is the day the violation was first discovered by staff, the Discharger, or a third party.
Pollutant Types: Group 1 & 2	Groups of pollutants defined in the State Water Resources Control Board Water Quality Enforcement Policy. Also referred to as Category 1 or CAT1 and Category 2 or CAT2, respectively.
Pollutant Type: Other	"Other" refers to "Other Effluent Violation". Group of pollutants other than those included in Group 1 or 2.

File Location: R:\RB3\Enforcement\EPLs\2023-0004-SJB WWTP\SJB MMP EPL 23-0004 Exh A - NOV.docx

ECM Primary Indexing # 255337

**ACCEPTANCE OF CONDITIONAL OFFER
AND WAIVER OF RIGHT TO HEARING;
SETTLEMENT AGREEMENT AND STIPULATION FOR ENTRY OF
ADMINISTRATIVE CIVIL LIABILITY (ACL) ORDER NO. R3-2023-0004
(UPON EXECUTION)**

City of San Juan Bautista Wastewater Treatment Plant
EPL No. R3-2023-0004
Waste Discharge Requirements Order No. R3-2009-0019
National Pollutant Discharge Elimination System (NPDES) Permit No. CA0047902
WDID: 3 350102001

By signing below and returning this Acceptance of Conditional Offer and Waiver of Right to Hearing (Acceptance and Waiver) to the Central Coast Regional Water Quality Control Board (Central Coast Water Board), the City of San Juan Bautista (Permittee) hereby accepts Expedited Payment Letter No. R3-2023-0004 (Conditional Offer) to participate in the expedited payment program relating to violations of the Permittee's NPDES permit for Wastewater Treatment Plant, and waives the right to a hearing before the Central Coast Water Board to dispute the alleged violations described in the notice of violation (NOV) attached to the Conditional Offer as Exhibit A and incorporated herein by reference.

The Permittee agrees that the NOV shall serve as a complaint pursuant to Division 7, Chapter 5, Article 2.5 of the California Water Code and that no separate complaint is required for the Central Coast Water Board to assert jurisdiction over the alleged violations through its enforcement staff. The Permittee agrees to pay the penalties authorized by California Water Code section 13385, as specified in the NOV (expedited payment amount), which shall be deemed payment in full of any civil liability pursuant to Water Code sections 13385 and 13385.1 that otherwise might be assessed for the violations described in the NOV.

Expedited Payment Amount: \$33,000.

The Permittee understands that this Acceptance and Waiver does not address or resolve liability for any violation that is not specifically identified in the NOV.

Upon signature by the Permittee, the Permittee must return this Acceptance and Waiver to:

Thea Tryon
Assistant Executive Officer
Central Coast Water Board
895 Aerovista Place, Suite 101
San Luis Obispo, CA 93401

Expedited Payment Letter (EPL) No. R3-2023-0004
Settlement Agreement and Stipulation for Entry of
Administrative Civil Liability Order No. R3-2023-0004

The Permittee understands that federal regulations set forth in title 40, Code of Federal Regulations, section 123.27(d)(2)(iii) require the Central Coast Water Board to publish notice of any proposed settlement of this enforcement action and provide at least 30 days for public comment. Accordingly, Central Coast Water Board staff will publish this Acceptance and Waiver for public comment prior to execution by the Executive Officer of the Central Coast Water Board.

The Permittee understands that if significant comments are received in opposition to the Conditional Offer, then the Central Coast Water Board enforcement staff's offer to resolve the violations set forth in the NOV may be withdrawn. In that circumstance, Central Coast Water Board enforcement staff will advise the Permittee of the withdrawal, a revised offer or an administrative civil liability complaint may be issued, and the matter may be set for a hearing before the Central Coast Water Board. For such a liability hearing, the Permittee understands that this Acceptance and Waiver executed by the Permittee will be treated as a settlement communication and will not be used as evidence in that hearing.

If no comments are received within the notice period that cause the Executive Officer to reconsider the Conditional Offer, the Executive Officer will execute the Acceptance and Waiver as Settlement Agreement and Stipulation for Entry of Administrative Civil Liability Order No. R3-2023-0004 (Settlement and Order).

The Permittee understands that no payments are due at the time it returns the signed Acceptance and Waiver form to the Central Coast Water Board. The Permittee understands that after the signed Acceptance and Waiver is publicly noticed and executed by the Executive Officer of the Central Coast Water Board, Central Coast Water Board staff will transmit this Acceptance and Waiver as an executed Settlement and Order to the Permittee with payment instructions and due dates. Furthermore, the Permittee understands that full payment of the expedited payment amount by the hereby incorporated due date or dates specified in the transmittal letter and/or invoices associated with the executed Settlement and Order is a condition of this Acceptance and Waiver.

**Expedited Payment Letter (EPL) No. R3-2023-0004
Settlement Agreement and Stipulation for Entry of
Administrative Civil Liability Order No. R3-2023-0004**

I hereby affirm that I am duly authorized to act on behalf of and to bind the Permittee in the making and giving of this Acceptance and Waiver and the terms of the Settlement and Order.

By: _____
(Signed Name) **(Date)**

(Printed or typed name)

(Title)

Expedited Payment Letter (EPL) No. R3-2023-0004
Settlement Agreement and Stipulation for Entry of
Administrative Civil Liability Order No. R3-2023-0004

IT IS HEREBY ORDERED pursuant to Water Code section 13323, Government Code section 11415.60, and Resolution No. R3-2014-0043, on behalf of the California Regional Water Quality Control Board, Central Coast Region.

By: _____

Matthew T. Keeling
Executive Officer
Central Coast Water Board

File Location: R:\RB3\Enforcement\EPLs\2023-0004-SJB WWTP\SJB MMP EPL 23-0004 Waiver.docx

ECM Primary Indexing # 255337

Settlement Agreement.

Stipulated Administrative Civil Liability Order No. R3-2022-0031
City of San Juan Bautista

R3-2009-0019 and R3-2003-0087 contain effluent limitations that can subject the City to mandatory minimum penalties (MMPs).

3. The Facility has a history of regularly discharging waste that exceeds effluent limitations and the Water Code requires the Water Boards to assess MMPs for effluent limitation violations. State Water Resources Control Board (State Water Board) and Central Coast Water Board Enforcement staff have tried to resolve MMPs for violations accrued since 2007, for several years. However, the attempts to resolve the MMPs for effluent limitation violations have not been successful. This Order resolves alleged violations that accrued between March 31, 2007 and March 31, 2022, and incorporates historic alleged violations previously included in settlement offers (refer to Section II, paragraphs 4, 5, and 6) that were not settled with the City.

*The city remains liable for violations
April 1, 2022 — forward until Resolved.*



CITY OF SAN JUAN BAUTISTA CITY COUNCIL REPORT

AGENDA TITLE: **AGREEMENTS WITH RIDGELINE MUNICIPAL STRATEGIES, LLC FOR PROFESSIONAL SERVICES RELATED TO FINANCING THE WASTEWATER SYSTEM COMPLIANCE PROJECT**

MEETING DATE: December 20, 2022

DEPARTMENT HEAD: Don Reynolds, City Manager

RECOMMENDED ACTION(S):

It is recommended that the City Council approve the two attached Resolutions authorizing the City Manager to execute professional services agreements with Ridgeline Municipal Strategies, LLC to provide the following services:

- Municipal advisory services related to the City obtaining a bank line of credit for interim financing, required by the U.S. Department of Agriculture (the "USDA"), for the Wastewater System's Compliance Project; and
- Grant Consulting and Application Services related to the City's application for the U.S. Environmental Protection Agency's (the "EPA") State and Tribal Assistance Grant (the "STAG").

BACKGROUND INFORMATION:

Over the last three years the City has been working with the EPA and the California State Water Resources Control Board to address the wastewater discharge quality requirement violations. On August 18, 2020, the City Council adopted Resolution 2020-42, and the City and the EPA executed an Administrative Order on Consent, ("AOC") agreeing that the City will bring its water systems into Permit compliance by December 31, 2023.

Since then, the City has completed the following tasks related to the Wastewater System's Compliance Project (the "Project"):

- Completed Project design;
- Adopted new sewer rates to be able to pay for the Project;
- Applied and was approved for three grants totaling approximately \$8.3 million;
- Applied and was approved for the USDA low-interest loan of approximately \$10.3 million.

The City is currently in the final stages of obtaining the necessary environmental permits for the Project.

One of the three grants for the project is a \$1 million STAG from the EPA. While the City was selected by the EPA for this grant, we are still required to go through an extended and detailed grant application and award process. The City staff has determined that additional consulting support is necessary to complete the STAG application.

On December 12, 2022, the City was notified by the USDA that the USDA has obligated the funds for the Project. The USDA funding consists of an approximately \$4.3 million grant and \$10.3 low interest loan. The funding is contingent upon the City fulfilling a number of conditions, one of which is to obtain an interim financing, which will be paid off by the USDA funds, as well as the other grants, upon Project completion and acceptance by the USDA. The City staff has determined that additional consulting support is necessary for the City to obtain the interim financing.

DISCUSSION:

Ridgeline Municipal Strategies, LLC (“Ridgeline”) has been assisting the City as the municipal advisor and financial consultant on the Project.

On November 16, 2021, the City entered into an agreement with Ridgeline for consulting services to prepare the financial feasibility analysis for the Project, as well as for the Water System’s Compliance Project (the “Water Project”), as required by the EPA. The work under that agreement is ongoing.

On July 5, 2022, the City entered into an agreement with Ridgeline for municipal advisory and consulting services to assist the City with the Water Project financing and with the financing strategy development and implementation for the Project and the Water Project. The work under that agreement is ongoing.

Under these agreements, Ridgeline has been assisting the City with the development of the financing strategy for the Project and the Water Project, providing input during the preparation of the Preliminary Engineering Report for the Project and the Water and Sewer rate studies, and assisting with negotiations with the City of Hollister and the San Benito County Water District. Additionally, Ridgeline has been instrumental in securing the USDA funding for the Project and the inclusion of the Project on the fundable list for the State Revolving Fund financing.

The following table summarizes the not-to-exceed contract amounts and the amounts paid to Ridgeline under the two agreements in place through September 30, 2022.

City of San Juan Bautista
Ridgeline Municipal Strategies Contracts Summary

Agreement Number	Budget			Billed Thru 09/30/2022			Budget Remaining		
	Wastewater	Water	Total	Wastewater	Water	Total	Wastewater	Water	Total
1	\$21,200.00	\$16,430.00	\$37,630.00	\$12,455.00	\$5,782.50	\$18,237.50	\$8,745.00	\$10,647.50	\$19,392.50
2	\$22,075.00	\$22,125.00	\$44,200.00	\$12,242.50	\$1,253.75	\$13,496.25	\$9,832.50	\$20,871.25	\$30,703.75
Total	\$43,275.00	\$38,555.00	\$81,830.00	\$24,697.50	\$7,036.25	\$31,733.75	\$18,577.50	\$31,518.75	\$50,096.25

In addition to the amounts shown above, Agreement 2 (July 5, 2022) includes provision for additional compensation for municipal advisory services necessary to apply for future USDA and SRF funding related to the Water Project. The compensation for these additional services is partially contingent upon the City being approved for such funding.

Given Ridgeline's in-depth understanding of the Project and prior performance, Ridgeline is uniquely qualified as a sole source to provide professional services to the City, and it is recommended that the City retain Ridgeline for the interim financing municipal advisory services and the STAG application services.

FISCAL IMPACT:

If approved, the agreement for the municipal advisory services related to the interim financing for the Project includes a flat fee of \$27,500, payable at and contingent upon the closing of the interim financing. This cost will be paid by the Sewer Enterprise Fund, grants and loan committed from other sources for this sewer project, and can be included in the interim financing amount.

