



# Memorandum

**TO:** Honorable Mayor &  
City Council Members

**FROM:** Lee Price, MMC  
City Clerk

**SUBJECT:** The Public Record  
November 24-December 4, 2008

**DATE:** December 5, 2008

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## ITEMS TRANSMITTED TO THE ADMINISTRATION

### ITEMS FILED FOR THE PUBLIC RECORD

- (a) Letter from Chair of Senior Citizens Commission Constance Langford to Mayor Reed and Council dated November 13, 2008 writing on behalf of the Commission requesting a special committee be formed, comprised of various City's commissions to form a work group to review material for a City Commission Handbook.
- (b) Memorandum from Executive Director Harry S. Mavrogenes dated November 26, 2008 regarding Prevailing Wage Penalty.
- (c) Letter from David S. Wall to Mayor Reed and Council dated November 25, 2008 regarding "The Ghetto life: Update on the SCEP."
- (d) Letter from David S. Wall to Mayor Reed and Council dated November 25, 2008 regarding "The Rains Are Coming! Clear Out the River/Creek Shanty Towns."
- (e) Letter from David S. Wall to Mayor Reed and Council dated November 25, 2008 regarding "e-Citation Pilot Program SJPD."
- (f) Letter from David S. Wall to Mayor Reed and Council dated November 25, 2008 regarding "Request for status update: Garbage removal issue unabated and unacceptable."
- (g) Letter from David S. Wall to Mayor Reed and Council dated November 26, 2008 regarding "Reinvent War Bonds: Buy and Hold U.S. Savings Bonds-CA. Edition."
- (h) Email from the California Regional Water Quality Control Board, San Francisco Bay Region (2) to City Clerk Lee Price received December 1, 2008 regarding Napa River Watershed Sediment TMDL: Water Board hearing postponed.
- (i) Letter from David S. Wall to Mayor Reed and Council dated December 2, 2008 regarding "Office of the City Manager: Archetype of a Failed Business Model."

Honorable Mayor and City Council Members  
December 5, 2008  
Subject: The Public Record November 25-December 4, 2008

- (j) Letter from David S. Wall to Mayor Reed and Council dated December 2, 2008 regarding "Mayor Reed: Cut Up Your Redevelopment Agency Credit Card!"
- (k) Letter from David S. Wall to Mayor Reed and Council dated December 2, 2008 regarding "The Ghetto Life: Update on the SCEP."
- (l) Letter from David S. Wall to Mayor Reed and Council dated December 4, 2008 regarding "Tesla Motor Company: Does Public beggary accelerate or accentuate demise?"
- (m) Letter from David S. Wall to Mayor Reed and Council dated December 4, 2008 regarding "Drunk Tank a.k.a. 'Sobering Center #1' at City Hall?"
- (n) Letter from David S. Wall to Mayor Reed and Council dated December 4, 2008 regarding "Mayor Reed 'Throttles Free Speech' at S.J. Council Meeting."



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  
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PUBLIC RECORD a

## SENIOR CITIZENS COMMISSION

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San Jose City Clerk

5730 Chambertin Drive  
San Jose, California 95118  
Tel: (408) 979-7915  
Fax: (408) 979-0536

2008 NOV 18 P 2: 28

November 13, 2008

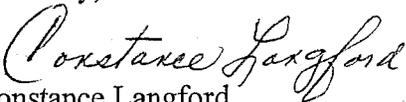
Mayor Chuck Reed  
Members of the San José City Council  
City Hall  
200 East Santa Clara Street  
San José, CA 95113

Dear Honorable Mayor Reed and City Council:

On behalf of the San José Senior Citizens Commission, I am requesting that a special committee be formed, comprised of representatives from all of the City's commissions, in order to form a work group to review the material being incorporated in the City's Commission Handbook. We understand the goal is to issue a standardized handbook, but we strongly feel it is only fair that each of the commissions be able to present their input, requirements and concerns in order that the final handbook serve as a solid reference book for all entities involved.

We would be happy to supply any additional information you may need in order to make a decision on this matter.

