



Memorandum

TO: Honorable Mayor &
City Council Members

FROM: Lee Price, MMC
City Clerk

SUBJECT: The Public Record
August 8 - 14, 2008

DATE: August 15, 2008

ITEMS TRANSMITTED TO THE ADMINISTRATION

1. Letter from Kirk Vartan to City Clerk Lee Price received via email on August 6, 2008 regarding signal modifications at the Winchester Ave/Forest Avenue (west) and was referred to the Administration on August 8, 2008.

ITEMS FILED FOR THE PUBLIC RECORD

- (a) Email received August 9, 2008 from Kimo Crossman to City Clerk Lee Price regarding San Jose Sunshine Reform Taskforce recommendation of redaction of contact information on public records.
- (b) Four letters from David S. Wall to Mayor Reed and City Council dated from August 11, 2008 through August 13, 2008 regarding miscellaneous subjects.
- (c) Letter from Mayor Chuck Reed to the Honorable Governor of California Arnold Schwarzenegger dated August 13, 2008 regarding State Budget: Local Government, Transportation, and Redevelopment Funding.

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

From: Kirk Vartan
Sent: Wednesday, August 06, 2008 10:10 AM
To: AgendaDesk@sanjoseca.gov
Cc: 'Oliverio, Pierluigi'; 'Fedor, Denelle'; 'Andy Gremett (agremett)'; 'Shippey, Christine'
Subject: Request for agenda item for San Jose City Council
Importance: High

To Whom It May Concern,

I have been working with Christine Shippey in the City manager's office and feel I have gotten as far as I can with them. I am having issues with the Department of Public Works, decisions they have made, and lack of public involvement.

So, I would like to make a request to place an item on the next available San Jose City Council agenda.

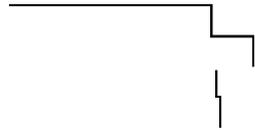
The topic I would like to present on is the signal modifications at the Winchester Ave/Forest Ave (west). I can forward over a few of the emails I sent to Ms. Allen in the department of Public Works like for background on the topic, but I would rather hold off until I can speak with someone on the issue. I prepared the following agenda for my meeting with Ms. Shippey and Ms. Allen and it might serve as a good overview of the issues:

1. Petitions showing overwhelming neighborhood rejection of signal modification
2. Department of Public Work EIR Comments
3. Public Records Act request and responses
 - a. Neighborhood input
 - b. District 6 input
 - c. San Jose's change from rejection to acceptance
 - d. Study on how this impacts the value of the homes, quality of life, inconveniences, etc.
 - e. Diagram showing all relevant roadway intersections
4. City of Santa Clara's lack of substantial response (basically listed the EIR documents as responsive documents)
5. Borden's comments about acceptance
6. Significant increase in traffic on neighborhood streets
7. Missing result on Council directed action (BAREC memo June 5, 2007) – dated letter

Please let me know when the topic will be on the agenda. I have included my phone number below. I would like to schedule this as soon as possible as it is time sensitive.

Thank you,

Kirk Vartan



From: _____ **On Behalf Of** kimo
Sent: Saturday, August 09, 2008 6:28 PM
To: Terrazas, Eva
Cc: Robinson, Bert; _____; Dan Pulcrano; Brenda Otey, _____; Manheim, Tom; Herrick, Lisa; Price, Lee; Attard, Barbara; Kirby, Gary; JMcCracken@da.sccgov.org; CArriola@da.sccgov.org; rcallender@valleywater.org; jchadwick@sheppardmullin.com; kyrak@lawfoundation.org; mschlosberg@aclunc.org; John@sfoa.org; Sanjeev Bery; Beaudry, Eileen; Kimo Crossman
Subject: San Jose Sunshine Reform Taskforce recommends redaction of contact information on public records

This is very damaging for grassroots campaigns which want to share their side of the story against proposals pushed through by a city office.

The goes way beyond CPRA and does not perform a balancing test as required nor indication that contact info like what one would find in the phone book is a unwarranted invasion of privacy and is considered highly offensive:

<http://www.sanjoseca.gov/clerk/TaskForce/SRTF/20080619/Phase%20II%20Report%20060908%20%20FINAL%20VERSION.pdf>

6.3.3 Privacy

The SRTF recommends that the City follow a privacy policy, which is referenced in the footer of every web page, that ensures that home and email addresses are redacted from any information made public.