If approved, the agreement for the grant consulting and application services related to the STAG for the Project includes a not-to-exceed amount of \$19,175, payable on a time-and-materials basis. This cost will be paid by the Sewer Enterprise Fund, and various grants and loans approved for its force-main project.

ATTACHMENTS:

Two Resolutions

RESOLUTION 2022-XX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN JUAN BAUTISTA APPROVING A PROFESSIONAL SERVICES AGREEMENT WITH RIDGELINE MUNICIPAL STRATEGIES LLC TO PREPARE AND ADMINISTER GRANTS AND LOANS, AND FULFILL THE CITY'S REQUIREMENTS SET FORTH BY THE STATE AND FEDERAL FUNDING SPONSORS TO PAY FOR THE ENVIRONMENTAL PROTECTION AGENCY COMPLIANCE PROJECTS

WHEREAS, on August 18, 2020, the City Council adopted Resolution 2020-42, and the City and Environmental Protection Agency ("EPA") executed an Administrative Order on Consent, ("AOC") agreeing that the City will bring its water systems into Permit compliance by December 31, 2023; and

WHEREAS, the AOC has three primary components consisting of two compliance projects, (one for drinking water, and a second for disposing of its waste water), and a third project completing a Feasibility Study and Financial Plan for each of the two projects; and

WHEREAS, specifically, Section IV (22) (a) of the AOC has several dates and milestones to be met by the City and consistent with subsection IV (22) (a) (v), the City will submit a schedule for the "completion of a Feasibility Study and Financial Plan" unique to those specifics required by the EPA; and

WHEREAS, at the November 16, 2021 City Council Meeting, the City agreed that the specific services provided by Dmitry Semenov, now working for and proprietor of Ridgeline Municipal Strategies, would better serve the City in compliance with the EPA's AOC to prepare financial plans for each compliance project that meets those standards set forth by the SEC; and

WHEREAS, Ridgeline Municipal Strategies is registered as a municipal advisor with the Securities and Exchange Commission ("SEC") and the Municipal Securities Rule Making Board ("MSRB") and pursuant to the Securities Exchange Act of 1934 Rule 15Bal-2, is uniquely qualified to act as the City's independent registered municipal advisor ("IRMA") for the purpose of fulfilling additional duties described in the two attached "Scopes of Work" for the financing the City's EPA compliance projects and for the purposes of meeting those standards set forth in SEC Rule15Bal-1(d)(3)(vi)) (the IRMA Exemption); and

WHEREAS, the City has since learned that to receive the USDA grant and loan, it will be required to pay for the project first, then refinance with USDA funds, and this requires a line of credit to be extended to the City from a private lending firm ("construction loan") after being competitively bid, and it has also learned that the \$1 million Federal EPA Grant sponsored by Congressman Panetta's office is part of a newly created "EPA STAG" program, with requirements as challenging as the USDA grant; and

WHEREAS, the cost of these two additional financial service needs exceeds the City Manager's authority of \$100,000 for procuring professional services, bringing the total committed to Ridgeline \$128,505, and is seeking the City Council's approval to extend the agreements with Ridgeline to include these two as needed to fulfill its obligation to the community to deliver good clean drinking water, and dispose of its wastewater by sending it to the Hollister treatment plant where it will be treated and recycled into agricultural irrigation water.

NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE CITY COUNCIL AS FOLLOWS:

SECTION 1. That the above recitals, associated staff report, and recommendation from staff are true and correct.

SECTION 2. The City Council of the City of San Juan Bautista, hereby authorizes the City Manager to execute a new agreement with Ridgeline Municipal Strategies as its Independent Registered Municipal Advisor per the two attached scopes of work; 1) \$19,105 to prepare the EPA State and Tribal Assistance Grant ("STAG") application and 2) \$27,500 to solicit, secure and manage a line-of-credit for construction financing for its Force Main project, in compliance with the EPA Administrative Order on Consent.

SECTION 3. The City Council, consistent with Section IV (22) (a) (v) of the AOC, hereby directs the City Manager to execute the attached Agreement with two accompanying scopes of work with Ridgeline Municipal Strategies, and submit this Resolution to the EPA for their consideration.

PASSED, APPROVED AND ADOPTED this 20th day of December, 2022, by the following roll call vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Mayor

ATTESTED:

Don Reynolds, Acting Deputy City Clerk

Attachments:

Scope of Work – EPA STAG Grant

EXHIBIT A

SCOPE OF SERVICES

EPA STAG GRANT APPLICATION ASSISTANCE

Ridgeline will assist the Client with preparing and submitting the grant application to the United States Environmental Protection Agency ("EPA") for the State and Tribal Assistance Grant ("STAG") pertaining to the Client's Wastewater System Compliance Project.

The Client will provide the following source materials to Ridgeline: audited financial statements for the Client and operating statements for the Water System (the "System"), budgets, financial projections (to the extent available), current rates and a rate study for anticipated rate increases, master plan, preliminary engineering report, population and System demand projections, project budget / cost data and construction schedule, operating and maintenance cost estimates for the System, information about any applicable grants, information on reserves that will be used for the funding of the project and necessary for successful operation of the Project, information on any and all outstanding debt of the System, all necessary environmental, engineering, and technical reports, studies, assessments and calculations as necessary, and any other additional information that may be required for the financing applications.

Ridgeline will prepare and submit the grant application to the EPA for the Client's Wastewater System Compliance Project, in accordance with the following scope.

- *Financing Schedule.* Manage the application process and coordinate activities of financing and project team members.
- *Communication with the EPA.* Initiate, maintain, and manage on-going communication with the EPA.
- *The EPA Application Preparation and Submittal.* Prepare and submit the grant application to the EPA.
- *The EPA Due Diligence Assistance.* Assist the Client in providing due diligence information requested by the EPA.
- *Documentation.* Review grant documentation prior to its approval.

RESOLUTION 2022-XX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN JUAN BAUTISTA APPROVING A MUNICIPAL ADVISORY SERVICES AGREEMENT WITH RIDGELINE MUNICIPAL STRATEGIES LLC FOR ASSISTANCE WITH THE INTERIM FINANCING REQUIRED BY THE UNITED STATES DEPARTMENT OF AGRICULTURE AND NECESSARY TO PAY FOR THE ENVIRONMENTAL PROTECTION AGENCY COMPLIANCE PROJECTS

WHEREAS, on August 18, 2020, the City Council adopted Resolution 2020-42, and the City and Environmental Protection Agency (“EPA”) executed an Administrative Order on Consent, (“AOC”) agreeing that the City will bring its water and wastewater systems into Permit compliance by December 31, 2023; and

WHEREAS, on December 12, 2022, the City was notified by the U.S. Department of Agriculture (“USDA”) that the USDA has obligated the funds for the Wastewater System Compliance Project (“Project”), such funds including a grant and a loan components; and

WHEREAS, the USDA Letter of Conditions for the Project includes a requirement for the City to obtain an interim financing (a line of credit from a private lending institution), which will fund the Project costs and will be subsequently paid off through the USDA grant and loan at the Project completion and acceptance by the USDA; and

WHEREAS, the Government Finance Officers Association recommends that public agencies retain a municipal advisor prior to the undertaking of a debt financing; and

WHEREAS, Ridgeline Municipal Strategies, LLC (“Ridgeline”) is registered as a municipal advisor with Securities and Exchange Commission (“SEC”) and the Municipal Securities Rule Making Board (“MSRB”) pursuant to the Securities Exchange Act of 1934 Rule 15b-2, has been assisting the City with various financial analysis and financing tasks related to the Project, has an in-depth understanding of the Project, and as such is uniquely qualified to act as the City’s municipal advisor for the interim financing; and

WHEREAS, the cost of these additional municipal advisory services, as well as the grant consulting and application services referenced in Resolution 2021-64, exceeds the City Manager’s authority of \$100,000 for procurement of professional services, bringing the total not-to-exceed amount committed to Ridgeline to \$128,505, and the City staff is seeking the City Council’s approval to extend the agreements with Ridgeline to include these additional municipal advisory services as needed to fulfill its obligation to the community to deliver good clean drinking water, and dispose of its wastewater responsibility by sending it to the Hollister treatment plant where it will be treated and recycled into agricultural irrigation water.

NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE CITY COUNCIL AS FOLLOWS:

SECTION 1. That the above recitals, associated staff report, and recommendation from staff are true and correct.

SECTION 2. The City Council of the City of San Juan Bautista, hereby authorizes the City Manager to execute a new agreement with Ridgeline per the attached scope of work in the amount of \$27,500 to assist with obtaining the interim financing for the Project, in compliance with the EPA Administrative Order on Consent and the requirements of the USDA.

SECTION 3. The City Council, consistent with Section IV (22) (a) (v) of the AOC, hereby directs the City Manager to execute the attached Agreement with the accompanying scope of work with Ridgeline Municipal Strategies, LLC.

PASSED, APPROVED AND ADOPTED this 20th day of December, 2022, by the following roll call vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Mayor

ATTESTED:

Don Reynolds, Acting Deputy City Clerk

Attachments:

Scope of Work

EXHIBIT A
SCOPE OF SERVICES
BANK LINE OF CREDIT FOR INTERIM FINANCING OF THE WASTEWATER
SYSTEM COMPLIANCE PROJECT

A. Financial Planning and Financing Management.

- *Financing Alternatives and Plan.* Explore various interim financing alternatives available to the Client pertaining to the Compliance Project and develop a financing plan, including recommendations as to the method of sale, timing, sizing and structure of the Debt Obligations to be transacted based on optimized total financing costs, projected cash flow requirements, debt capacity, and targeted revenue / rate threshold.

B. Issuance of Debt Obligations.

- *Financing Schedule.* Manage the financing process and coordinate activities of financing team members. Prepare a schedule of activities and ensure the financing is completed in a timely manner.
- *Method of Sale, Timing, Sizing and Structure of Debt Obligations.* Assist the Client in creating the financing plan for the Debt Obligations including timing, sizing, and structure.
 - *Method of Sale.* Advise as to the appropriate method of sale for the Debt Obligations.
 - *Preparation of Lender Request for Proposals.* Assist the Client with the preparation and distribution of Request for Proposals to banks and assist the Client with analysis the responses of the responding banks.
 - *Timing of Issues.* Advise as to the timing for each series of Debt Obligations to be sold based upon the Client's historical and projected revenues and expenses, market interest rate environment, and other factors.
 - *Sizing of Issues.* Advise as to the sizing of the Debt Obligations to be sold based on the nature of the financing, federal tax law limitations, state regulatory restrictions, targeted tax rates, goals of the financing program, and other matters.

- *Structure of Debt Obligations.* Advise as to the repayment structure of the Debt Obligations to be sold based on targeted user rates, impact on interest costs, prudent debt management practices, and other considerations.
- *Lender Due Diligence Assistance.* Assist the Client in providing due diligence information requested by lenders, if applicable.
- *Authorizing Documentation.* Provide bond counsel with information necessary for the preparation of authorizing documentation. Review authorizing documentation prior to their approval.
- *Pricing Strategy.* Assist the Client throughout the sale negotiation process.
 - Negotiate to provide the lowest available rates and costs to the Client;
 - Provide the Client with a pricing analysis of proposed financing alternatives; and
 - Provide quantitative schedules showing the results of the final pricing.
- *Closing Documentation.* Review closing documents and otherwise assist in the closing of the transaction.