Sincerely,

  
Constance Langford,  
Chair, Senior Citizens Commission

/jm

cc: Pete Constant, Councilmember, Dist. 1  
Debra Figone, City Manager  
Albert Balagso, PRNS Director

✓  
bcc: City Clerk  
Alicia Bosco  
Meghan Revolinsky  
Angel Rios  
Diane Lindberg  
Dan Wax  
Correspondence Binder

MEMORANDUM

TO: RULES AND OPEN GOVERNMENT COMMITTEE	FROM: HARRY S. MAVROGENES EXECUTIVE DIRECTOR
SUBJECT: SEE BELOW	DATE: NOVEMBER 26, 2008

SUBJECT: PUBLIC RECORD: PREVAILING WAGE PENALTY

The attached letter was submitted to the Agency by Fountain Alley, LLC, for consideration by the Rules and Open Government Committee. The request seeks reconsideration of the prevailing wage penalty that was imposed on that firm. Recommend inclusion of this item on the Rules and Open Government Committee's agenda for December 10, 2008.



HARRY S. MAVROGENES  
Executive Director

**Kern, Janet**

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**From:** Bernie Kotansky [redacted]  
**Sent:** Tuesday, November 25, 2008 11:04 AM  
**To:** Kern, Janet  
**Subject:** RE: Prevailing Wage Liquidated Damages "Appeal" to City Rules Committee

**Fountain Alley LLC**  
30 E. Santa Clara Street, Suite 200, San Jose, California 95113  
Telephone 408-995-5595 Fax 408-995 5585

November 25<sup>th</sup>, 2008

San Jose Redevelopment Agency  
Janet Kern, Deputy Executive Director  
City of San Jose  
200 E Santa Clara Street, 14<sup>th</sup> Floor  
San Jose, CA 95113

Dear Ruth,

Please pass this letter on to the appropriate people. This letter was originally sent on August 12<sup>th</sup> to Ruth Shikada after many discussions with Harry Mavrogeous and Ruth.

Before I write the main part of this letter, I want to thank Ruth and Harry and the City of San Jose and for sure the Redevelopment Agency plus all the staff for the help given to us in the reconstruction of our project. It was one of the more difficult projects I have undertaken and without your help, this never would have happened.

I am writing to this to you to reconsider your position on the prevailing wages penalty imposed on us. I now understand why the penalty was written. Throughout the construction I was not concerned because Hillhouse Construction had a clause their contract that specifically instructed them to use prevailing wages. From what I understood during construction all workers were paid with prevailing wages and if not, payments would not be made by the RDA. Only after the project was completed was I made aware that there were infractions made by three of the sub-contractors. We would like for you to reconsider this penalty is for the following reasons.

1. I guess the main reason is that this penalty places a major burden on the small sub-contractors who just can't afford to pay. In fact the penalty ends up being more than their contract amount. It would be a major hardship. They did correct their error and paid the prevailing wage.
2. All the contractors followed the rules except for three. After discussions with the General Contractor, I firmly believe they made an earnest effort to police the prevailing wage issue and tried to ensure their subcontractors abided by the rules. However this is a monumental task for the small size of the Contractor and their subcontractors and not being that familiar with the rules, errors were made. Three out of over 100 sub contractors and suppliers were wrong and in every case, the general contractor

11/25/2008

corrected the situation.

3. Due to its age and conditions of the building, this project was very difficult and new issues popped up daily. As a result, we ran way over budget. The project is financially strained and we know the general contractor lost a lot of money on the project as well. We underestimated the cost of the renovation of this building.
4. We have 3 out of 7 retail spaces leased and have leased 2 out of 6 office spaces. The market is so poor that we have not leased anything in over a year. That leasing market is really tough at this time
5. The economic market is so bad at this time that there is a financial burden on our property. We have not paid off the construction loan because of poor leasing and for us to get a takeout loan will not happen. I am not sure what the Bank will do.
6. To resolve this issue with the general contractor and the sub contractors will only lead to litigation between us and cause more aggravation and more costs for everyone which will only result in everyone losing more money. No something we can afford to do.
7. Personally I never realized the severity of the penalty clause. I only realize it was there at the end of the project when we were advised of the penalty. After discussions with the General Contractor, I truly believe that he did not realize this either. When we knew of the problem, we did meet with the RDA personnel who reminded us of warnings given at the outset of the project but once again we did not realize how serious this penalty clause was. I do suggest that in the future at the time of an infraction, the penalty be imposed immediately....that would certainly open people eyes not to allow it to happen again. That would also make the problem small than waiting for the end when it would be large.
8. I would have never have agreed to do this project without the help of the RDA and for that I am grateful. It made no economic sense. Even with the grant it was difficult. On the other hand we tried to make 7 broken down homes into nice retail and office space. It would have cost less than half the costs with better results if we could have torn down the building and started new. Still with your investment and ours, we accomplished the task and the result is quite nice. That is, we turned an eyesore into something that the City, ourselves and the people of San Jose should be proud of.
9. Last but not least, this project will only be financially successful way into the future. We did what we could and invested time energy and money and hopefully one day it will pay off. All being said we did do a nice job.