The SRTF recommends further that Social Security Numbers, if required, be obtained on a document that is maintained separately from any contract that may be made public.

The invocation of Official Information exemption (6254 (k) is not valid because this Contact information was not provided in a confidential manner. Nonetheless the balancing test which must be applied broadly for disclosure under Prop 59 is the Public interest vs the interests of Justice which the California Supreme Court in *CBS Inc. v. Block 42 Cal 3d 646, 656 (1986)* ruled is the same as 6255 which we see is waived in 67.24 (g) – (i) above.

Also please apply this extremely broad description of Public Records & Public Business:

6252 (g) "Writing" means any handwriting, typewriting, printing, photostating, photographing, photocopying, transmitting by electronic mail or facsimile, and every other means of recording upon any tangible thing any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combinations thereof, and any record thereby created, regardless of the manner in which the record has been stored.

And according to the legislative history of CPRA:

This definition is intended to cover every conceivable kind of record that is involved in the government process...Only purely personal information unrelated to "the conduct of the public's business" could be considered exempt from this definition, i.e., the shopping list phoned from home, the letter to a public officer from a friend which is totally void of reference to governmental activities (Assembly Comm. on Statewide Information Policy, Appendix I to Journal of Assembly (1970 Reg. Sess.) Final Report p. 9)

Public's Business is broadly construed and rarely contested (*California State University v. Superior Court*, 90 Cal.App. 4th 810, 824-25 (2001); *San Gabriel Tribune v. Superior Court* 143 Cal. App. 3d 762, 774(1983)

□ The (federal) Supreme Court has observed that the short, though regular journey from mailbox to trash can □ is an acceptable burden, at least so far as the Constitution is concerned □

David S. Wall

PUBLIC RECORD b

1 of 4

RECEIVED
San Jose City Clerk

2008 AUG 11 P 2:13

August 11, 2008

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

Re: ITEMS #4 AND #5 (A-D) ON AUGUST 14, 2008 TPAC AGENDA

There are some interesting ITEMS on the August 14, 2008 TREATMENT PLANT ADVISORY COMMITTEE'S (TPAC) AGENDA which I feel are worthy of transmittal.

ITEM #4:

This is a GRANT AGREEMENT with MANSION GROVE APARTMENTS for an amount not to exceed \$220,000 dollars for retrofit of recycled water facilities.

I have a few of questions:

What City is MANSION GROVE APARTMENTS located?

Why is tax-payer monies used to facilitate this business?

How much GRANT MONEY is available in total to dole out to business per year for Recycled Water and what impact do these monies have on the debt structure?

ITEM #5:

The use of the Sewer Service & Use Charge for the FUNDING OF PUBLIC ART via "Title 22 of the San José Municipal Code modifying the basis for the calculating the percent for public art in City and Agency Capital Improvement Projects and other changes to implement portions of the PUBLIC ART MASTER PLAN approved by the City Council on March 13, 2007."

This is troublesome. **How can a PUBLIC ART TAX be "piggy backed" onto the SEWER SERVICE & USE CHARGE without violation proposition 218?**

Can a City Council create additional taxes to fund other programs via the SEWER SERVICE & USE CHARGE without regard for Proposition 218? If so, I think the San José Police and Fire Departments would like some of this "action".

Respectfully submitted,

David S. Wall

08.11.2008

///

**Cc: City Attorney / Auditor / City Manager
Members TPAC**

David S. Wall

244

RECEIVED
San Jose City Clerk

2008 AUG 13 P 2:22

August 13, 2008

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

Re: THE GHETTO LIFE: S.C.E.P. UPDATE

On Monday (08.11.2008) I proceeded to North Tenth Street @ Horning Street to "check the pulse" of the Shopping Cart Entitlement Program (SCEP).

I arrived on station approximately 1348 hours. I counted sixteen (16) stolen and abandoned shopping carts. Not as many as last week, so perhaps the thieves were still too drunk or drugged up to participate more fully in the SCEP ...or... do we now have NEW ECONOMIC INDICATOR FOR THE LOCAL ECONOMY?

Could it be so simple that a reduction in the participation in the SCEP is an economic indicator signaling a "downturn" in the local economy? In theory, people are turning in their property for cash themselves instead of the thieves stealing it from the City recycling program. Correspondingly, an increase in participation of the SCEP (i.e. more stolen and abandoned shopping carts at North Tenth Street @ Horning Street) means an "up tick" in the local economy because people have more cash and there is no need to turn in recyclables for money.