COST IS THE RESPONSIBILITY OF THE AGENCY

The Client understands that there are several program costs that are required for completion of the Debt Obligations that shall be the responsibility of the Client. These may include the cost of printing and distributing the Official Statements, notices, accountants, insurance, title reports, rating services, bond insurance, bond counsel, trustees, disclosure counsel, and of any other experts required for completion of the Debt Obligations.

WAIVER OF READING OF ORDINANCES

State law requires that an ordinance be read in its entirety prior to adoption unless the City Council waives reading beyond the title. Reading an entire ordinance at the meeting is extremely time-consuming; reading of the title alone usually gives the audience sufficient understanding of what the Council is considering.

To ensure that this waiver is consistently approved by the Council, Council should make the waiver at each meeting, thus, you should do it at this point on the Consent Agenda. The Council then does not have to worry about making this motion when each ordinance comes up on the agenda.

GC36934

Treasurer's Report
For the Four-Month Period Ended October 31, 2022
(33% of fiscal year)

General Fund ~

General revenues are running at 26% for the year to date. Correspondingly, general fund expenditures are at 26% for the year to date. The net effect is a positive change in general fund balance of \$86k.

Water Enterprise Fund ~

The water enterprise fund revenues are running at 35% for the year to date, and expenses are at 40%. The net effect is a positive change in the water enterprise fund of \$94k.

Sewer Enterprise Fund ~

The sewer enterprise fund revenues are running at 44% for the year to date, and expenses are at 29%. The net effect is a positive change in the sewer enterprise fund of \$248k.

City of San Juan Bautista
Expenditures ~ Budget Vs. Actual

For the Four Month Period Ended October 31, 2022

EXPENDITURES	FY22	FY23	Annual		YTD	
<u>Fund</u>	<u>Actuals</u>	<u>Actuals</u>	<u>Budget</u>	<u>Variance</u>	<u>33%</u>	<u>Note</u>
General Fund	568,796	624,390	2,425,349	(1,800,959)	26%	
Special Revenue Funds:						
Capital Projects Fund	62,526	566,318	525,708	40,610	108%	A
Community Development	174,151	174,198	671,289	(497,091)	26%	
COPS	33,333	33,333	100,000	(66,667)	33%	
Parking & Restroom Fd	-	-	2,500	(2,500)	0%	A
Gas Tax Fund	5,489	5,731	19,000	(13,269)	30%	
Valle Vista LLD	31,724	10,217	26,529	(16,312)	39%	
Rancho Vista CFD	17,845	11,829	66,521	(54,692)	18%	
Copperleaf CFD	5,241	6,654	22,650	(15,996)	29%	
Development Impact Fee Funds						
Public/Civic Facility	902	900	2,700	(1,800)	33%	
Library	8,280	1,480	4,440	(2,960)	33%	
Storm Drain	1,145	1,144	3,432	(2,288)	33%	
Park In-Lieu	100	100	300	(200)	33%	
Public Safety	286	284	852	(568)	33%	
Traffic	144	144	432	(288)	33%	
Enterprise Funds:						
Water:						
Operations	276,202	324,535	805,232	480,697	40%	
Capital	72,638	9,293	79,350	70,057	12%	A
Sewer						
Operations	272,490	270,520	923,911	653,391	29%	
Capital	325,943	256,052	484,352	228,300	53%	
TOTAL Funds	1,337,953	1,672,732	6,164,547	4,491,815	27%	

Footnotes:

A ~ Capital fund transfers/costs are budgeted to be incurred by these funds. Since the costs/transfers occur sporadically during the year, they do not always align with the to date percentages, or prior year amounts. Additionally, some projects have been moved to the next fiscal year.

City of San Juan Bautista
Revenues ~ Budget Vs. Actual
For the Four Month Period Ended October 31, 2022

REVENUES	FY22	FY23	Annual		YTD	
Fund	Actuals	Actuals	Budget	Difference	33%	Notes
General Fund	742,129	710,109	2,737,935	(2,027,826)	26%	
Special Revenue Funds:						
Capital Projects Fund	62,526	566,318	525,701	40,617	108%	A
Community Development	41,187	47,415	404,514	(357,099)	12%	B
COPS	55,221	46,001	100,000	(53,999)	46%	
Parking & Restroom Fd	17,239	12,180	26,000	(13,820)	47%	
Gas Tax Fund	31,640	31,448	98,520	(67,072)	32%	
Valle Vista LLD	7,035	8,843	26,529	(17,686)	33%	
Rancho Vista CFD	21,510	22,174	66,521	(44,347)	33%	
Copperleaf CFD	6,986	7,550	22,650	(15,100)	33%	
Internal Service Funds:						
Blg Rehab. & Replace	12,667	12,667	38,000	(25,333)	33%	
Vehicle Replacement	20,000	20,000	60,000	(40,000)	33%	
Enterprise Funds:						
Water						
Operations	410,415	419,937	1,213,800	(793,863)	35%	
Capital	-	-	79,350	(79,350)	0%	B
Sewer						
Operations	443,714	518,298	1,185,000	(666,702)	44%	
Capital	-	-	484,352	(484,352)	0%	B
TOTAL Funds	1,130,139	1,712,830	7,068,872	5,356,042	24%	

A ~ These funds are developer derived and are recognized when received.

B ~ The timing of the projects and the related revenue does not always align with the year-to-date percentages.

City of San Juan Bautista

Warrant Listing

As of November 30, 2022

Date	Num	Name	Amount
101.000 · Union Bank			
101.001 · Operating Acct. 1948			
11/02/2022	216195	4Leaf, Inc.	-8,788.95
11/02/2022	216196	ACWA Health Benefits Authority	-23,201.22
11/02/2022	216197	Animal Damage Management Inc	-250.00
11/02/2022	216198	Baker Supplies and Repairs	-303.36
11/02/2022	216199	City of Hollister.	-59,658.69
11/02/2022	216200	CivicWell	-14,696.31
11/02/2022	216201	Clark Pest Control	-102.00
11/02/2022	216202	Craig Evans Pump Testing Service	-325.00
11/02/2022	216203	Hollister Auto Parts, Inc.	-424.84
11/02/2022	216204	Home Depot Credit Services	-707.83
11/02/2022	216205	Monterey Bay Analytical Services	-2,981.00
11/02/2022	216206	P G & E	-525.87
11/02/2022	216207	Regional Government Services	-3,305.00
11/02/2022	216208	Staples	-524.27
11/02/2022	216209	Statewide Traffic Safety Signs	-333.99
11/02/2022	216210	True Value Hardware	-171.63
11/02/2022	216211	Wendy L. Cumming, CPA	-4,001.25
11/04/2022	216212	Nicholas Bryan	-2,264.43
11/10/2022	216213	4Leaf, Inc.	-1,258.68
11/10/2022	216214	All Clear Water Services	-4,100.00
11/10/2022	216215	att.com	-72.08
11/10/2022	216216	AVAYA	-250.66
11/10/2022	216217	Brigantino Irrigation, Inc.	-38.13
11/10/2022	216218	Carmen Lujan	-38.75
11/10/2022	216219	Charter Communications	-572.13
11/10/2022	216220	Department of Transportation	-500.89
11/10/2022	216221	Enrique Hernandez	-710.12
11/10/2022	216222	Mary Esther Lopez.	-500.00
11/10/2022	216223	New SV Media	-749.20
11/10/2022	216224	San Benito County Tax Collector	-87.90
11/10/2022	216225	Toro Petroleum Corp.	-467.14
11/10/2022	216226	Univar Solutions	-499.69
11/10/2022	216227	Elliott Gil	0.00
11/10/2022	216228	Ca Association Code Enforcement Officers	-65.00
11/15/2022	216230	Central Electric	-251.66
11/15/2022	216231	Graniterock	-2,064.09
11/15/2022	216232	J. Edward Tewes	-2,078.55
11/15/2022	216233	KBA Docusys	-532.74
11/15/2022	216234	Mike Baclig.	-700.00
11/15/2022	216235	Monterey Bay Analytical Services	-1,546.00
11/15/2022	216236	Ready Refresh	-316.02
11/15/2022	216237	San Benito County Water District	-1,477.95
11/15/2022	216238	Schaaf & Wheeler	-227.50

City of San Juan Bautista
Warrant Listing
As of November 30, 2022

<u>Date</u>	<u>Num</u>	<u>Name</u>	<u>Amount</u>
11/15/2022	216239	Sprint	-445.36
11/15/2022	216240	SWRCB	-174,000.00
11/15/2022	216241	Trevin W. Barber	-390.00
11/15/2022	216242	US Bank	-4,924.00
11/15/2022	216243	Wallace Group	-4,896.25
11/17/2022	216244	at&t	-101.06
11/17/2022	216245	Cypress Water Services	-11,175.00
11/17/2022	216246	Data Ticket Inc.	-525.00
11/17/2022	216247	Downey Brand	-817.00
11/17/2022	216248	Elliott Gil	-152.94
11/17/2022	216249	EMC Planning Group Inc.	-13,361.42
11/17/2022	216250	Hamner Jewell Associates	-446.25
11/17/2022	216251	Oppenheimer Investigations Group LLP	-2,338.50
11/17/2022	216252	P G & E	-13,412.04
11/17/2022	216253	Samantha Hernandez.	-700.00
11/17/2022	216254	Sentry Alarm System	-342.00
11/17/2022	216255	Valero Wex Bank	-1,271.15
11/17/2022	216256	Wellington & Rathie	-8,357.50
11/21/2022	216257	AFLAC	-210.58
11/21/2022	216258	Liebert Cassidy Whitmore	-207.50
11/21/2022	216259	Monterey Bay Analytical Services	-1,837.00
11/21/2022	216260	Regional Government Services	-7,519.72
11/21/2022	216261	US Bank Equipment Finance	-249.61
Total 101.001 · Operating Acct. 1948			-389,350.40
Total 101.000 · Union Bank			-389,350.40
TOTAL			-389,350.40

City Manager's Monthly Report

Happy New Year (almost)

City Council Priorities

- Strategic Planning begins in February
- Starts with City Council interviews
- Community Workshop/Conversation
- Written Report to follow
- Final Strategic Plan Adopted in March
- Budget will be built on the approved Strategic Plan
- If the policy, or project it is not funded, it can't be pursued

City Manager's Monthly Report

City Manager's Priorities

- Response to the 11.15.22 Performance Evaluation
- Communication Strategy for CM and City
 - Written (hard-copy), email, text, social media, and phone
- Establish "Office Hours" for meetings
- Expand City Hall Hours (?)
- Set one hour per week for each Councilmember
 - Monday-Tuesday before lunch (?)
 - Telecommute days for staff
 - 2nd week of the month is City Council Mtg. preparation
- Community Survey (Feb-March)

City Manager's Monthly Report

UGB/SOI Update

- Original Letter from September –
 - Shared with Sub-Committee
 - Three responses
 - Drafted new conceptual map
- Sent second letter to property owners
 - Much better response
 - 12-15 property owner conversations
- Presented a draft SOI Map to the Planning Commission
- Work to do-
 - Review Responses
 - Greenbelt Policies within the general Plan
 - Urban Growth Boundary
 - New LAFCO Director

UGB/Sphere of Influence and SB2 Grant timeline extended by HCD to December 2023, enabling more time to discuss program nuances leading into consideration of alternatives by the Planning Commission for recommendation to the City Council.