We honestly did not realize the severity of the penalty and the impact it will have on the small trades who cannot afford to pay. From a financial point of view as well as a moral point, it would be really difficult to approach them to pay. We beseech you to try to reverse this penalty. We lived up to our agreement in every other way. We did what we said we would do and then some. When we started this many years ago, I was told that the RDA will work very hard to assist us in any way they could. I ask you to now assist us in this very meaningful way.

Thank you for your assistance and I will happy to meet at any time to help resolve this matter.

Yours sincerely,

Bernard Kotansky  
 Manager  
 Fountain Alley, LLC

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**From:** Kern, Janet [mailto:Janet.Kern@sanjoseca.gov]  
**Sent:** Tuesday, November 25, 2008 9:23 AM  
**To:** Bernie Kotansky

11/25/2008

David S. Wall

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San Jose City Clerk

2008 NOV 25 P 12:48

November 25, 2008

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

**Re: THE GHETTO LIFE: UPDATE ON THE SCEP**

On Monday, (11.24.2008) approximately 1051 hours, I ventured over to North Tenth Street @ Horning Street to "take the pulse" of the SCEP (Shopping Cart Entitlement Program). I arrived on station and found twelve (16) stolen and abandoned shopping carts. *A 33% increase of theft of shopping carts from last week is hereby recorded.*

*The small pile of festering, fly strewn garbage reported last week has grown considerably. Although, and not to my surprise, the pile of festering, fly strewn garbage is approximately five to six cubic yards and will continue to grow. Why? San José is the regional ghetto of Santa Clara County.*

*Where are the San José Police patrols along the railroad tracks? There has been for some time, encampments or "shanty towns" of the "outcast and criminal element" along the tracks.*

*There exists a significant fire hazard in the form of dried "tumbleweeds" that butt up against the wooden fences of properties along the railroad tracks. Someone in the City should hold accountable the railroad to clean up their property. This also includes significant amount of garbage as well. Even if the garbage is out of sight, it is still a health hazard menacing the community. The aforementioned has been left unchanged since last week, except there is an increase in the amount of garbage and excrement.*

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

Safeway (5), FoodMaxx (2), Mi Pueblo (2), Toys R Us (1), Costco (1), Longs (1), Trader Joe's (1), Target (1), Food 4 Less (1), PetsMart (1).  
**\*\*\*special note\*\*\*** the overall cleanliness of Shopping carts in stores should be addressed by some government agency. Unsuspecting customers may use excrement coated shopping carts without knowledge.

***There were three (3) interviews this week.***

Today's interviews were from Hector, Victor and Isaiah. These fine gentlemen should be identified with the race of "drunk in public" or rather "drunks in public". *Untouchables* by SJPD since City Council's action last week OR are the railroad tracks a *defacto* "sobering center"? If their mothers seeing them in this pitiful site are not already dead, they would certainly die of shame.

All three gentlemen, without prompting, told me that they were not "causing any problems". The squalid conditions of their habitats spoke otherwise. When asked about restroom facilities, Hector pointed to a five gallon plastic bucket. There were several in the vicinity.

This reminded me how Environmental Services Department used a similar bucket, by laboratory personnel, on "the boat" during the Bay Survey. That is until the sole female crew person had to urinate, by squatting on the "bucket" in front of God and country. Her male counterparts "just hung it over the side" to urinate. However, Hector's or the communal bucket had a "plastic grocery bag" as a liner. This is a noteworthy improvement in sanitation over the similar toilet facilities on the Guadalupe River.

The question to ask, why doesn't the City provide "porta-potties" in both locales? Why doesn't the City pick up the *large and growing pile of festering, fly strewn garbage*? *Would such an act take away the prestige of San José being the regional ghetto of Santa Clara County?*

*Victor and Isaiah didn't say too much. Isaiah was lying down on a mattress most of the time during my visit.*

***Respectfully submitted,***

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

*David S. Wall*  
11.25.2008

David S. Wall

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San Jose City Clerk

2008 NOV 25 P 12:48

November 25, 2008

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

**Re: THE RAINS ARE COMING! CLEAR OUT THE RIVER / CREEK SHANTY TOWNS**

The weather is changing and for those that live on the banks of Rivers and Creeks it can be *deadly* when it rains.

*I gave testimony* to that and related issues to the Santa Clara Valley Water District (Herein District) today, Tuesday (11.25.2008).

*I specifically asked* if the District warn the inhabitants of the River and creek embankments of the dangers associated with "Flash floods".