The breakdown of ownership of the stolen and abandoned shopping carts is as follows;

Target (3), PetsMart (2), Trader Joe's (2), Lion Market (1), Mercado SuVianda (1), FoodMax (1), World Market (1), Costco (1), Mi Pueblo (1), un-marked (1), Marshals (1), and Dollar Tree (1).

Special note: While I was taking inventory of the stolen and abandoned shopping carts, at the aforementioned location, a man in a flat bed truck with other shopping carts tied up on the bed of the truck, drove up beside me. I asked him if he was here to pick up the stolen and abandoned shopping carts. He replied, "No se." I then, in a friendly way said, "Eres son illegal?" The man hurriedly stepped on the gas and recklessly drove away, almost causing a vehicular accident with a passenger vehicle that was proceeding southbound on North Tenth Street.

Looks like illegal activity is common place in the Ghetto Life.

Respectfully submitted,

David S. Wall

08.13.2008

///
///

Cc: City Attorney / Auditor / Chief of Police / City Manager

David S. Wall

344

RECEIVED
San Jose City Clerk

2008 AUG 13 P 2:23

August 13, 2008

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

Re: THE GHETTO LIFE: G.R.E.P. UPDATE

Yesterday, (Tuesday 08.12.2008) I gave testimony to the Board of Directors of the Santa Clara Valley Water District concerning the illegal encampments, on their property-the banks of the Guadalupe River near my home.

My testimony included proper admonishment for the lack of care of their property which included weed abatement (fire hazards as well as fires put out by the San José Fire Department), the nuisance problems associated with the discovered trespassers which inhabit their property as well as providing habitat for the criminal element.

One Director responded that it was the duty of the San José Police to "clear out" these encampments. I rejected this argument. I testified it was their responsibility to patrol and monitor their property and that YOU are responsible for directing the activities of the San José Police in these matters.

Another Board member chimed in as to the assistance from the San José Fire Department in extinguishing fires on their property by the Julian Street Bridge.

A Board member also testified that the "District" was frustrated on where to relocate the individuals who trespass on their property. He said these people should be taken to "homeless shelters" like the National Guard Armory. In other words, dump the problem on San José.

I gave testimony to YOU at yesterday's City Council meeting concerning the "illegal encampments" on the Guadalupe River. The **GREP (Guadalupe River Entitlement Program)** seems to be problematic for both governmental agencies.

I further testified to YOU that there are people the POLICE do not bother arresting because of the amount of the criminal's WARRANTS. For example, the County Jails "cut-loose" some criminals with warrants of \$6,000 dollars, so POLICE don't waste their time arresting this sector of the criminal element. And they also rarely, if ever, get any support from YOU on this issue.

It is readily apparent to me, too many over-paid government administrators are on an uninterrupted three degree glide slope to financial prosperity by not exercising due diligence of their respective authority by not creating the required infra-structure to support a series of MUNICIPAL STOCKADES to remedy a host of problems.

I will discuss MUNICIPAL STOCKADES later.

Respectfully submitted,

Cc: City Attorney / Auditor / Chief of Police / City Manager

David S. Wall
08.13.2008

David S. Wall

4 of 4

RECEIVED
San Jose City Clerk

2008 AUG 13 P 2:23

August 13, 2008

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

Re: MAYOR REED'S "GREEN VISION": THE COLOR OF MONEY

Mayor Reed's "Green Vision" is really a play on words. The Mayor touts his Green Vision as making San José the most environmentally friendly City in the United States. His actions; through housing development deals and the unbridled development schemes by the accursed Redevelopment Agency shout a different and more truthful meaning of the Mayor's "Green Vision". It is the color of money.

With an ongoing three year drought that would tighten the sphincters of camels everywhere, a statewide water shortage crisis to boot, Mayor Reed and his cronies on the City Council continue unabatedly to show their steadfast loyalty to developers by approving one housing development after another to the unabashed detriment of the taxpayers.

The latest outrage is the bogus as Hell assertion of the 83,000 jobs will be created by the addition of 32,000 homes on North First Street. The result of this abortion of authority is the bastard child of misrepresentation and an increase in everything associated with crap.