City Manager's Monthly Report

Community Development - ATP Program (cultural bike/walking trail project)

Draft Plan due this week. Progress October- December 31st

- 1) Review first draft Tuesday 11/22
- 2) Share and Continue Stakeholder meetings –
 - Diocese, State Parks, School Superintendent After Thanksgiving (week of 11/28-12/2)
- 3) Finalize draft report - transmit to stakeholders
 - [City Council, PC, PAG, CALTRANS, COG, etc.] Week of 12/12

January – March 30, 2023

- 1) Transmit Draft to Council PC and advertise workshop and public comment period Week of 1/13
- 2) Joint Council Planning Commission public workshop *(need a special meeting in late January)*
- 3) Plan adoption City Council 2/14/2023

City Manager's Monthly Report

Community Development

REAP 2.0. AMBAG- Listening sessions occurred on September 26 and again on October 13. Application submitted to State

LEAP Grant: the City received \$60,000 to update the City's Accessory Dwelling Unit and Inclusionary Housing Ordinance. \$58,166.25 was expensed to HCD and payment received in August.

Inclusionary Housing Ordinance – Harris and Associates recommends updating the ordinance. Will be part of the 6th cycle housing element to include workforce housing solutions due 12.31.23.

Permanent Local Housing Allocation (PLHA) Program. The City received notice that \$499,000 in grant funds over 5 years. Approved the use of these funds for ADU health and safety improvements (first three years) and homeless services (second and third years). The grant application was submitted prior to November 30, 2022. Allocation, award and expenditure deadlines begin in April 30, 2024 – through April 30, 2028

City Manager's Monthly Report

Community Development- Code Enforcement

Notice of Public Nuisance Recorded for 451 SJ/Hollister Road

Sign Ordinance Enforcement Program

Changes to the Ordinance (?)

Discussion scheduled for PC/City Council early 2023

One- stop permit process

Plan checking, encroachment permits and building permits

Simplify and streamline communication

City Engineer incorporated into software system

Economic Development Citizens Advisory Committee (EDCAC)

Three subcommittees: Outreach, Business Development and Retention and Community Relations and Resources.

Annual Report due in January 2023

CEDS Process underway (regional economic development strategy)

City Manager's Monthly Report

Community Development

EDCAC Continued

City Joined California Main Street Program

3rd Street Master Plan moving forward through EDCAC

2 special presentations about downtown retail last month

Short-Term Rental Compliance Program on-going

City Retained the services of Architect/Historian Meg Clovis

Historic Preservation Specialist

Improving Communications with the Historic Society

City Manager's Monthly Report

Wastewater Update

Funds Obligated by USDA



United States Department of Agriculture

Rural Development

December 12, 2022

Sent by email only

Salinas Office

744-A La Guardia St
Salinas, CA
93005

Voice 831 975 7762
Fax 844 206 7009

San Juan Bautista
Attn: Don Reynolds
311 Second Street
P.O. Box 1420
San Juan Bautista, CA 95045

Dear Mr. Reynolds,

We are pleased to provide you with a copy of Forms RD 1940-1, "Request for Obligation of Funds."

Form RD 1940-1, "Request for Obligation of Funds." Loan \$7,000,000 and Grant \$4,303,000
Form RD 1940-1, "Request for Obligation of Funds." Loan \$3,268,000
Total Loan \$10,268,000 and Grant \$4,303,000

These forms indicate a Rural Development total Loan in the amount of \$10,268,000 and Grant in the amount of \$4,303,000 have been obligated to City of San Juan Bautista for the San Juan Bautista to Hollister Force Main Development.

City Manager's Monthly Report

Wastewater Update

- Working on the USDA Conditions with Ridgeline Agreement Hollister before bidding
- Agreement with Industrial Users before bidding
- Design completed and signed
- One outstanding Permit- CA FWS
- Buy Env. Mitigation Credits Once State Permit is received
- Target is to be out to bid by the end of February
- Continue to pay fines- \$33,000 for 11 violations in 6-months

City Manager's Monthly Report

Water Update

- Important meeting with Hollister the District this week
- Agreed to verify water quality stands for Hollister
- Agreed to move forward with District's agreement to purchase water
- SRF Loan for project still in-play
- District exploring funding options as well
- Have to update schedule for EPA
- Blending Permit for Microvi moving forward (Well 6)
- Microvi Agreement reviewed by Water Board DWD

City Manager's Monthly Report

Commercial Truck Traffic Deterrence

New Parking Ordinance in effect- RVs, Sidewalks, Driveway, Crosswalks

Noise Ordinance- Drafted discussion postponed

Nuisance Ordinance- Drafted discussion postponed

Vacancy Tax discussion- discussion postponed

Gulf Cart- Neighborhood Electric Vehicle Policies- discussion postponed

City Manager's Monthly Report

On the horizon...

Building and Fire Code updates

Broadband Policy/Update

State Senator Briefing 12.12.22

Best role for the City

Sheriff Contract

Fire Advisory Committee- Fire District

Climate Action Plan- City's role

City Facilities

Fire Apparatus Bay, Community Hall, Office Space

Microvi Agreement (Water)

Mitigation Credits Agreement (Wastewater)

City Manager's Monthly Report

Calendar Considerations

Monday the 19th- Ribbon Cutting for Joint/School Use Program

Close City Hall between Christmas and New Years (12.23-01.02.23) Holidays include 12.23, 12.26, 01.02.23

CM on vacation 12-21- 01.02 returning 01.03

New Deputy City Clerk starts 01.11.23

Cancel Regular meeting 01.17.23 and schedule 01.24.23 instead
4 Councilmembers at training 01.17-01.19.23

Special meeting in January- ATP Workshop- Joint PC/CC Mtg

City Manager's Monthly Report



CITY OF SAN JUAN BAUTISTA CITY COUNCIL REPORT

AGENDA TITLE: APPOINT AN AD HOC COMMITTEE TO REVIEW
CANDIDATE APPLICATIONS FOR PLANNING
COMMISSION AND MAKE A RECOMMENDATION

MEETING DATE: DECEMBER 20, 2022

SUBMITTED BY: PLANNING COMMISSION SECRETARY TRISH PAETZ

RECOMMENDED ACTION(S):

Staff is asking council to select two council members to serve on an ad hoc committee to select Planning Commissioner candidates.

BACKGROUND INFORMATION:

As authorized by Council at their meeting on November 15, staff posted a notice asking for applications to Planning Commission. The next step for Council to take is to form an ad hoc committee to review the applications and make a recommendation to the full Council.

Attachments:

Notice/Flyer of Vacancy on the Planning Commission
SJB Municipal Code Section 2-3-110

Planning Commission

2-3-110 Qualifications – Appointment – Term. SHARE

(A) Members of the Planning Commission shall be residents and registered voters of the City of San Juan Bautista and shall not be officers or management-level employees of the City at the time of their appointment and continuously during their terms of office. A Commissioner who has moved residence from the City shall be considered to have resigned from the Commission office.

(B) Planning Commission members' terms shall be four (4) years, which terms shall be staggered.

(C) Any vacancy in the Planning Commission from whatever cause arising, including expiration of term, shall be filled by appointment by the Council. Upon a vacancy occurring, leaving an unexpired portion of a term, any appointment to fill such vacancy shall be for the unexpired portion of such term.

(D) When there is a vacancy to be filled on the Planning Commission, except for a successful reappointment of a Planning Commission member for a successive, consecutive term as defined in subsection (E) of this Section, the City Council shall appoint an ad hoc subcommittee of two (2) members to receive applications and/or resumes, select qualified candidates for interviews, conduct interviews and make a brief report with a recommendation to the City Council. The City Council shall consider and vote on the recommendation and shall appoint the applicant who receives a majority of votes to the Planning Commission. If an applicant does not receive a majority of votes, the ad hoc subcommittee shall select a new candidate and present that candidate to the City Council at the following meeting.

(E) The City Council may, upon expiration of a Planning Commission member's term, reappoint the Planning Commission member for a successive, consecutive term, without requiring an ad hoc subcommittee to conduct interviews and make a recommendation. If the Planning Commissioner, whose term has expired, is not reappointed, the Council may direct the ad hoc subcommittee to review credentials and interview that Planning Commissioner, or to also consider other candidates for appointment to the Planning Commission, as set forth in subsection (D) of this Section.



CITY OF SAN JUAN BAUTISTA CITY COUNCIL STAFF REPORT

AGENDA TITLE: CHANGING CHECK SIGNING RESPONSIBILITIES ON
CITY BANK ACCOUNTS

MEETING DATE: December 20, 2022

DEPARTMENT HEAD: Trish Paetz, Acting Administrative Services
Manager

RECOMMENDED ACTION:

Select four or five individuals to sign checks on City bank accounts at Union Bank, to include the Mayor and City Treasurer.

BACKGROUND INFORMATION:

With Council Member changes new check signers needs to be authorized. Currently Council Members Freeman and Jordan are authorized check signers. Traditionally, we ask the Mayor and City Treasurer to sign checks, but having 4 to 5 authorized check signers is ideal. The City's Accounting Department processes invoices and cuts checks every week. All City checks require two signatures; it is a lot to ask of two individuals to sign all checks produced by Accounting.

Check signers are asked to review the checks they are signing, and the invoices attached, and staff is available to answer any questions. During this process check signers will become familiar with the City's expenses, accounts, and contractors' activities which helps during the budget process.

Once Council selects check signers, staff will need to submit sample signatures to Union Bank before new signers can begin signing checks.

FISCAL IMPACT:

None.

ATTACHMENTS:

1. Resolution

DRAFT
RESOLUTION 2022-XX

**A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF SAN JUAN BAUTISTA AUTHORIZING CHANGES TO
THE DESIGNATED SIGNERS ON THE
CITY'S BANK ACCOUNTS AT UNION BANK**

WHEREAS, _____ was appointed by the City Council as the Mayor for the City of San Juan Bautista; and

WHEREAS, Cesar Flores is no longer on the City Council; and

WHEREAS, Mary Edge is no longer on the City Council; and

WHEREAS, Michelle Sabathia is no longer the City Treasurer.

NOW, THEREFORE, BE IT RESOLVED THAT THE CITY COUNCIL hereby requests Union Bank add Council Member _____ and Council Member _____ as authorized signers on City bank accounts.

FURTHER, the City Council hereby confirms that the total list of signatories consists of John Freeman, Leslie Jordan, _____, and _____. This shall be in effect for the checking account, and

FURTHER, the City Council hereby authorizes Wendy Cumming, CPA to have access to bank information but *not* added as a check signer.

PASSED AND ADOPTED this 20th day of December 2022 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

Mayor

Don Reynolds, Acting Deputy City Clerk



CITY OF SAN JUAN BAUTISTA CITY COUNCIL STAFF REPORT

TITLE: DISCUSSION AND DIRECTION TO STAFF
REGARDING DISPOSITION OF PARKLETS

MEETING DATE: December 20, 2022

SUBMITTED BY: Brian Foucht, Community Development Director

RECOMMENDED ACTION(S):

Staff recommends that the City Council discuss the implications for the disposition of parklets of the impending removal by the Governor on February 28, 2023 of the COVID 19 State of Emergency. Staff recommends that the City Council direct staff accordingly.

BACKGROUND INFORMATION:

In April 2020 the City began meeting weekly with its downtown businesses to develop a plan in response to the ongoing Public Health Emergency. Thereafter, the City Council adopted Resolution 2020-24, enabling the establishment of outdoor shopping and dining via expansion of businesses into the right of way. Third Street was converted to a single, one-way lane to enable this expansion. Resulting parklets were originally approved for a three-month period ending December 31, 2020. On November 10, 2020, the City Council agreed to extend the parklets until March 30, 2021, and thereafter agreed to successive extensions to September 30, 2021 and March 30, 2022 pending adoption of an ongoing policy.

During the referenced hearings, the subject of “permanence” has involved issues of non-conformity, long term planning and design of the Third Street streetscape, public safety, infrastructure, relationship to buildings, structures and landscaping within the Third Street Historic District and cost of removal. It is established that to allow permanent “parklet” type outdoor commercial use would first require a thorough evaluation of the historic Third Street district streetscape.