*I specifically asked* if the District to notice the City of San José of the aforementioned problem.

It can also be deadly for San José Firefighters and Police Officers who, have to rescue these folks. People in this vicinity are *usually, not always* incapacitated by drugs and drink and cannot appreciate the danger they have put themselves or *San José's finest* who may be called upon to rescue them from the effects of harm's way.

Being caught in a "Flash flood" is no fun at all. YOU ARE AWARE that there are People in peril, residents of the shanty towns and encampments along the embankments of the Guadalupe River and other areas, that YOU have allowed to exist, unfettered and uncared for. It could also be said that YOU have "conferred a benefit" to this sector of the community by YOUR tacit and implied by conduct of permitting these festering social and criminal problems to plague civilization without humane and legal remedies.

Blaming the economy for the existence of these shanty towns / encampments is irresponsible. Just as reclassifying the same as "sobering centers" would also be irresponsible.

YOU should direct the POLICE to start clearing them out BECAUSE rain is scheduled for the next couple of days.

*Nobody should have to drown* even if your home is the Regional Ghetto of Santa Clara County, the City of San José.

Direct the City Attorney to pursue "cost recovery remedies" with the property owner, the Santa Clara Valley Water District. They have more than enough money.

I also testified not to allow "one drop of reclaimed water" into the aquifers.

*Respectfully submitted,*

*David S. Wall*  
11.25.2008

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

David S. Wall

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2008 NOV 25 P 4: 21

November 25, 2008

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

**Re: e-Citation Pilot Program SJPD**

There are some issues I have with the e-Citation program put forward at the San José City Council meeting last Tuesday (11.18.2008).

At five to six million dollars for the software alone this should be of concern to everyone.

The fact that *only* the San José Police will have this system software is problematic for the law enforcement community since they all work together in one way or another.

I do not know and certainly the presentation by SJPD at the Council meeting did not clarify what other Police agencies use this software. Should not all Police agencies within the County of Santa Clara use the same software? Cost sharing benefits?

We know from the presentation that the Courts do not use this system. This should also signal concern.

I think it is prudent to initiate inquiries of SJPD as to the aforementioned issues. Also, at the appropriate administrative level of discussion, regional municipal governments including the County of Santa Clara should be queried as to their opinion of unifying Police electronic communication in conjunction with the Courts as to their requirements.

As to the San José Police Captain who demonstrated that 45% of "handwritten citations" issued by San José Police Officers contained errors as one justification for the e-Citation program, the Captain should be disciplined for allowing this administrative atrocity. How is it possible that SJPD command staff has allowed so much error? They are highly paid administrators.

At roughly one hundred thousand dollars plus benefits per copy, San José Police Officers should not be making so many errors. The fact that Command staff touts this fact publicly as one right of e-Citation justification is a portrait of damnation run amok.

I support the e-Citation concept. Much like the pricy software, there are still a lot of "bugs to be worked out. Chief amongst them are decisions made by SJPD command staff.

*Respectfully submitted,*

*David S. Wall*  
11.25.2008

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

David S. Wall

San José, California 95150

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Jose City Clerk

2008 NOV 26 P 12: 07

November 26, 2008

Mr. Sam Liccardo, Esq.  
Councilmember District 3  
City of San José  
200 East Santa Clara Street  
San José, California 95113-1905

**Re: Request for status update: Garbage removal issue unabated and unacceptable.**

I would like to know the status concerning the issues previously submitted to your staff concerning garbage removal by a neighbor. There are a *minimum* of nine (9) people at this residence (it goes higher throughout the day) with only a thirty two (32) gallon garbage service. Excess garbage is removed to other locales for disposal.

**It has been in excess of seven (7) months since I brought the garbage removal issue to your attention. The City is losing revenue as one result.**

The Environmental Services Department (ESD), Integrated Waste Management Division's conduct concerning this matter, tendered in May of this year to the current, is unacceptable and ineffective.

Code Enforcement has not been effective.

I have requested information and a status report several times but no response.

It appears;

1. **Anyone can "scam the garbage collection system".**
2. **ESD and Code Enforcement are ineffective; in application of remedy, collection of monies owed to the City, accurate monitoring of garbage system and enforcement of codes pertaining to garbage removal.**

At what point in this problem are YOU to be held accountable? In excess of seven (7) months seems a little long to have City departments resolve a simple issue.

I made an inquiry of one of YOUR staff members, "Where have I gone wrong"?

