



Memorandum

TO: Mayor and City Council

FROM: Vice Mayor Pat Dando
Councilmember Chuck Reed
Councilmember Forrest Williams

SUBJECT: Employee Benefits and Same Sex
Marriages

DATE: March 8, 2004

RECOMMENDATION:

1. Direct staff to follow California law in recognizing marriages of our employees.
2. Direct staff to identify and return to the Council with a report of areas in which domestic partnerships and marriages are treated differently by the City of San Jose and with recommendations for changes to achieve equal treatment, within the limits of California law.

BACKGROUND:

In 2000, the California voters approved Proposition 22, which amended California law to say:

Only a marriage between a man and a woman is valid or recognized in California. (Family Code, Section 308.5)

Recently, the California Attorney General has asked the California Supreme Court to rule on the legality of same sex marriages. According to the Attorney General:

"For almost 30 years, the State of California has defined marriage as a union between a man and a woman. The law is clear. Individuals and government entities that object to statutes may work to change them through the legislative or initiative process. But unless an appellate court strikes the law down as unconstitutional, state statutes must be followed and they must be enforced."

San Jose should not take actions or make decisions on same sex marriage licenses until the Supreme Court rules on the Attorney General's request or the law is changed by the legislature or the voters.