City Council resolution 2022-21 directed the City Manager to cease issuing Encroachment Permits for parklet construction and requested input from the EDCAC regarding continuance of parklets. The City Council thereafter adopted Resolution 2022-40 establishing a policy for ongoing disposition of parklets as follows:

- *Parklets are generally perceived to be beneficial to the community and to the sponsoring business.*
- *There are noted adverse effects of parklets; however, the benefits outweigh the noted adverse effects.*
- *Parklets should not be prevalent on Third Street in the short term. As a means of limiting noted short term adverse effects, the present parklet experience should not be expanded..*

- *It is important to know and understand the attitudes and perspectives of the community, business owners and visitors.*
- *Parklets should remain until-the Third Street Master Plan construction begins. Third Street Master Plan parklet/plaza concepts should be shaped by referenced surveys and testimonials. The parklet experience should be re-imagined for use in the context of the Third Street Master Plan.*

The Governor's office, on October 17, 2022 announced that the COVID 19 State of Emergency will end on February 28, 2023, and the State will rely on ongoing, enhanced public health initiatives to drive down rates and severity of infection. However, COVID – 19 cases are currently surging after months of consistently lower infection rates, and vaccination rates for the County for both booster and bivalent vaccines are relatively lower than initial rates (see attached San Benito County Public Health Dashboard). Whether these factors result in a longer lasting upward trend in rate of infection and hospitalization beyond a holiday surge cannot be determined, and is one reason that the Governor's announcement will not take effect for several months.

DISCUSSION:

The resolution establishing parklets was a response to the need for ongoing business support during the public health emergency. If this is no longer the case, and other public health initiatives are successful in restricting the rate and severity of infection, the question is whether parklets continue to be necessary during the time that the Third Street Master Plan is being programmed.

Options include, but are not limited to (all upon the end of the COVID – 19 State of Emergency and notice by the City):

1. Termination of Encroachment Permit authorization for all parklets coincident with the suspension of the Governors Public Health Emergency. The City may wish to assist business owners with small business grants of the sort previously issued in 2022 to help defray costs of removal;
2. Modification to only allow parklets to remain for certain business types, such as businesses that are unable to implement COVID protocols due to the nature of the business, such as eating establishments and bars;
3. Allow all parklets to continue if San Benito County Public Health Officer declares a public health emergency due to COVID;
4. Continued attrition to disallow replacement of parklets for fronting businesses that have relocated or ended, until the Third Street Master Plan begins construction.

Attached:

Notice by Governors Office October 17, 2022

San Benito County Public Health Dept COVID-19 Dashboard

California Smarter Update (COVID-19)

City Council Resolution 2022-40

Governor Newsom to End the COVID-19 State of

Emergency

Published: Oct 17, 2022

California's pandemic response saved tens of thousands of lives, protected the economy, distributed nation-leading financial assistance and built up an unprecedented public health infrastructure

The SMARTER Plan will maintain California's operational preparedness to support communities and quickly respond to outbreaks

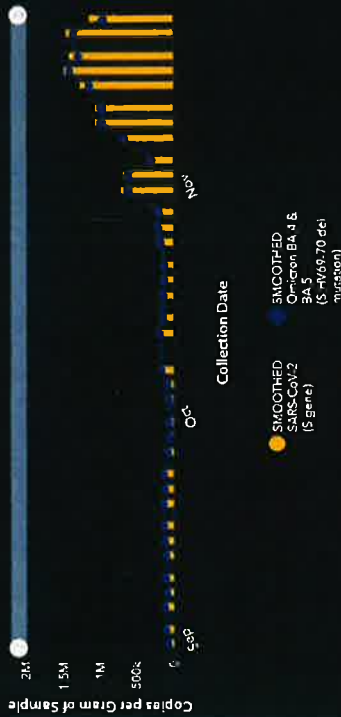
SACRAMENTO - Today, Governor Gavin Newsom announced that the COVID-19 State of Emergency will end on February 28, 2023, charting the path to phasing out one of the most effective and necessary tools that California has used to combat COVID-19. This timeline gives the health care system needed flexibility to handle any potential surge that may occur after the holidays in January and February, in addition to providing state and local partners the time needed to prepare for this phaseout and set themselves up for success afterwards.

With hospitalizations and deaths dramatically reduced due to the state's vaccination and public health efforts, California has the tools needed to continue fighting COVID-19 when the State of Emergency terminates at the end of February, including vaccines and boosters, testing, treatments and other mitigation measures like masking and indoor ventilation. As the State of Emergency is phased out, the SMARTER Plan continues to guide California's strategy to best protect people from COVID-19.

"Throughout the pandemic, we've been guided by the science and data - moving quickly and strategically to save lives. The State of Emergency was an effective and necessary tool that we utilized to protect our state, and we wouldn't have gotten to this point without it," said Governor Newsom. "With the operational preparedness that we've built up and the measures that we'll continue to employ moving forward, California is ready to phase out this tool."

To maintain California's COVID-19 laboratory testing and therapeutics treatment capacity, the Newsom Administration will be seeking two statutory changes immediately upon the Legislature's return: 1) The continued ability of nurses to dispense COVID-19

Hollister Wastewater Surveillance



About Wastewater Surveillance

Click [here](#) to view source data

What does "copies per gram" mean?

As stated on source data file, Results reported as copies of SARS-CoV-2 per gram (dry weight) of wastewater solids tells you how many copies of the SARS-CoV-2 virus were found in a gram of solid waste from a location. This data point can be used as an indicator of how many people in a sewerage (the geographical area served by a particular treatment plant) have COVID-19. Over time you will see this value rise and fall, indicative of more or less COVID-19 clinical cases in the population served by wastewater treatment plants.

San Benito County Public Health appreciates the public service provided by the Hollister wastewater plant's participation in a surveillance program.

Wastewater Surveillance Information

% Pop. Fully Vaccinated



% Pop. Boosted



% Pop. Bivalent



As Of: Dec 6

New Cases

221

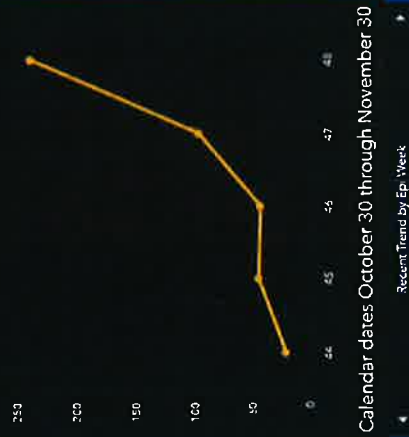
Casos Nuevos

7 Day Average

30

Promedio de 7 Dias

Confirmed Case Trend by Recent Epi Week



Reported Confirmed Cases

16,935

Casos Confirmados

Deaths Unvaccinated

94

Muertes Sin Vacunar

Total Deaths

108

Muertes

Deaths Vaccinated

14

Muertes Vacunar

Hospitalizations Unvaccinated

377

Total Hospitalizations

449

Hospitalizations Vaccinated

72

Total de Hospitalizaciones

Hospitalizaciones Vacunar

Cases by Age Group



Cases by Age Group

Hospitalization by Age Group

Deaths by Age Group



CALIFORNIA SMARTER



Progress Update

October, 2022

therapeutics; and

2) The continued ability of laboratory workers to solely process COVID-19 tests.

"California's response to the COVID-19 pandemic has prepared us for whatever comes next. As we move into this next phase, the infrastructure and processes we've invested in and built up will provide us the tools to manage any ups and downs in the future," said Secretary of the California Health & Human Services Agency, Dr. Mark Ghaly. "While the threat of this virus is still real, our preparedness and collective work have helped turn this once crisis emergency into a manageable situation."

Throughout the pandemic, Governor Newsom, the Legislature and state agencies have been guided by the science and data to best protect Californians and save lives - with a focus on those facing the greatest social and health inequities - remaining nimble to adapt mitigation efforts along the way as we learned more about COVID-19. The state's efforts to support Californians resulted in:

- Administration of 81 million vaccinations, distribution of a billion units of PPE throughout the state and processing of 186 million tests.
- Allocation of billions of dollars to support hospitals, community organizations, frontline workers, schools and more throughout the pandemic.
- The nation's largest stimulus programs to support people hardest hit by the pandemic - \$18.5 billion for direct payments to Californians, \$8 billion for rent relief, \$10 billion for small business grants and tax relief, \$2.8 billion to help with overdue utility bills, and more.

Background

In February the California Department of Public Health (CDPH) released the *California SMARTER Plan: The Next Phase of California's COVID-19 Response* to guide the state's work on the next phase of the COVID-19 pandemic.

The SMARTER Plan looks at where the state has been, draws on lessons learned from our collective experiences, and lays out a clear path for how California will remain prepared for what COVID-19 might bring next. With Governor Newsom set to lift the State of Emergency in early 2023, this update provides information on California's progress to date and how we move forward. California has always been a state that learns and innovates – it is in our DNA and will guide us moving forward.



Components

California's work is predicated on our individual, smarter actions that will collectively yield better outcomes for our neighborhoods, communities, and the state. Foundational to this plan are the following components:

S	Shots - Vaccines are the most powerful weapon against hospitalization and serious illness.
M	Masks - Properly worn masks with good filtration help slow the spread of COVID-19 or other respiratory viruses.
A	Awareness - We will continue to stay aware of how COVID-19 is spreading, closely track evolving variants, communicate clearly how people should protect themselves, and coordinate our state and local government response.
R	Readiness - COVID-19 isn't going away, and we need to be ready with the tools, resources and supplies we will need to quickly respond and keep the health care system well prepared.
T	Testing - Getting the right type of tests - PCR or antigen - to where they are needed most. Testing will help California minimize the spread of COVID-19.
E	Education - California will continue to work to keep schools open and children safely in classrooms for in-person instruction.
R	Rx - Evolving and improving treatments will become increasingly available and critical as a tool to save lives.

These SMARTER steps are a simple and clear tool for Californians to use as we collectively continue to navigate the next phase of the COVID-19 pandemic. Each of us has a role to play, read the SMARTER Steps One-Pager ([English](#), [Arabic](#), [Armenian](#), [Chinese](#), [Hmong](#), [Khmer](#), [Korean](#), [Punjabi](#), [Russian](#), [Spanish](#), [Tagalog](#), [Thai](#), and [Vietnamese](#)).

Progress

The SMARTER Plan has guided our work since February in response to the COVID-19 pandemic, it now will guide our work as part of this next phase. Here are a few key updates on our progress:

SHOTS – CDPH continues to estimate capacity to be at least 200,000 vaccinations per day, and is leveraging community partnerships, along with the newly established Office of Community Partnerships and Strategic Communications, to provide trainings, education, and events in community to highlight the benefits of vaccines and address misinformation. Over 81 million vaccines have been administered in California, with 85% of the population receiving at least one dose. There have been over 2 million bivalent doses reported to the state – 65% of all doses have been administered to people 50 years or older, 68% of doses have been given by a Pharmacy. 89% of bivalent booster recipients have already received 1 or more boosters; for 11% of bivalent booster recipients, the bivalent represents their first booster. CDPH continues to collaborate with long-term care facilities and local pharmacies to ensure the most vulnerable and high-risk Californians have access to vaccine.





MASKS – CDPH released [updated guidance](#) in September for the use of face masks, using the federal [community COVID-19 levels](#) to inform statewide masking recommendations in the general community and recommendations and requirements in shelters and incarcerated settings. CDPH plans to continue mask requirements in health care settings and long-term care and adult and senior care facilities throughout the winter. The state has already distributed over a billion units of personal protective equipment throughout California, and the remaining stockpile continues to be maintained and commercial supply chain monitored to ensure access to well fitted and well filtered respirators and masks, including surgical masks, N95s, and KN95s in both adult and children's sizes.