*Please make the necessary inquiries to the City Manager why this problem is unresolved and have the responsible parties contact me as to the status of my request for service.*

*Respectfully submitted,*

**Cc: City Attorney / City Manager  
Director ESD / Director PBCE**

*David S. Wall  
11.26.2008*

David S. Wall

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San Jose City Clerk

2008 NOV 26 P 12:08

November 26, 2008

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

**Re: REINVENT WAR BONDS: BUY AND HOLD U.S. SAVINGS BONDS-CA. EDITION**

*During World War II, buying War Bonds was one of the many patriotic acts by that generation of Americans to help our nation.* But over time, this form of patriotism has been put on the back burner to simmer. Now we are in multiple wars including the war for our economic salvation. Patriotism is required for victory. Here is my idea.

If you could figure a way to get the Federal Government to issue a *new form* of UNITED STATES SAVINGS BONDS where each state benefits directly, I believe citizens would rally.

*The mechanism is simple;* the UNITED STATES SAVINGS BONDS would be in a form of a quasi restricted use fund. Money invested would be guaranteed by the Federal Government- monies invested would go directly to the State. For example: in California the bond would be named: UNITED STATES SAVINGS BONDS-CA. Edition. And so forth across the nation.

*Money collected by the BOND SALES would then be invested into sound financial instruments creating endowments and sub-endowments alike.* This in turn would be used to set up state government operations with long term funding requirements. The return to the patriot investor should be tax exempt. Rate of return should be determined by the legislature.

I sincerely believe that this idea, with the appropriate communication such as: "BUY BONDS FOR CALIFORNIA'S FUTURE" would be a big hit.

This would go a long way to reinvent our government business model, serve the state's financial woes and permit the citizens to regain their lost dignity of service to our nation the way it should be.

How about giving it a try?

**BUY AND HOLD UNITED STATES SAVINGS BONDS-CA EDITION!**

*Respectfully submitted,*

*David S. Wall 11.26.2008*

**Cc: Mayor and Council-City of San José / Don Perata / Karen Bass / David Cogdill  
Michael Villines / Elaine Alquist / Ellen Corbett / Abel Maldonado / Joe Simitian  
Jim Beal, Jr. / Anna Caballero / Joe Coto / John Laird / Sally Lieber / Ira Ruskin  
Alberto Torrico / Michael Genest**

-----Original Message-----

Sent: Monday, December 01, 2008 11:42 AM  
To: Price, Lee  
Subject: Napa River Watershed Sediment TMDL: Water Board hearing postponed

This is a message from the California Regional Water Quality Control Board, San Francisco Bay Region (2).

The Water Board's previously noticed hearing on a Basin Plan amendment incorporating a Total Maximum Daily Load (TMDL) for Sediment and a Habitat Enhancement Plan for the Napa River watershed has been postponed. We will notify interested stakeholders as soon as a new hearing date is set.

Previously released project documents are posted at [http://www.waterboards.ca.gov/sanfranciscobay/water\\_issues/programs/TMDLs/nariversedimenttmdl.shtml](http://www.waterboards.ca.gov/sanfranciscobay/water_issues/programs/TMDLs/nariversedimenttmdl.shtml). For more information, please call Mike Napolitano, 510.622.2397, or email him at [mnapolitano@waterboards.ca.gov](mailto:mnapolitano@waterboards.ca.gov).

Please share this information with others who are interested in this TMDL. To sign up to receive future notices, those who are not receiving this notice directly may visit [http://www.waterboards.ca.gov/resources/email\\_subscriptions/reg2\\_subscribe.shtml](http://www.waterboards.ca.gov/resources/email_subscriptions/reg2_subscribe.shtml).

Thank you for your attention.

Bruce Wolfe  
Executive Officer  
San Francisco Bay Regional Water Board

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reg2\_tmdl\_basinplanning-133740W@swrcb18.waterboards.ca.gov

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San Jose City Clerk

2008 DEC -2 A 9:42

December 2, 2008

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

**Re: Office of the City Manager: ARCHETYPE OF A FAILED BUSINESS MODEL.**

**Nationally**, as our economy continues to shred its archaic, failed institutionalized entitlement exoskeleton, the remaining vestiges of a failed business model continues to be revealed and is resistant to change. In the City of San José, the failed business model is the Office of the City Manager and the Council's reluctance to come to terms with this reality.

The Office of the City Manager is replete with redundant, ineffective systems. The inability to incorporate strategic planning and tactical execution to address the requirements of the City, in a timely, cost effective manner, is only surpassed by the prohibition of intellectual creativity. The organization rots from the head downward.