Congestion, pollution of all sorts, crime, and blight are foreseeable consequences. Not to forget a headache for future Councils how to pay for the necessary services to keep this latest addition to San José's Ghetto skyline from degenerating into a slum altogether. The slippery slope of attaining "one with slum" is now ordained for North 1st Street.

So, where am I wrong folks? If YOU can not guarantee a sustainable water supply why do YOU allow one housing development after another? What makes good people like YOU continue to support unsustainable development under the guise that YOU are "friends of the environment (F.O.E.)"? Or are YOU really just "foes" to the environment?

What ever YOUR response to my questions will be, I recommend not trying the same old warm and fuzzy adage that YOUR decisions on these aforementioned matters are "good for the City". This phrase no longer works for the educated mind.

But, wait a minute. Maybe there is no "water" shortage to worry about at all. Are YOU planning to have the housing developments (a.k.a. slums) on North First Street plumbed with *No potable water*, strictly reclaimed water? If so, Brilliant! That way, only the most physically fit will survive. No need for housing for seniors, they will be the first to go. There will be no need for schools because most of the kids will not make it to kindergarten. Outstanding!

Maybe YOUR "GREEN VISION" is good for the City and environment. Reduction of congestion by way of the survival of the fittest combined with maximum profit for developers and politicians alike. The math does present a perfect final solution, for some.

A wise old City employee I know still says, "When they say it is not the money, it is always the money." I say, "MAYOR REED'S GREEN VISION" has been in the past and continues to this very day, is..... the color of money.

Respectfully submitted,

David S. Wall
08.13.2008

Cc: City Attorney / Auditor / City Manager

August 13, 2008

The Honorable Arnold Schwarzenegger
Governor of California
State Capitol
Sacramento, CA 95814

RE: State Budget: Local Government, Transportation, and Redevelopment Funding

Dear Governor Schwarzenegger:

San José has a long record of pursuing economic development and redevelopment initiatives that strengthen the economic vitality and quality of life for our residents, region, and state.

I urge you to consider the efforts being made in San José and other cities throughout the state to improve the lives of our residents, create jobs, and revitalize our neighborhoods as you weigh the proposals to close the state's \$15.2 billion deficit.

In particular it would be important that any proposals that support the suspension, borrowing, or taking of local funds relating to local property tax revenues (Proposition 1A, 2004), transportation funding (Proposition 42, 2006), and redevelopment funding, be carefully analyzed with regards to short and long-term impacts on the city's ability to fulfill our economic development goals and deliver vital services to our residents and businesses.

The reports that local government funds are being considered to close the \$15.2 billion budget deficit in fiscal year 2008-09 are of great concern. Diversion of local funds would result in cuts to local services.

Furthermore, the proposal being considered to shift \$200 million or 5% of local redevelopment funds from redevelopment agencies would also have a negative long-term effect on San José, Silicon Valley and the state's overall economy. I urge you to protect the legitimacy of redevelopment as a significant tool to expand California's economy, drive economic development and increase infrastructure investments.

Any significant redirection in redevelopment tax increment revenue would stifle job creation and the production of affordable housing, impact our economic development strategies and neighborhood initiatives, the facilitation of public private partnerships, and impede our ability to invest in blight removal and required infrastructure improvements.

The Honorable Arnold Schwarzenegger
Governor of California
RE: State Budget: Local Government, Transportation
and Redevelopment Funding

August 13, 2008
Page 2

I fully understand that options to balance the budget are limited and I most certainly wish you well in your efforts in the days ahead. Your actions in Sacramento will directly impact the people of San José and my hope is that the impact will result in positive outcomes for San José and California.

Best Wishes to you Governor.

Sincerely,



Chuck Reed
Mayor

cc: The Honorable Don Perata, President Pro Tempore
The Honorable Karen Bass, Speaker of the Assembly
The Honorable Dave Cogdill, Senate Republican Leader
The Honorable Michael Villines, Assembly Republican Leader
Senator Elaine Alquist
Senator Ellen Corbett
Senator Abel Maldonado
Senator Joe Simitian
Assembly Member Jim Beall, Jr.
Assembly Member Anna Caballero
Assembly Member Joe Coto
Assembly Member John Laird
Assembly Member Sally Lieber
Assembly Member Ira Ruskin
Assembly Member Alberto Torrico