AWARENESS – CDPH is maintaining the COVID-19 Assessment and Action Unit and expanding its applicability to other respiratory viruses and emerging infectious disease threats. The California COVID-19 Assessment Tool, or [CalCAT](#), has been updated to include flu projections as part of the new California Communicable Diseases Assessment Tool. CDPH continues to reach out to priority wastewater surveillance sites to increase the network of coverage in California and continues to expand laboratory capacity to conduct increased wastewater testing. Additionally, the California Collaborative for Pandemic Readiness and Recovery Research (CPR3), in partnership with the University of California, launched in September. Now under the Office of Community Partnerships and Strategic Communications, the Vaccinate All 58 team continues to work on extending the California COVID-19 Community Health Project (CCHP) 3.0 community-based organization network and is working closely with the COVID-19 Workplace Outreach Project (CWOP) under the Department of Industrial Relations. This includes existing organizations and new partners that will work on vaccine outreach and education.

READINESS - CDPH issued an allocation methodology in June to local health jurisdictions on the availability of ongoing (\$200 million) in state funding to build local capacity, this is on top of the \$100 million available to build up state capacity. The state is continuing to monitor hospital capacity and has seven staffing contracts on ready. CDPH and the California Department of Social Services (CDSS) are working together to develop additional training opportunities around infection control within long-term care facilities. Finally, the Indoor Air Quality Task Force kickoff meeting will occur at the end of October.

TESTING - CDPH updated several [state public health officer orders](#) to remove requirements for screening testing of unvaccinated workers for COVID-19. [Testing Guidance](#) was also updated in September to share that diagnostic screening testing is no longer recommended in general community settings. CDPH continues to encourage high-risk settings to maintain testing capacity to perform diagnostic screening testing during outbreaks, and in the event, it is required again at a future date. CDPH has completed the distribution of 8.4 million over-the-counter antigen tests for end of school year and summer testing, and an additional 10.6 million for the return from summer break testing. CDPH continues to work with local health jurisdictions to allocate antigen tests for individuals in high-risk settings.





EDUCATION – CDPH provides [COVID-19 mitigation guidance](#) and resources supporting safe in-person instruction in all of California's 10,000 K-12 schools. More than 3.5 million children under age 18 years have received the COVID-19 primary series vaccine, and CDPH continues to offer schools with [turnkey mobile vaccination services](#). Guidance for the 2022-23 school year emphasizes the ongoing importance of testing and is backed with support for schools to receive [direct access to no cost, over the counter \(OTC\) antigen tests](#), in addition to support for on-site professional testing. Preparations are underway for additional antigen tests to be made available to schools for return-from-break testing during upcoming Thanksgiving and Winter Holiday breaks. Optimizing indoor air quality remains critical and through the California Energy Commission, schools in underserved communities can access [funding to upgrade HVAC systems](#). Additionally, California is working to sustain the integral relationship between education and health communities and address public health topics beyond mitigating COVID-19 transmission, foremost among which is the ongoing youth mental and behavioral health crisis. CDPH is working with [Department of Health Care Services](#), the [Children & Youth Behavioral Health Initiative](#) and the [California Healthy Minds, Thriving Kids Project](#) to bring resources and guidance to schools on topics related to mental health.

Rx – CDPH leveraged the over 140 Optum Serve testing sites in June 2022 to provide telehealth assessment and on-site dispensing of therapeutics to expand access. Additionally, over 400 CDPH community-based testing partners have changed their automated positive results messaging to include the state's telehealth phone number and website to provide treatment. CDPH will soon be issuing \$59 million in grants to safety net systems, including Federally Qualified Health Centers (FQHC); community clinics, rural health clinics, free clinics; Indian Health Service (his)/Tribal Health Clinics; and clinics operated by county or city health systems or public health systems to increase access and timeliness of treatment for COVID-19.

FUTURE

As we have learned throughout the pandemic, each surge and each variant bring with it unique characteristics relative to our neighborhoods and communities' specific conditions (e.g., level of immunity). Therefore, California will continue to evaluate the data quickly and nimbly to determine how to best handle future changes in the behavior of the virus. The SMARTER Plan will continue to guide the state's response to the COVID-19 pandemic, maintains the operational readiness and preparedness to continue protecting people from COVID-19, and lays the foundation for our response to future outbreaks of other infectious diseases. California has done what it takes to save lives throughout this pandemic. We have invested where necessary to build up the infrastructure and processes needed to reduce the impact of COVID-19 on our communities. These pillars will be the foundation of our preparedness going forward.

###

RESOLUTION 2022-40

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN JUAN
BAUTISTA ESTABLISHING THE TERM OF PARKLETS
ENCROACHMENT PERMIT**

WHEREAS, in an effort to control the pandemic caused by the COVID-19 Virus, City Council declared a State of Emergency March 17, 2020; and

WHEREAS, the shelter in place health orders that followed the state of emergency closed all but essential businesses; and

WHEREAS, this closure of businesses was harmful to the City's economy and the City, among many other things, initiated the Transformation of Third Street by adopting Resolution 2020-24, on May 19, 2020; and

WHEREAS, to implement the Transformation of Third Street, business owners were offered the opportunity to expand their business onto the public right-of-way and build decks, also known as "parklets," where customers could sit safely and enjoy their services; and

WHEREAS, in an effort to protect the historic nature of the downtown, parklets were required to be built in compliance with Guidelines adopted via City Council Resolution 2021-61; and

WHEREAS, the parklet program was approved by the City Council for a period of six months ending December 31, 2020, and serially extended until March 30, 2021, February 16, 2021 September 30, 2021, March 30 2022, and May 31, 2022 via Resolution 2022-21;

WHEREAS, the City Council has approved and budgeted funds for the preparation of a Master Streetscape Plan (Third Street Master Plan) for the San Juan Bautista Downtown with a focus on Third Street Mixed Use area and desires to utilize the community's experience with parklets to evaluate the character of public improvements within the Downtown area;

WHEREAS, the City Council has requested and received the evaluation and recommendation of the City of San Juan Bautista Economic Development Citizens Advisory Committee (EDCAC) established, in part, for this purpose;

WHEREAS, the City Council has considered the recommendations of the Economic Development Citizen Advisory Committee (EDCAC), the Historic Resources Board and the Planning Commission regarding the City policy regarding parklets and the term of parklets;

NOW THEREFORE, BE IT RESOLVED THAT THE CITY COUNCIL recommends that the City Council approve the recommendation of the EDCAC set forth in 5 (five) Key Considerations contained the EDCAC Report attached to the City Council staff report dated May 24, 2022 as the City's policy regarding parklets and in relation to the intended Third Street Master Plan;

➤ *Parklets are generally perceived to be beneficial to the community and to the sponsoring business.*

➤ *There are noted adverse effects of parklets; however, the benefits outweigh the noted adverse effects.*

➤ *Parklets should not be prevalent on Third Street in the short term. As a means of limiting noted short term adverse effects, the present parklet experience should not be expanded.*

➤ *It is important to know and understand the attitudes and perspectives of the community, business owners and visitors.*

➤ *Parklets should remain until the Third Street Master Plan construction begins. Third Street Master Plan parklet/plaza concepts should be shaped by referenced surveys and testimonials. The parklet experience should be re-imagined for use in the context of the Third Street Master Plan.*

PASSED AND ADOPTED by the City Council of the City of San Juan Bautista on the 24th day of May 2022 by the following vote:

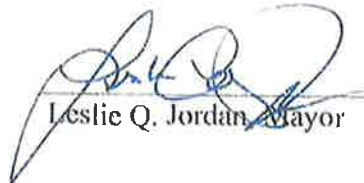
AYES: Jordan, Edge, Flores, Freels, Freeman

NOES: None

ABSENT: None

ABSTAIN: None

ATTEST:


Leslie Q. Jordan, Mayor


Don Reynolds, Acting Deputy City Clerk

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Item #7A
City Council Meeting
December 20, 2022

AGENDA TITLE

DISCUSSION, RECEIVE COMMENTS FROM THE COUNCIL AND THE PUBLIC AND PROVIDE DIRECTION CONCERNING A DRAFT ORDINANCE THAT, IF SUBSEQUENTLY ENACTED, WOULD PROHIBIT LOUD, UNNECESSARY OR UNUSUAL NOISE FROM DISTURBING THE PEACE OF CITY RESIDENTS

MEETING DATE:

DECEMBER 20, 2022

RECOMMENDED ACTION:

1. Discuss, receive comments from members of the public, and provide City Council direction concerning the Council's desired requirements for an ordinance that, if subsequently enacted, would prohibit and make unlawful making, continuing, or causing any loud, unnecessary or unusual noise which disturbs the peace and quiet of a neighborhood or which causes annoyance or discomfort to a person or normal sensitivities.
2. Consider in connection the need to establish limits and set times for activities which produce noise, possibly including adopting objective decibel level limits, and the adequacy of the amounts presently assessed for administrative fines.

BACKGROUND INFORMATION:

The San Juan Bautista Municipal Code presently does not include a chapter specifically addressing the effects of noise in residential or other neighborhoods. There are specific noise regulations in the Municipal Code but the City does not have an overarching noise ordinance.

The Municipal Code refers to noise in multiple contexts including: zoning, vehicle repair, fences, public gatherings, home occupation permits, planned unit development, short term rentals and cannabis facilities. However, there are difficulties with enforcement because the Municipal Code broadly and subjectively proscribes noise that is "excessive," "disruptive," "detectable to the normal senses," or creates "undue environmental impacts."

Alternatively, the city could adopt a specific ordinance aimed at controlling noise within the City to include more protections than currently exist. However, courts have struck down many municipal noise ordinances for violating the First Amendment of the United States Constitution. A noise ordinance may only impose reasonable restrictions on time, place, or manner on protected speech, and the restrictions must be without reference to the content of the speech,

narrowly tailored to serve a significant government interest, and leave open ample channels for communication of information. A noise ordinance must not prohibit content-specific activity, or the means of communication (e.g., bullhorns, loudspeakers) and instead must either regulate the unreasonableness of the amount of noise or the decibel limit.

A “generic” ordinance was placed on the City Council’s agendas for discussion purposes at your regular meetings of September 20 and October 18 but time did not allow a discussion on either occasion. That ordinance would prohibit excessive, unnecessary and unreasonably loud noises which disturb the peace of any neighborhood or causes discomfort or annoyance on a “reasonable person” standard. However, the ordinance (copy attached) would not establish decibel levels and the Council may wish to discuss the sources and the times established for noise regulation. A noise ordinance may restrict one or more specific noise sources, for example from construction, and may proscribe and restrict specified loud activities to certain days or hours of the day. Permits could be required for certain noisy activities and quiet zones could be established. The attached ordinance, provided for discussion purposes, provides a nonexclusive list of sources and times from whence such prohibited noise may emanate including:

- From construction-related noise within 500’ of a residence before 7:00 a.m. or after 7:00 p.m. on a weekday or before 9:00 a.m. and after 6:00 p.m. on a Saturday or a holiday, with no construction activities producing such noise to take place on a Sunday;
- From construction-related noise more than 500’ from a residence before 6:00 a.m. or after 10:00 p.m. on a weekday or before 8:00 a.m. or after 8:00 p.m. on a weekend or a holiday;
- From electric or gas powered motors or auto repair before 8:00 a.m. and after 9:00 p.m. on any day;
- From noise produced by individuals before 7:00 a.m. and after 10:00 p.m. on any day.
- From disturbing, excessive or offensive noise produced by animals, excepting for legitimate reasons;
- From amplified sources before 7:00 a.m. and after 10:00 p.m. on any day;

The Ordinance provides for certain exemptions, including:

- For emergency alerts or for official personnel performing emergency work;
- For entertainment if not after 10 p.m. or before 7:00 a.m. and for entertainment events conducted with a permit;
- For noise regulated by state or federal authority;
- For noise produced through the maintenance of residential property if not before 7:00 a.m. or after 10:00 p.m.
- For garbage removal.

