



MEMORANDUM

TO: Mayor & City Council

FROM: Vice Mayor Cindy Chavez
Councilmember Dave Cortese
Councilmember Nora Campos
Councilmember Nancy Pyle

SUBJECT: Office of the Mayor

DATE: June 28, 2006

APPROVED:

DATE:

6/28/06

RECITAL

This is a challenging time for all who love San Jose. The Mayor deserves his day in court. Meanwhile, the City Council is responsible for making sure the city is run effectively and that the needs of the residents in San Jose are first and foremost. The action under consideration is intended to benefit the residents of San Jose, and, as such, must protect the City from any vulnerabilities, distractions, or breaches in our fiduciary responsibility to the public. It is not intended to be punitive against the Mayor or his staff. In fact, it shall be the intent of the Council to purposely defer any and all punitive measures that may be appropriate to the District Attorney.

RECOMMENDATION

In the event that it is determined that the City Council is not legally permitted to remove Mayor Ron Gonzales from office or he chooses not to resign from office, the City Council is recommended to reduce the scope, responsibility and visibility of the Mayor's Office until December 31, 2006 to meet minimum compliance with City Charter by approving the following measures:

- 1) Restrict overall appropriation to the Mayor's Office to:
 - a. Fund personnel costs at amounts not to exceed current levels
 - b. Restrict non personnel costs to 10% of FY05-06 non personnel expenditures until January 2007.
 - c. Freeze the number of FTEs according to the current composition
 - d. Hold in reserve proposed Mayor's Office Rebudget and appropriate in January 2007
- 2) Make publicly accessible the Mayor's calendar and/or require a procedure whereby phone logs and meeting logs must be strictly kept and publicly maintained for the Mayor's Office.

BACKGROUND

The sanctity of the Office of the Mayor is not to be underestimated; however it is ultimately the individual who occupies this seat upon whom rests the responsibilities of representing our City in an absolutely ethical manner.

Our current Mayor received a unanimous censure from the City Council in December 2005 for his serious breach of ethical responsibilities with his colleagues on the City Council and the people of San Jose in connection to the Norcal garbage scandal. The report of the Civil Grand Jury as well as the results of an independent investigation has corroborated Council's actions. The Santa Clara County District Attorney's Office has now charged our Mayor with several counts of alleged criminal conduct, based on the same facts.

No doubt the Mayor is innocent of the criminal counts until proven guilty and it is only for a court of law to make that determination – the City Council cannot legislate in this matter. Nevertheless, the underlying facts involving unethical behavior in violation of the city charter and city policy have now been ratified by four separate entities (the City Council, the Grand Jury, an independent investigator chosen by three retired judges, and the District Attorney) all of whom have made factual and legal findings. No further legal or factual determination is necessary with regard to the ethical misconduct of the Mayor. That determination has been made. Wrongdoing in this matter has been clearly established without a doubt, irrespective of whether or not such wrongdoing is ultimately deemed criminal.

What the City Council can and should do is minimize the risk of this situation affecting our abilities to run the business of the city in a prudent and focused manner. We have before us as a Council the immediate need to court and locate driving industries, provide essential services including the protection of public safety, maintain and create new public spaces for citizens to enjoy, recommend direction in connection to major land use planning efforts, guide transportation design options and restore the public trust, to name a few pressing concerns. Our current Mayor cannot effectively lead these efforts given the cloud of suspicion that hangs over him, the personal burden of a very serious upcoming legal process and the public mistrust of his every action in light of his ethical misconduct and possible illegal actions. It is painfully clear that the City Council has no choice but to severely divest the Mayor's Office (while still remaining in compliance with the City Charter) by building upon actions undertaken last December (removing the Mayor from committee appointments).

One way to do this is by restricting the appropriation to the Mayor's Office according to current salary levels and number of FTEs. The recommendation is to cap the number of filled FTEs at today's level and freeze the salaries of all 19 members of staff (14 unclassified employees, 1 contract employee, 3 classified employees, 1 classified employee on loan from RDA). The other recommendations are designed to bring greater transparency to the Mayor's Office and realign compensation for the Mayor based on his reduced responsibilities.