**TEAM SAN JOSÉ: A mirror image of the failures of the Office of the City Manager**

**TEAM SAN JOSÉ**, the prodigal child of incompetence, failure and accountability lost, in addition to the damning declaratory remarks and findings of severe administrative nonperformance by the Santa Clara County Civil Grand Jury, has been given another chance at life via a new five year contract. This contract will be developed and monitored by the Office of the City Manager.

Allowing **TEAM SAN JOSÉ** any administrative life at all and to delegate contract formation and performance monitoring by the Office of the City manager is a catastrophic failure of judgment by Mayor Reed and Council.

Let us not forget the other bastard children associated with the Office of the City Manager. The renowned failures **American Musical Theater** and **San José Repertory Theatre** could be included, in part or *in toto*, of this new bailout plan. Neither one of this group has garnished support from the community, supporters and donors. Their financial existence was the result of the infusion of massive taxpayer dollars governed by The Arts Stabilization Fund.

The Arts Stabilization Fund was created by the Office of the City Manager to artificially support **The American Musical Theater** and **San José Repertory Theatre**. To integrate these failed business entities or *other entities* into the command structure of **TEAM SAN JOSÉ** is a portrait where irresponsibility and stupidity embrace foreseeable financial ruin.

Am I to have confidence in any "contract" with the expanded **TEAM SAN JOSÉ** concocted by a "City Manager", who has been around the failed Office of the City Manager long enough to know Methuselah? Vituperative, vitriolic vulgarities aside, No, I do not.

YOU would all do well to save taxpayer monies and let these unpopular and chronically costly business entities go into the dust bin of history.

*Respectfully submitted,*

Cc: City Attorney / Auditor / City Manager

David S. Wall  
12.02.2008

David S. Wall

RECEIVED  
San Jose City Clerk

December 2, 2008

2008 DEC -2 A 9:42

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

**Re: Mayor Reed: Cut up Your Redevelopment Agency Credit Card!**

It is no surprise to me now why YOU folks caved into decriminalization of being drunk in public a few weeks ago. Now that you are at the end of the "fiscal bottle", further binge drinking is exhibited by the two hundred and fifty six (256) million dollar "stimulus" gamble to "jump start" San José's economy all financed by YOUR Redevelopment Agency (RDA) credit card.

**The creation of seven thousand (7,000) more homes** for the local construction industry so that "the carpenters can take care of their families" is a quaint tear-jerking attempt to justify this asinine position to the all ready unemployed builders as a panacea of rescue. It is nothing more than a cruel ruse, a siren's call to sailors not to pay heed to the imminent destruction that is before them.

**The detrimental cost to the taxpayers of more housing, financed by the Redevelopment Agency in both short and long terms far outweighs any consideration for any more housing developments.**

And YOUR plan continues to rely on a source of drinking water, which is unsustainable in the best of aquatic times, but in the midst of serious, ongoing drought, is another indicator of YOUR reckless, wanton disregard for the well being of the citizens of San José and the environment. Water supplies are so short, mandatory water conservation methodologies are scheduled to begin in January 2009.

Not to forget, these "new Homes" will lay unsold for years, but yet will require tremendous costs to keep them maintained.

**YOUR plan** that would provide three (3) million taxpayer dollars to continue the artificial financial buoyancy of the Downtown is another act of reckless, wanton disregard for taxpayer monies or rather more public indebtedness incurred by the accursed RDA. This too will fail.

**YOUR plan** to allocate taxpayer dollars for the speculation of "high technology" jobs is illusory and without credible foundation. The taxpayers would be better off if YOU bought "Lotto tickets" with the money. At least the taxpayers would at have a chance of getting something back.

**Come clean and repent.** Admit to the San José taxpayers who are responsible for this added debt that the State of California is going to seize ALL of the RDA's money to attempt to balance the budget. Beg of the taxpayers on YOUR knees for mercy and forgiveness.

**YOU allowed the RDA to exist for YOUR own purposes.** PUBLIC SCHOOLS, the right of the public to educate the next generation have virtually been destroyed by RDA's across California. YOU have the chance to FUND PUBLIC SCHOOLS now with RDA money raised in the bond sale a few weeks ago. Do so before the State seizes this money. At least the taxpayers will get something for their continued indebtedness at YOUR hands.