- For activities by public agencies or franchisees to protect the public health, welfare, and safety.

This type of ordinance because of its subjective nature may be more likely to pose constitutional issues, discussed above, such as vagueness and is more likely to result in discretionary enforcement and non-uniform application. The attached Ordinance is intended to serve as a catalyst and a starting point to stimulate discussion of what the City Council and the public would like to see in an ordinance governing noise.

The Zoning Ordinance now specifies exterior noise performance standards applicable to each zone in the City (SJBMC 11-04-030). The performance standards regulate land uses that, without the imposition of specific conditions, limit the maximum outside noise levels to normally acceptable levels of :

- <60 decibels (“dB”) in low density residential;
- <65 dB in medium/high density residential districts;
- <65 dB for motels;
- <70 dB for offices, restaurant and retail uses;
- <75 dB for industrial uses;
- <70 dB for public and quasi-public use such as schools, libraries, churches and theaters;
- <70 dB for playgrounds and parks, and
- <75 dB for other open space uses.

A noise ordinance could set maximum volume limits in decibels that would proscribe noise-producing conduct based on sound intensity and frequency. Setting maximum volume limits in decibels would be amenable to be tailored in order to meet the specific, unique needs of the city and provide objective and predictable standards. This type of ordinance would require enforcement using sound level meters and would require special equipment.¹

Should the Council decide that objective decibel limits are desirable in an ordinance, information on maximum allowed noise levels contained in the Zoning Ordinance may be useful in context of conforming the limits established by a new noise ordinance to the existing provisions of the Municipal Code.

The City has broad authority but some difficulties for reasons described, in regulating and enforcing noise through existing state law, and through municipal code provisions including its zoning ordinance. Violation of the Municipal Code can be enforced through the Administrative Penalties procedures (SJBMC Chapter 2-7). Administrative fines would be imposed for violation of a noise ordinance. At present the City’s Administrative Penalties provisions (Chapter 2-7) provides for a violation of the San Juan Bautista Municipal Code for which no other specific penalty is established in the amount of a fine of fifty dollars (\$50.00) for a first violation; one hundred dollars (\$100.00) for a second violation of the same provision within a twelve (12) month period; and five hundred dollars (\$500.00) for each additional violation of that same

¹ I am informed that some smartphones have the ability to measure noise levels, however, for enforcement purposes it is likely that a professional noise level meter would be required for which periodic maintenance and testing for accuracy of its calibration would need to be documented.

provision within a twelve (12) month period or such higher amount as may be authorized by the California Government Code(Section 3600(b)).

This memo and the draft ordinance are brought to you for discussion purposes and to allow the Council to receive public comment. It is not proposed for introduction and the Council may propose revision or other direction as may be appropriate.

An ordinance adding a noise ordinance to prohibit loud, unnecessary or unusual noise would require two readings and would not go into effect for 30 days thereafter. The adoption of such an ordinance would not be a project under Section 15061(b)(3) of the California Environmental Quality Act Guidelines, and as such is exempt from environmental review.

RWR

Chapter 5.35

NOISE

Sections:

- 5-35-100 Policy and purpose.
- 5-35-200 General prohibition.
- 5-35-300 Prohibited acts
- 5-35-400 Exemptions.
- 5-35-500 Enforcement.

5-35-100 Policy and purpose.

(A) It is hereby declared to be the policy of the City of San Juan Bautista in the exercise of its police power to protect the peace, health, safety and general welfare of the citizens of San Juan Bautista from excessive, unnecessary and unreasonable noises from any and all sources in the community. It is the intention of the City Council to control the adverse effect of such noise sources on the citizens by prescribing standards prohibiting detrimental levels of noise and by providing a remedy for violations. The provisions of this chapter and the remedies contained in this code shall be cumulative and are not intended to replace any otherwise available remedies for public or private nuisances, nor any other civil or criminal remedies otherwise available. In addition, the regulations contained herein are not intended to substitute for any noise analysis conducted as a part of the city's environmental review process for discretionary permit approvals, nor are they intended to limit more strict noise control requirements for discretionary permit approvals should more strict measures be found to be necessary in order to maintain noise levels below adopted thresholds of significance.

(B) Among common noise sources are mobile sources such as airplanes and highway traffic and other sources which are regulated exclusively by the federal or the state government. While in most instances the city may not intervene to address these problems directly, it is the policy of the city to work with responsible government agencies and elected officials to reduce the real and damaging effects of these noise-producing activities on the quality of life of the city's residents.

(C) The provisions of this Ordinance do not and are not intended to supersede the application of "Community Noise Equivalent Levels" as defined in Title 11 Zoning, Chapter 11-29 "Definitions" or of Chapter 11-04 "Additional Development Standards" Subsection 11-04-030

(E) applicable to noise levels for commercial and industrial uses.

5-35-200 General prohibition.

(A) Notwithstanding any other provisions of this chapter and in addition thereto, it is unlawful for any person to willfully make or continue, or cause to be made or continued, any loud, unnecessary or unusual noise which disturbs the peace and quiet of any neighborhood or which causes discomfort or annoyance to any reasonable person of normal sensitiveness residing in the area. Each day of recurrence of any violation shall constitute a separate offense and may be treated as such pursuant to this Section.

(B) The standards which shall be considered in determining whether a violation of the provisions of this section exists shall include, but not be limited to, the following:

- (1) The sound level of the objectionable noise;
- (2) The sound level of the ambient noise;
- (3) The proximity of the noise to residential sleeping facilities;
- (4) The nature and zoning of the area within which the noise emanates;
- (5) The density of the inhabitation of the area within which the noise emanates;
- (6) The time of day or night the noise occurs;
- (7) The duration of the noise and its tonal informational or musical content;
- (8) Whether the noise is continuous, recurrent or intermittent; and
- (9) Whether the noise is produced by a commercial or noncommercial activity.

5-35-300 Prohibited acts.

(A) It is the intent of this chapter to prohibit all disturbing, excessive and offensive noises except those permitted under another provision of this code or those exempt pursuant to Section 5-35-400. Notwithstanding any other provisions of this chapter, the following acts, which are not in any way exclusive, are declared to be disturbing, excessive and offensive noises in violation of Section 5-35-200:

- (1) **Noises by Animals.** The permitting, by any person having charge, care, custody, or control of any animal, of such animal to emit any noise which is disturbing, excessive or offensive. For the purposes of this subsection, the animal noise shall not be deemed a disturbance if the animal is emitting the noise in response to a person trespassing or threatening to trespass upon private property in or upon which the animal is situated or if the noise is for any other legitimate cause, such as someone teasing or provoking the animal.
- (2) **Construction-Related Noise near Residential Uses.** Construction work or related activity in any zoning district on any property within 500 feet of one or more residences, lodging facilities, nursing homes or inpatient hospitals is limited to the hours between 7:00 a.m. and 7:00 p.m. on weekdays and on Saturday or holidays between the hours of 9:00 a.m. to 6:00 p.m., while Sunday construction is not allowed. Construction activity for projects not located within 500 feet of residences, lodging facilities, nursing homes or inpatient hospitals shall be limited to the weekday hours of 6:00 a.m. to 10:00 p.m. and the weekend or holiday hours of 8:00 a.m. to 8:00 p.m.. As used in this chapter, "construction work" or "construction activity" shall mean any site preparation, assembly, erection, substantial repair, alteration, demolition or similar action, for or on any private property, public or private right-of-way, streets, structures, utilities, facilities, or other similar property. Construction activities carried on in violation of this chapter may be enforced as provided in Section 5-35-500, and may also be enforced by issuance of a stop work order and/or revocation of any or all permits issued for such construction activity.
- (3) **Conflicts with Residential Uses.** Subject to the restrictions on construction contained in subsection (2) of this section, the sustained operation or use between the hours of 9:00 p.m. and 8:00 a.m. of any electric or gasoline powered motor or engine or the repair, modification, reconstruction, testing or operation of any automobile, motorcycle, sweeper, vacuum, public address system, whistle, muffler, motorized scooter, machine or mechanical device or other contrivance or facility unless such motor, engine, automobile, motorcycle, sweeper, vacuum, public address system, whistle, muffler, motorized scooter, machine or mechanical device is enclosed within a sound insulated structure so as to prevent noise and sound from being plainly audible from any residential property line.

(4) Loud Music or Other Noise by People. The use of electronic equipment (including but not limited to amplifiers, radio loudspeakers, phonographs, tape, digital systems), electronically operated or acoustic musical instruments, other device of like design used for producing sound, or singing, chanting, or yelling in or upon any public street, park or grounds, or any other open area to which the public has access, whether publicly or privately owned, between the hours of 10:00 p.m. and 7:00 a.m. is unlawful. At any other time of day, such equipment or noise production may not be used in a manner which disturbs the peace, quiet and comfort of neighboring residents or persons of normal sensitivity who are using such areas.

(5) Music, Stereos and Electronics.

(A) Operating, playing or permitting the operation or playing of any radio, television set, audio equipment, drum, musical instrument, or similar device which produces or reproduces sound at any time of day in such a manner as to disturb the peace, quiet and comfort of neighboring residents or persons of normal sensitivity. The operation of any such instrument, audio equipment, television set, machine or similar device between the hours of 10:00 p.m. and 7:00 a.m. in such manner as to be plainly audible at a distance of 50 feet from the building, structure or vehicle in which it is located shall be prima facie evidence of a violation of this subsection.

(B) The conducting of or carrying on of band or orchestral concerts, rehearsals or practice between the hours of 10:00 p.m. and 7:00 a.m. sufficiently loud as to disturb the peace, quiet or repose of persons of ordinary and normal sensitivity who reside in the immediate vicinity of such band or orchestral concerts or rehearsals or practice.

(C) Using, or operating, or permitting to be used or operated, for any purpose, any loudspeaker, loudspeaker system, public address or similar device between the hours of 10:00 p.m. and 7:00 a.m. in such a manner as to disturb the peace, quiet and comfort of neighboring residents or persons of normal sensitivity, except for any noncommercial public speaking, public assembly or other activity for which a permit has been issued pursuant to Section 5-15-200 of Chapter 5-15 "Parades and Public Gatherings."

5-35-400 Exemptions.

(A) The following activities shall be exempt from the provisions of this title:

(1) Emergency Work. The provisions of this title shall not apply to the emission of sound for the purpose of alerting persons to the existence of an emergency or in the performance of emergency work, and activities involving the execution of the duties of duly authorized governmental personnel and others providing emergency response to the general public, including but not limited to sworn peace officers, emergency personnel, utility personnel, and the operation of emergency response vehicles and equipment.

(2) Entertainment Events and Operations. The provisions of this chapter shall not apply to those reasonable sounds emanating from authorized school bands, school athletic and school entertainment events and occasional public and private outdoor or indoor gatherings, public dances, shows, bands, sporting and entertainment events conducted between the hours of 7:00 a.m. and 10:00 p.m., and special events for which a permit has been issued pursuant to Section 5-15-200 of Chapter 5-15 "Parades and Public Gatherings." In addition, noise associated with activities of places of entertainment that are in compliance with a conditional use permit.

