

Memorandum

TO: Honorable Mayor &
City Council Members

FROM: Lee Price, MMC
City Clerk

SUBJECT: The Public Record
October 11 - 17, 2006

DATE: October 19, 2006

ITEMS TRANSMITTED TO THE ADMINISTRATION

- (a) Letter received from Margo Leathers Sidener (Breathe California) to Rules Committee dated October 18, 2006 requesting to agendaize a discussion of Title 20, Part 4 (specifically addresses air pollution (including smoke, odor, dust, fumes), and noise and vibration) at a future Council meeting.
- (b) Email received from Carl Schroeder to Mayor Gonzales, City Council and Lee Price City Clerk dated October 8, 2006 regarding the Animal Advisory Committee.

ITEMS FILED FOR THE PUBLIC RECORD

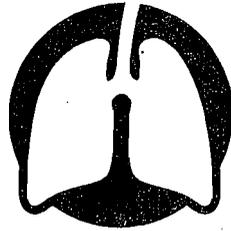
- (c) Letter from T Mobile, Renee Davis to Les White City Manager dated October 9, 2006 regarding OCI Site Number SF15072.
- (d) Letter from David S. Wall to Mayor Gonzales, City Council dated October 13, 2006 regarding Interim City Managers recommendation regarding San Jose Repertory Theatre.
- (e) Letter from David S. Wall to Mayor Gonzales, City Council dated October 17, 2006 regarding Budget Surplus.
- (f) Letter from David S. Wall to Mayor Gonzales, City Council dated October 19, 2006 regarding the Arts Stabilization Fund.

Lee Price, MMC
City Clerk

LP/np

Distribution: Mayor/Council
City Manager
Assistant City Manager
Assistant to City Manager
Council Liaison
Director of Planning
City Attorney

City Auditor
Director of Public Works
Director of Finance
Public Information Officer
San José Mercury News
Library



BREATHE CALIFORNIA

*Public Record
a.*

October 18, 2006

Rules Committee
City of San Jose
200 E. Santa Clara Street
San Jose, CA 95113

Dear Council Members:

I am writing to support the agendaing of a discussion of Title 20, Part 4 at a future Council meeting.

Our agency has supported mixed-use zoning for many years, as a means to reach density goals that would result in "smart growth" for our City and local area. Although we still endorse this type of residential-commercial/industrial land use as environmentally sound, we have become aware of potential incompatibility in such uses that can actually result in environmental or general health hazards.

The problem appears, from our limited outsider's view, to be one connected to certain businesses' noncompliance with the Performance Standards listed in Title 20.50.300, Part 4. This Part specifically addresses air pollution (including smoke, odor, dust, fumes), and noise and vibration. We have recently had many complaints regarding diesel fumes, cigar smoke, and noise attached to machinery that also emits air pollution. While we try to assist clients individually, we wanted to voice our more general concerns to you.

The standard specifically covers all types of permitting- primary, secondary, incidental, or conditional. Yet there have been reported enforcement differences in enforcement related to the type of permit. We are especially concerned for clients who have reported that City officials require them to do the interface with noncompliant corporations. Moreover, some situations have occurred where such interaction has resulted in threats or even more offensive behavior.

Therefore, we would encourage the Council to have a thorough discussion of the City staffs' role in mediating disputes between residents and companies, and of the enforcement protocol for companies that ignore the performance standards attached to their City permit. Otherwise the City may have gone too far in establishing the "business friendly climate" that was formerly an appropriate goal.

Sincerely,

Margo Leathers Sidener, MS, CHES
President and CEO

Pimentel, Nora

From: Price, Lee
Sent: Tuesday, October 10, 2006 11:02 AM
To: Pimentel, Nora
Subject: FW: Punished for telling the truth-Need your help

public record referred to the Administration, let's take it to rules on the 25th

From: City Clerk
Sent: Tuesday, October 10, 2006 9:41 AM
To: Price, Lee
Subject: FW: Punished for telling the truth-Need your help

From: pachyderm426@juno.com [mailto:pachyderm426@juno.com]
Sent: Sunday, October 08, 2006 2:44 PM
To: cchavez@sanjoseca.gov; Chuck.Reed@sanjoseca.gov; Cindy.Chavez@sanjoseca.gov; dave.cortese@sanjoseca.gov; forrest.williams@sanjoseca.gov; fwilliams@sanjoseca.gov; jchirco@sanjoseca.gov; Jim.Cogan@sanjoseca.gov; Jonathan.Noble@sanjoseca.gov; judy.chirco@sanjoseca.gov; Ken.Yeager@sanjoseca.gov; kyeager@sanjoseca.gov; linda.lezotte@sanjoseca.gov; madison.nguyen@sanjoseca.gov; mayoremail@sanjoseca.gov; nancy.pyle@sanjoseca.gov; ncampos@sanjoseca.gov; nora.campos@sanjoseca.gov; rgonzales@sanjoseca.gov; Ron.Gonzales@sanjoseca.gov
Cc: Alicia.Bosco@sanjoseca.gov; Armando.Gomez@sanjoseca.gov; bearkats1@juno.com; christianhemingway@msn.com; cityclerk@sanjoseca.gov; creed@sanjoseca.gov; crystal.morrow@sanjoseca.gov; frances.grammer@sanjoseca.gov; Kay.Winer@sanjoseca.gov; Les.White@sanjoseca.gov; llezotte@sanjoseca.gov; maya.esparza@sanjoseca.gov; myvan.khoo@sanjoseca.gov; Roma.Dawson@sanjoseca.gov; scott.green@sanjoseca.gov; stephanie.holm@sanjoseca.gov; tduncanson@sanjoseca.gov
Subject: Punished for telling the truth-Need your help

Dear Mayor and Council,

No one should have to be punished or treated like I have been for speaking out at a Council Meeting. After I went to the Council Meeting on 8-8-2006, I found out that Jon Cicirelli, used the Animal Advisory Committee, and Judy Jones the Chairperson, to get back at Kathleen Flynn and I. He did it because we complained to you about him and the way he has been treating everyone. I couldn't for the life of me figure out why Judy Jones, someone I have never even laid eyes on, would write such a hateful letter about us. I figured I'd write Jon and ask a few questions to try and find out what happened. Well, after the usual long e-mail battles I always end up having with him, I found out exactly what happened.

After the Council Meeting in Aug., Jon held another secret meeting with the AAC. We were not invited, or even told this meeting was going to happen. Jon went to the Animal Advisory Committee and lied to them about what we said to you. He told them that Kathleen bashed Judy Jones, and the committee in front of you. (I know that for a fact because Kathleen showed me an email from Judy Jones saying just that.) He told them that from now on they had to invite everyone to the AAC meetings, and that they had to follow the Brown Act. He purposely blamed us for that instead of telling them that he was the one in the wrong for having AAC meetings in private.

I thought it was bad enough that Jon changed all these laws behind our backs instead of letting all of us have a say, and then lied to you about it. I thought it was really dishonest of him to try and con you into believing that the flea market isn't selling animals anymore when they are. I thought it was pretty bad that he let the Humane Society hold an illegal pet fair at Santana Row. I thought that lying to the BSN

10/10/2006

Committee was the worst of what he would do, but using the AAC to get back at us is the last straw.

No tax paying, voting citizen should have to be afraid of getting in trouble, or of having a letter defaming them sent to the Mayor and Council just because a department head wants revenge on you, for telling elected officials the truth. Jon went way too far this time. I've talked to other people about this and they are just as mad as I am that Jon ignores their opinions, bullies them around and would actually use the trust of people on the AAC to get them to write a complaint letter. Especially when they didn't have both sides of the story. What's even more incredible is that he was arrogant enough to ignore the direction of the Vice Mayor, and Council Member Campos and have another secret meeting behind people's backs. I think Jon also did this to try make us so mad that we wouldn't come to these meetings. That way he would be free to keep getting away with his dirty tricks and defend himself by saying, well the meetings are public now they are free to come.

Kathleen and I copied you on every single e-mail between Jon and us so you know I'm not lying. I would like one of you to please look into this because what he did is just plain wrong. It makes me mistrust government and as Kathleen said, "sets a very dangerous precedent."

Respectfully,
Carl Schroeder



Public Record C

October 9, 2006

RECEIVED
San Jose City Clerk

RECEIVED
CITY MANAGER

2006 OCT 12 P 3:42

2006 OCT 12 A 8:35

City Manager
Les White
200 East Santa Clara St.
San Jose, CA 95113-1905

Re: OCI Site Number SF15072

Dear Mr. White,

General Order 159-A (GO-159-A) of the California Public Utilities Commission (CPUC) requires cellular carriers to send a notification letter of a utility's intent to construct a cellular facility to CPUC's Safety and Enforcement Division within 15 business days of receipt of all requisite local land use approvals. The notification letter shall state that such approvals have been received, or that no land use approvals are required.

As set forth in GO 159-A, copies of the notification letter are required to be served concurrently by mail on the local governmental agency. Where the affected local governmental agency is a city, service of the notification letter to the city shall consist of service of separate copies of the notification letter upon the City Manager, the City Planning Director and the City Clerk. In order to comply with these requirements, I have enclosed a copy of the notification letter for our project within your city limits.

If you have any questions or require additional information, please contact Rod DeLaRosa at (925) 521-5948.

Sincerely,

Renee Davis
Compliance Consultant
Omnipoint Communications Inc.

Attachments



ATTACHMENT A

1. Project Location:

Site Identification Number: **SF15072**
 Site Name: **Canyon Creek Plaza**
 Site Address: **5665 Silver Creek Valley Road**
 County: **Santa Clara**
 Site Location: **San Jose, CA**
 Assessor's Parcel Number: **679-29-007**
 Latitude: NAD 83 **37*17**16.43"**
 Longitude: NAD 83 **-121*46**50.65"**

2. Project Description:

Number of Antennas to be installed: **2**
 Tower Design: **Rooftop**
 Tower Appearance: **Rooftop**
 Tower Height:
 A) Building Height **25'**
 B) Structure Height **30'**
 C) Top of Antenna Height **30'**
 Lease Area: **24' X 9'**

3. Business addresses of all Governmental Agencies

X **15 City of San Jose, CA**
 200 East Santa Clara St
 San Jose, CA 95113 - 1905

4. Land Use Approval:

X **16 Building Permit**
 No. 2006-028411-CI
 Issued: 10/2/2006

5. If Land Use approval was not required: *Explain reason for exemption and attach documentation from the jurisdiction (i.e. copy of ordinance) that officially states exemption.*



October 9, 2006

Safety & Enforcement Division
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

RE: OCI Site Number SF15072 Canyon Creek Plaza

This is to provide the Commission with notice pursuant to the provisions of General Order No. 159A of the Public Utilities Commission of the State of California ("CPUC") that :

 X (a) The cellular company has obtained all requisite land use approval for the project described in Attachment A.

 (b) That no land use approval is required because _____.

A copy of this notification is also being provided to the appropriate local governmental agency for its information. Should there be any questions regarding this project, or if you disagree with any of the information contained herein, please contact Rod DeLaRosa at (925) 521-5948 of Omnipoint Communications, Inc. dba T-Mobile, USA corporate identification number U-3056-C.

Very truly yours,

Renee Davis
Compliance Consultant

c: City of San Jose, CA

Public Record of

David S. Wall
455 North San Pedro Street
San José, California 95110
Phone (408) - 287 - 6838
Facsimile (408) - 295 - 5999

RECEIVED
San Jose City Clerk

2006 OCT 13 A 10:38

October 13, 2006

Mayor Gonzales and Members San José City Council
200 East Santa Clara Street
San José, California 95113-1905

Re: Interim City Managers recommendation regarding San José Repertory Theatre

Mayor Gonzales and Members San José City Council;

The Interim City Manager is on record to encourage you to continued funding of the **San José Repertory Theatre**.

The crux of the plan, presented for your consideration, is based on the requirement of the San José Repertory Theatre to create; "a business plan, document fund raising of \$1.5 million dollars or more, explain and correct any budgetary slips of 10% or more, maintain a \$50,000 contingency fund, agree to have a non-voting city official sit on the audit and finance committee's of the Rep's board".

Mr. White's inability to solve City Departmental issues such as; "**the lack of a business plan**" for Environmental Services Department (ESD) from the early '90's (to his departure from City service) and to the present, is well documented without any accountability for the use of taxpayer funds, the other points set forth in my September 20, 2006 letter to you concerning City operations are still unresolved. **YET, we are led to believe Mr. White's plan to save the San José Repertory Theatre has merit for consideration.**

This plan should be considered as unusable barnyard manure and rejected without further consideration or comment. Let the San José Repertory Theatre die the ignominious death it so justly deserves.

Consider forming partnerships with San José State's Theater Arts Department, our local high schools Arts programs, and other successful Arts programs for funding via the "\$4 million city arts-stabilization fund" Mr. White wishes to use for his proposed "line of credit" to bailout the Rep.

From my perspective: anyone who is, "\$3.3 million dollar in debt and has spent all its long-term endowment money", is akin to a trust-fund baby who got addicted to drugs, then comes back in our midst as a toothless crack-whore and tries to assert deserved consideration under the doctrine of the prodigal child. This child should have the financial door slammed permanently in their respective face.

Remember, **Only a MORON or an aggregate of MORONS** would vote for anything that permits the **San José Repertory Theatre** to continue.

Respectfully submitted, *David S. Wall 10.13.2006*

(P.S.: Don't forget the San José Firefighters still do not have a just contract!)

Cc: City Attorney / City Auditor / Interim City Manager

Public Record e

David S. Wall
455 North San Pedro Street
San José, California 95110
Phone (408) - 287 - 6838
Facsimile (408) - 295 - 5999

RECEIVED
San Jose City Clerk

2006 OCT 17 A 11: 21

October 17, 2006

Mayor Gonzales and Members San José City Council
200 East Santa Clara Street
San José, California 95113-1905

Re: BUDGET SURPLUS – DON'T SPEND IT JUST YET!

Mayor Gonzales and Members San José City Council;

On October 11, 2006 according to the Interim City Manager's statements to the San José Mercury News, the budget surplus was \$18 million dollars. Today, reported in the San José Mercury News, the budgetary surplus has grown to \$34 million dollars.

A \$16 million dollar increase in revenue in just six (6) days, maybe the City of San José *is* the Capital of Silicon Valley (as opposed to the Capital of Failed Administrators which is my express belief). Perhaps the Interim City Manager *is* a financial wizard and together with his select cronies from past administrations are worthy of their hire. I think naught.

I think nobody but the "*Shadow Knows*", *what's really going on with the City of San José's finances*. Or is it just another scam by the current administration; (the Mayor, Vice-Mayor and the gang of five Council Members who usually vote as if they shared the same brain) to befuddle the taxpayers three (3) weeks before the elections?

My recommendations are as follows:

Put off spending the surplus until March or April of 2007. The elections will be over, the holidays will be over, and the new administration will be in full operation. Above all, a report to the taxpayers on the state of our finances could attempt to explain in detail just how our money grew at such a rate. (The taxpayers might want some of this action for their 401K's and other investment portfolios if such a growth rate could be legitimately documented).

Real Time accounting practices should also be in place so this type of financial or political hooliganism will no longer be practiced. Also, the Interim City Manager and his cronies should be given a final boot out of City Service.

During this time period, the Artsy-Fartsy community should be able to get their financial houses in order. They should; demonstrate how much private donations they have raised, creation of viable business plans should be tendered for review and public discussion, and what *personal collateral* could be secured as initial requirements for competition in the City of San José's purposed \$4 million dollar ARTS STABILIZATION give-away program.

Respectfully submitted,

David S. Wall 10.17.2006

Cc: City Attorney / City Auditor / Interim City Manager

Public Record f.

David S. Wall
455 North San Pedro Street
San José, California 95110
Phone (408) - 287 - 6838
Facsimile (408) - 295 - 5999

RECEIVED
San Jose City Clerk
2006 OCT 19 P 12:02

October 19, 2006

Mayor Gonzales and Members San José City Council
200 East Santa Clara Street
San José, California 95113-1905

**Re: THE BANK OF SAN JOSÉ – THE ARTS STABILIZATION GIVE-AWAY:
A LOSING PROPOSITION**

Mayor Gonzales and Members San José City Council;

Unlike any accredited financial institutions, the City of San José's continued foray into the banking business has a couple of unique distinctions. First and foremost, **THE BANK OF SAN JOSÉ'S OPERATING CAPITAL IS NOT THEIR MONEY. IT IS THE TAXPAYER'S MONEY.** Secondly, there does not appear any deterrence or punishment for the misuse of taxpayer funds, i.e. **NO ACCOUNTABILITY.**

Let us now **QUESTION** the \$4 million dollar **ARTS STABILIZATION FUND** passed by YOU yesterday, October 18, 2006.

The San José Repertory Theatre (SJRT), The American Musical Theatre (AMT) and the Mexican Heritage Corporation (MHC) are bastions of administrative incompetence.

There now exists a controversy concerning the absence of fiscal responsibility.

- Prior to begging the City of San José for a bailout, did any of these institutions approach any accredited banks or other lending institutions for money?
- What collateral did these institutions tender to the City of San José for consideration of "line of credit" (SJRT), the buying of aged sound equipment and other loan requests (AMT) or the desire to have a \$500,000 debt forgiven and an un-specified increase in operating costs increase (MHC)?
- What are the actual costs (in real time) of these bailout "loans"? For example, City staff time. How many City employees are involved with these bailouts and does the meager, unacceptable 4% return on these dubious investment vehicles capture the entire costs of doing business with these failed entities?
- The performance conditions precedent and concurrent placed on "SJRT", are at best Philistine in administrative nature. No conditions of any kind on "AMT" or "MHC" have been publicly reported. WHY?
- Concerning "SJRT", Vice-Mayor Chavez states, "I need you, we all do, to be around for a long time." Is this statement a material misrepresentation of facts? Councilman Reed states, "If the REP goes into a tailspin next month, I want us to bail out before they hit the ground." **Is this an admonition, the entire San José City Council (except Councilman Cortese) is "gambling" with taxpayer money? Does "gambling" with public funds fall under the purview of "self-dealing" and above all "ULTRA VIRES"?**

Respectfully submitted,

Cc: City Attorney / City Auditor / Interim City Manager

David S. Wall 10.19.2006