**Have YOU told the taxpayers about the looming balloon payments associated with the San José – Santa Clara Clean Water Financing Authority 2005B Variable Rate Bonds going to come due in February 2009?**

Respectfully submitted,

David S. Wall  
12.02.2008

Cc: City Attorney / Auditor / City Manager

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San Jose City Clerk

December 2, 2008

2008 DEC -2 A 9:43

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

**Re: THE GHETTO LIFE: UPDATE ON THE SCEP**

On Monday, (12.01.2008) approximately 1616 hours, I ventured over to North Tenth Street @ Horning Street to "take the pulse" of the SCEP (Shopping Cart Entitlement Program). I arrived on station and found five (5) stolen and abandoned shopping carts. *A mind boggling 220% decrease of theft of shopping carts from last week is hereby recorded.* How can this be?

**As I arrived on station, to my surprise, four (4) SJPD units were at the corner of North Tenth Street @ Horning Street.** Two of San José's finest were walking southbound on the railroad tracks away from the shanty town I have previously described. Other Officers were engaged in discussion with the street fauna endemic of this well established locale. Another SJPD cruiser showed up, but did not stay long.

I proceeded with the documentation of the stolen and abandoned shopping carts, noting an astounding decrease. I immediately attributed this phenomenon with Mayor Reed and Council directing the Chief of the San José Police to bring this area of debauchery and lawlessness into submission. I was wrong. As it turned out the Police were "fagged down by a drunk". By the way, the man was staggeringly drunk in public and Hispanic and was not taken into custody. (I am still at a loss about this Hispanic business).

It was alleged that "someone" had threatened to "beat up some people" in the shanty town along the tracks. When I mentioned the names of Victor, Isaiah, and Hector, the drunken Hispanic seem to nod his head in the affirmative, but alternatively, he could have been just trying to maintain vertical control because he was so very drunk and failing fast. A Police Officer asked me why I was out there and I gave him and two other officers a briefing concerning stolen and abandoned property, an expanded neighborhood watch and that I would report my weekly findings to the Mayor, Council and Chief of Police as I have done in the past and am doing now.

The Police not finding what was probably the figment of the sauced mind, investigated and concluded there was no threat to anyone's safety, cleared the area. I went back to chronicling the data.

*The small pile of festering, fly strewn garbage reported last week has grown considerably and is worth a trip just to see the 10<sup>th</sup> largest City in the Nation reduced to the 10<sup>th</sup> largest Ghetto in the Nation. The amount of garbage, excrement, files-even though it was cold is a staggering sight.*

There were three (3) hardback books left atop the railroad electrical box on the tracks, I guess an honorary library system. The books are, Pamela Jekel's "Deep Water", William Gibson's "Tomorrows Parties" and Fredrick Forsyth's "The Dogs of War". First time I have noted "library services" on the SCEP.

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

Safeway (2), Costco (1), and Longs Drugs (1), Target (1) -this cart had a golf club, a driver in it. **\*\*\*special note\*\*\*** the overall cleanliness of Shopping carts in stores should be addressed by some government agency. Unsuspecting customers may use excrement coated shopping carts without knowledge.

Today's SCEP also illustrates that this area of District 3 seems to have taken on a "sanctuary status". The drunken Hispanic was not arrested for being drunk in public. It appears being drunk in public around North Tenth Street @ Horning Street is O.K. This area serves as both an intoxicating and sobering station together in one locale.

*By the way, there are two 1 gallon plastic milk jugs containing what looks to be motor oil there as well. The overall amount of garbage is nothing less than impressive.*

*Respectfully submitted,*

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

*David S. Wall*  
12.02.2008

RECEIVED  
City Clerk

December 4, 2008

2008 DEC -4 P 4:19

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

**Re: Tesla Motor Company: Does Public beggary accelerate or accentuate demise?**

Published in the San José Mercury News, OTHER VIEWS page, (Thursday 12.04.2008) "*Funds for clean cars must not be diverted to Detroit*", authored by the CEO and product architect for Tesla Motors, in my opinion, is a declaration by the captain of a sinking ship that his ship has already sunk.

The case asserted by the CEO and product architect for Tesla Motors is best read for YOURSELVES. My personal opinion, Tesla's argument for salvation is a declaration it has a failed business model and no product to support any Public investment be it Federal or Municipal.

*I will never support building an automobile facility on San José farmland.* Not to mention, the "gifting of additional assets" to the detriment of the taxpayers and to the further detriment of the environment to secure an illusory gambit of a failed administration.

**The Economy of the United States v. The Economy of San Who?**

Is public funding for clean cars going to the established "Big Three" auto makers? The survivors or is the nation's economy going to finance \$0.4 Billion for Tesla to produce a product that has no prototype and no reasonable chance for economic success?

The San José City Council should be focusing on its own failed business model and cease any relationship with chasing Tesla rainbows.

Courting an automobile company, at public expense, with no reasonable hope of recouping taxpayer dollars, is stupid and wrong.

It does provide a chance for the American Musical Theatre to create a new Broadway show,

"My green vision is bankrupt too".

(I would not advise buying tickets in advance.)

*Respectfully submitted,*

*David S. Wall*  
12.04.2008

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

RECEIVED  
San Jose City Clerk

2008 DEC -4 P 4: 20

**December 4, 2008**

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

**Re: Drunk Tank a.k.a. "Sobering Center #1" at City Hall?**

Tuesday's (12.02.2008) San José City Council agenda, item 3.6, a recommendation to "Approve the issuance of a Request for Proposals to select a developer for the vacant space on the ground floor of City Hall on 4<sup>th</sup> Street" was approved by a 9-2 vote.

Considering the cost to convert this space into suitable areas for Retail businesses, and considering how many drunks are on the public streets, why not create a "Drunk tank" at City Hall? YOU could call it, "Sobering Station #1".

Retrofitting this area would be exceptionally cheap. A few drains to accommodate the urine and vomit, maybe a couple of padded cells for some needing a little extra "sobering up". YOU could charge a fee for the use of this facility *in lieu* of going to the County jail. Just think, "City Hall makes money, drunks sober up at City Hall!" as a headline in the San José Mercury News.

Even though I do not speak for the San José Police, I believe having City Hall as a drop off "Drunk tank or sobering center" would be of great utility and popularity with the Downtown beat cops and the Wagon Masters. I am certain that the Police would love to be able to give back to YOU what YOU give to them.

What a Civic lesson in the rough. Having all those reprobates puking up their guts or pissing in their pants at City Hall, might make YOU cognizant as to what taxpayers think of YOUR business related decisions with their money. Well, even if it doesn't, it sure would be more practical than leaving the drunks to stagger into all the rich people who frequent the Downtown on a Friday or Saturday night. Especially, all those rich folks leaving the American Musical Theatre.

The nightclub owners would simply adore YOU. They might even redefine "Happy Hour" for all those previously drunk, who got sobered up at City Hall and are ready for to go at it again and again.

Remember, to thank Councilmember Liccardo for Sobering Stations instead using "Ol' faithful" a.k.a. the County Jail.

*Respectfully submitted,*

*David S. Wall*

12.04.2008

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

RECEIVED  
San Jose City Clerk

2008 DEC -4 P 4: 20

**December 4, 2008**

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

**Re: MAYOR REED "THROTTLES FREE SPEECH" AT S.J. COUNCIL MEETING**

At Tuesday's (12.02.2008) afternoon San José City Council meeting, during the "Open Forum" segment of the meeting, where members of the Public are invited to speak to Mayor and Council, *Mayor Reed*, woefully and intentionally "throttled free speech" by refusing a citizen to speak concerning FUND 536.

The rule governing "Open Forum", on page 24 of the Tuesday's (12.02.2008) City Council Agenda is as follows;

***"Members of the Public are invited to speak on any item that does not appear on today's Agenda and that is within the subject matter jurisdiction of the City Council or Redevelopment Agency Board."***

There is no reference to FUND 536 any where on the aforementioned "Agenda".

*A cursory mention of FUND 536, by name only, was made during testimony by Team San José, a special interest group vying for a new lucrative contract for the management of the City of San José's Convention Center and Cultural Facilities.*

This "contract" was discussed under **section 4.6** of the aforementioned agenda as it appears;

**"4.6 Convention Center and Cultural Facilities Management Agreement****Recommendation:**

- (a) Accept the status report on the negotiations with Team San José for an additional five-year term for the period July 1, 2009 through June 30, 2014 for the management of the Convention Center and Cultural Facilities; and
- (b) Direct the City Manager to negotiate an agreement based on the key business terms identified within this report.

CEQA: Not a Project. (Economic Development)"

In application of the rule, governing "Open Forum" to the language set forth and contained within the four corners of the aforementioned City Council agenda, *supra*, a controversy exists.

I painfully assert, Mayor Reed, as defined by the rule governing "Open Forum" and all statements contained within the San José City Council Agenda, on Tuesday (12.02.2008), willfully and woefully "throttled free speech" by denying testimony concerning FUND 536.

Further, the citizen was cautioned by an agent of said government, after the fact.

As a direct and proximate result of the "throttling of free speech" by the icy hands of government combined with a caution by an agent of said government, citizen is now fearful.

*Respectfully submitted,*

*David S. Well*  
12.04.2008

**Cc: Flores & Barrios / Mr. Alan L. Schlosser**