- (3) Federal or State Preempted Activities. The provisions of this chapter shall not apply to any other activity the noise level of which is regulated by state or federal law.
- (4) Maintenance of Residential Property. The provisions of this chapter shall not apply to noise sources associated with maintenance of property used for residential purposes, provided the activities take place between the hours of 7:00 a.m. and 10:00 p.m.
- (5) Garbage Removal. The provisions of this chapter shall not apply to garbage removal services in commercial and mixed-use districts, even if the garbage services are located adjacent to residential districts.
- (6) Industrial Districts. The provisions of this chapter shall not apply to the Industrial Zoning District, Zone I.
- (7) Public Health, Welfare and Safety Activities. The provisions of this chapter shall not apply to construction, maintenance and repair operations conducted by public agencies, franchisees of the city and/or utility companies or their contractors which are deemed necessary to serve the best interests of the public and to protect the public health, welfare and safety, including but not limited to trash collection, street sweeping, tree removal, debris and limb removal, removal of downed wires, restoring electrical service, repairing traffic signals, unplugging sewers, vacuuming catch basins, repairing of damaged poles, removal of abandoned vehicles, repairing of water hydrants and mains, gas lines, oil lines, sewers, storm drains, roads, sidewalks, etc.

5-35-500 Enforcement.

Any violations of the provisions of this chapter are expressly deemed and declared to be a public nuisance, and such violation shall be abated in any manner provided by the Municipal Code including criminal sanctions, civil actions, and administrative penalties pursuant to Chapter 2.7.

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Item# 7F

City Council Meeting

December 20, 2022

AGENDA TITLE DISCUSSION, RECEIVE COMMENTS FROM THE COUNCIL AND THE PUBLIC, AND PROVIDE DIRECTION CONCERNING REPEALING AND REPLACING SECTION 2-3-110 TO CHANGE THE METHOD OF APPOINTMENT OF MEMBERS OF THE PLANNING COMMISSION TO THE METHOD USED PRIOR TO 2018.

MEETING DATE: DECEMBER 20, 2022

RECOMMENDED ACTION:

1. Discuss and provide direction concerning introduction of an ordinance that if subsequently adopted would change and return the method of appointing members of the Planning Commission to that employed prior to Section 2-3-110 having been revised in 2018.

BACKGROUND

At the November 15, 2022, regular meeting of the City Council Councilmember Freeman asked the City Attorney to bring forward for discussion by the full Council a revised ordinance to return the process for appointment of members of the Planning Commission to that employed through 2017, that is, to provide for each member of the City Council to appoint one member of the Planning Commission.

SUMMARY OF CURRENT AND PREVIOUS APPOINTMENT PROCESS

Ordinance 2018-04 replaced Section 2-3-110 to provide that the City Council as a body would interview and appoint all members of the Planning Commission. Subsequently Ordinance 2018-04 was amended by Ordinance 2020-03 to establish the current procedure for the appointment of members of the Planning Commission such that, in summary, an ad hoc committee is appointed consisting of two members of the City Council to receive and review applications for individuals seeking appointment for a four-year term on the Planning Commission, conduct interviews, and recommend to the full Council the persons or persons recommended by the ad hoc committee for consideration for appointment. A majority vote of the full Council is required to make an appointment.

Prior to adoption of Ordinance 2018-04, in summary, each member of the City Council nominated one member of the Planning Commission who would be appointed to the Commission subject to having received at least three affirmative votes of the Council. The appointment of a commissioner took place at or near the beginning of a councilmember's term and the term of office for the appointed commissioner coincided with the term of office of the councilmember who nominated him or her. Prior to the adoption of Ordinance 2018-04, Section 2-3-110 read as follows:

“2-3-110 Qualifications – Appointment – Term.

(A) Members of the Planning Commission shall be residents and registered voters of the City of San Juan Bautista and shall not be officers or management-level employees of the City at the time of their appointment and continuously during their terms of office. A Commissioner who has moved residence from the City shall be considered to have resigned from the Commission office.

[This provision remains the same in the current version of 2-3-110.]

(B) Each Member of the City Council shall appoint one (1) member of the Planning Commission.

[This provision changed since 2017 and now provides for a four-year term for commissioners.]

(C) At or near the beginning of his or her initial and succeeding elected or appointed term of office, each member of the City Council may nominate one (1) Commissioner who shall be appointed to the Commission, if approved by a vote of at least three (3) members of the Council. Each Commissioner's term of office shall coincide with the term of office of the City Council member who nominated him or her. [This provision changed since 2017 and now addresses filling a vacancy on the Commission.]

(D) If a Commission vacates his or her office before the expiration of his or her term of office, the City Council member who nominated that Commissioner (or a City Council member elected or appointed to fill the remaining unexpired term of office of the City Council member who appointed the Commissioner) may nominate a replacement to serve the remainder of that Commissioner's term of office, who shall be appointed if the nomination is approved by a vote of at least three (3) members of the City Council. [This provision changed since 2017 and now provides for the appointment of the ad hoc committee described above.]

(E) If a City Council member's nomination receives less than three (3) votes, he or she may nominate additional candidates, one (1) at a time, until one (1) of them is appointed by a vote of at least three (3) members of the Council. Commissioners shall be nominated and voted upon at a single City Council meeting unless a different procedure is approved by a majority vote of the City Council. If a City Council member fails to nominate a Commissioner within sixty (60) days after the vacancy occurs, the Mayor in his or her discretion, shall appoint a Commissioner subject to approval of at least here (3) members of the City Council. [This provision changed since 2017 and now provides for reappointment of a commissioner by the City Council for a successive term without the need for the ad hoc committee.]

(F) Within thirty (30) days from the effective date of the City ordinance which adds this subsection, the Mayor shall designate the initial nominating Council member for each filled and vacant position on the Planning Commission. Following the Mayor's designation, the Council shall undertake the nomination, appointment and confirmation procedures described in subsections (B) through (E) of this Section to nominate, appoint and confirm the members of the Planning Commission who will initially take office subject to the provisions of this section. [This provision was deleted and not replaced in 2018.]"

The attached draft ordinance would, if subsequently introduced and adopted at a regular meeting of the City Council repeal and replace the present process for appointment of members of the Planning Commission and replace it with the process used prior to the adoption of Ordinance 2018-04 on April 17, 2018. The text to be deleted is shown in strike-out text.

RWR

ORDINANCE NO. 2023-XX_

**AN ORDINANCE OF THE CITY COUNCIL
OF THE CITY OF SAN JUAN BAUTISTA
REPEALING IN ITS ENTIRETY SECTION 2-3-110
OF THE SAN JUAN BAUTISTA MUNICIPAL CODE
“QUALIFICATIONS – APPOINTMENT – TERM”
FOR SERVICE ON THE PLANNING COMMISSION
AND REPLACING SECTION 2-3-110 WITH A
NEW SECTION 2-3-110**

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WHEREAS, by Ordinance No. 2020-03 the Council added Section 2-3-110 (“Qualifications – Appointment - Term”) to Chapter 2-3 of the San Juan Bautista Municipal Code governing service on the Planning Commission; and

WHEREAS, this Council wishes to repeal Section 2-3-110 in its entirety and replace it with a new Section 2-3-110.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAN JUAN BAUTISTA HEREBY ORDAINS AS FOLLOWS:

SECTION 1. Section 2-3-110 of the San Juan Bautista Municipal Code hereby is repealed in its entirety and replaced to read in its entirety as follows:

“2-3-110 Qualifications – Appointment – Term.

(A) Members of the Planning Commission shall be residents and registered voters of the City of San Juan Bautista and shall not be officers or management-level employees of the City at the time of their appointment and continuously during their terms of office. A Commissioner who has moved residence from the City shall be considered to have resigned from the Commission office.

(B) **Each Member of the City Council shall appoint one (1) member of the Planning Commission.** ~~Planning Commission members’ terms shall be four (4) years, which terms shall be staggered.~~

(C) **At or near the beginning of his or her initial and succeeding elected or appointed term of office, each member of the City Council may nominate one (1) Commissioner who shall be appointed to the Commission, if approved by a vote of at least three (3) members of the Council. Each Commissioner’s term of office shall coincide with the term of office of the City Council member who nominated him or her.**

Any vacancy in the Planning Commission from whatever cause arising, including expiration of term, shall be filled by appointment by the Council. Upon a vacancy occurring, leaving an unexpired portion of a term, any appointment to fill such vacancy shall be for the unexpired portion of such term.

(D) If a Commissioner vacates his or her office before the expiration of his or her term of office, the City Council member who nominated that Commissioner (or a City Council member elected or appointed to fill the remaining unexpired term of office of the City Council member who appointed the Commissioner) may nominate a replacement to serve the remainder of that Commissioner's term of office, who shall be appointed if the nomination is approved by a vote of at least three (3) members of the City Council. When there is a vacancy to be filled on the Planning Commission, except for a successful reappointment of a Planning Commission member for a successive, consecutive term as defined in subsection (E) of this Section, the City Council shall appoint an ad hoc subcommittee of two (2) members to receive applications and/or resumes, select qualified candidates for interviews, conduct interviews and make a brief report with a recommendation to the City Council. The City Council shall consider and vote on the recommendation and shall appoint the applicant who receives a majority of votes to the Planning Commission. If an applicant does not receive a majority of votes, the ad hoc subcommittee shall select a new candidate and present that candidate to the City Council at the following meeting

(E) If a City Council member's nomination receives less than three (3) votes, he or she may nominate additional candidates, one (1) at a time, until one (1) of them is appointed by a vote of at least three (3) members of the Council. Commissioners shall be nominated and voted upon at a single City Council meeting unless a different procedure is approved by a majority vote of the City Council. If a City Council member fails to nominate a Commissioner within sixty (60) days after the vacancy occurs, the Mayor in his or her discretion, shall appoint a Commissioner subject to approval of at least here (3) members of the City Council. The City Council may, upon expiration of a Planning Commission member's term, reappoint the Planning Commission member for a successive, consecutive term, without requiring an ad hoc subcommittee to conduct interviews and make a recommendation. If the Planning Commissioner, whose term has expired, is not reappointed, the Council may direct the ad hoc subcommittee to review credentials and interview that Planning Commissioner, or to also consider other candidates for appointment to the Planning Commission, as set forth in subsection (D) of this Section

(F) Within thirty (30) days from the effective date of the City ordinance which adds this subsection, the Mayor shall designate the initial nominating Council member for each filled and vacant position on the Planning Commission. Following the Mayor's designation, the Council shall undertake the nomination, appointment and confirmation procedures described in subsections (B) through € of this Section to nominate, appoint and confirm the members of the planning Commission who will initially take office subject to the provisions of this section."

SECTION 2 – Severability. This ordinance and the various parts thereof are hereby declared to be severable. Should any section of this ordinance be declared by a court to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or any portion thereof other than the section, or part thereof, so declared to be unconstitutional or invalid.

SECTION 3 – Environmental Assessment. The City Council declares that the approval of this ordinance is not subject to the California Environmental Quality Act (“CEQA”) because pursuant to CEQA Guidelines Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment); and 15060(c)(3) (the activity is not a project as defined in Section 15378), California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly. Alternatively, the approval of this ordinance is not a “Project under CEQA Regulation Section 15061(b)(3) because it has no potential for causing a significant effect on the environment.

SECTION 4 – Effective Date. This ordinance shall go into effect thirty (30) days after the date of its adoption.

THE FOREGOING ORDINANCE was first read at a regular meeting of the San Juan Bautista City Council on the _____ day of _____, 2023, and was adopted at a regular meeting of the San Juan Bautista City Council on the _____ day of _____, 2023, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney