



# Memorandum

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

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

**SUBJECT:** The Public Record  
September 5-10, 2009

**DATE:** September 11, 2009

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## ITEMS TRANSMITTED TO THE ADMINISTRATION

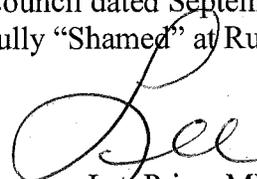
- (a) Email from Steven Hacker to Mayor Reed dated August 24, 2009 regarding San Jose Convention Center Labor Policy.
- (b) Letter from Steven Hacker to CEO of Team San Jose Dan Fenton dated September 4, 2009 regarding San Jose Convention Labor Policy.

## ITEMS FILED FOR THE PUBLIC RECORD

- (c) Notification letter from Verizon to Consumer Protection and Safety Division dated August 18, 2009 for West Campbell GTE Mobilnet of California Limited Partnership (U-3002-C), of San Jose, CA MSA.
- (d) Letter from William J. Garbett to City Clerk Lee Price dated September 4, 2009 regarding parking compliance matter.
- (e) Letter from Robert McElroy and A E Warren to Mayor Reed dated September 5, 2009 regarding proposed ordinance on single-use bags.
- (f) Email from Keith Jones to Mayor Reed dated September 8, 2009 regarding opposition to fee for take-out bags.
- (g) Letter from David S. Wall to Santa Clara Valley Water District Board of Directors dated September 8, 2009 regarding "Water conservation effects on the costs of treating Sewage Water a.k.a. Reclaimed Water."
- (h) Letter from Bob Brownstein to Mayor Reed and City Council dated September 9, 2009 requesting that the Rules and Open Government Committee agendaize a hearing to evaluate a complaint regarding a violation of the City's Sunshine Policy.
- (i) Letter from David S. Wall to Mayor Reed and City Council dated September 9, 2009 thanking City of San Jose Anti-Graffiti Program.
- (j) Letter from David S. Wall to Mayor Reed and City Council dated September 9, 2009 regarding "The Ghetto Life Update on the SCEP".

Honorable Mayor and City Council Members  
September 11, 2009  
Subject: The Public Record: September 5-10, 2009

- (k) Letter from David S. Wall to Mayor Reed and City Council dated September 9, 2009 regarding "Guadalupe River Park Heritage Rose Garden needs care and attention."
- (l) Letter from David S. Wall to Mayor Reed and City Council dated September 9, 2009 thanking City of San Jose Department of Transportation.
- (m) Letter from David S. Wall to Mayor Reed and City Council dated September 10, 2009 regarding "Alcohol consumption not deterred at Ryland Park!"
- (n) Letter from David S. Wall to Mayor Reed and City Council dated September 10, 2009 regarding "Inform City Employees of budget cuts and layoffs before holiday season"
- (o) Letter from David S. Wall to Mayor Reed and City Council dated September 10, 2009 regarding "Toxic Witches Brew a.k.a. Reclaimed Water use on Community Gardens?"
- (p) Letter from David S. Wall to Mayor Reed and City Council dated September 10, 2009 regarding "Wonders of our Water Works or alternatively, more stupid decisions by ESD".
- (q) Letter from David S. Wall to Mayor Reed and City Council dated September 10, 2009 regarding "Redirect \$65,000 Public Art Funding to Public Schools Art Programs."
- (r) Letter from David S. Wall to Mayor Reed and City Council dated September 10, 2009 regarding "David S. Wall proven wrong and is rightfully "Shamed" at Rules!"

  
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

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**From:** Hacker, Steven |  
**Sent:** Monday, August 24, 2009 7:41 AM  
**To:** The Office of Mayor Chuck Reed  
**Subject:** San Jose Convention Center Labor Policy

Dear Mayor Reed,

On Thursday August 27th a delegation of senior meetings, convention and exhibition industry officials will meet with Team San Jose CEO Dan Fenton.

Since the release of a new labor policy by Team San Jose effective August 1, responsible voices throughout the industry have called upon Team San Jose to suspend the new policy so that the parties who will be so negatively affected by the new plan will have ample time to engage with Team San Jose in order to resolve the most serious of the issues that have been created. To date Mr. Fenton has refused to temporarily set aside the policy.

While we remain hopeful that Team San Jose will respond to the call for a temporary suspension of the policy we are disappointed that on at least three occasions in the last seven days Mr. Fenton has refused such requests. Our expectations for a favorable outcome to Thursday's meeting are frankly very low based upon events to date.

Because of the potentially disastrous consequences to the customers of the San Jose Convention Center, and to the City of San Jose of this new policy, we think it imperative that you designate a representative from your office and/or the City Council to join in the discussion that will take place with Mr. Fenton from 1:00 PM until 3:00 PM in the building. I can tell you that litigation is now being filed and that media releases and op-ed statements such as the one attached are being prepared for wide distribution throughout the industry.

While we remain committed to resolving the very troublesome issues that have been created we can not do so without the full and sincere cooperation of Team San Jose. That's not yet been evident.

Steven Hacker, CAE, President  
International Association of Exhibitions and Events (IAEE)  
12700 Park Central Drive Suite 308  
Dallas, Texas 75251



12700 Park Central Drive +1 (972) 458-8002 tel  
Suite 308 +1 (972) 458-8119 fax  
Dallas, TX U.S.A.  
75251

www.iaee.com

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- IAEE Services, Inc. - Ryan Strowget, CEM**  
Consumer Electronics Association/CEA  
Arlington, Virginia USA
- Center for Exhibition Industry Research - Kevin Rablitt**  
GES Exposition Services  
Las Vegas, Nevada USA
- President**  
Stoven Hacker, CAE
- General Counsel**  
Barnes & Thornburg, LLC  
Chicago, Illinois USA

4 September 2009

Dan Fenton  
CEO  
Team San Jose  
408 Almaden Boulevard  
San Jose, CA 95110-2709

Dear Dan:

As you would expect, I was furnished with a copy of your letter dated 2 September to ESCA Executive Director Larry Arnaudet. I feel compelled to respond on behalf of IAEE's members who include more than 1,200 organizations and companies that produce, service, and support more than 7,000 exhibitions and other events each year in the U.S.

While you have offered some modifications to the original plan that was announced on 14 July, there remain very troubling issues that, we believe, must be resolved.

First and foremost, the seizure by Team San Jose of the exclusive responsibility for Teamsters labor in McEnery materially shifts the dynamics of the labor marketplace. Heretofore, the official service contractor negotiated labor agreements knowing that the ultimate costs would be largely borne by their clients --- IAEE exhibition and event planner members. Now that Team San Jose will be the only one engaged in labor contract negotiations, the powerful forces that have served to restrain unreasonable price increases and the abuses of work rules are gone. There is nothing to prevent Team San Jose from ratcheting up labor costs at will.

We would anticipate that your response to this concern would be that Team San Jose's labor rates must remain competitive or else customers will do business elsewhere, and would respond by reminding you that when your new program was launched on 1 August, it contained labor rates that were at minimum 56 percent higher, and in some cases 131 percent higher, than the previous rates. While we appreciate the two downward rate modifications that have been made since the roll out, there is nothing to prevent those costs from increasing dramatically going forward.

- Thus, we believe it is imperative that Team San Jose guarantee that the current rates in force remain in play until at least 11 March 2011 when the current Teamsters Local 85 agreement with general service contractors expires.
- It is essential that Team San Jose guarantee a maximum annual increase ceiling, tied to a fixed percentage, cost of living index, or some other common economic metric generally available and broadly recognized. Our members enter into agreements with general service contractors many years in advance of the production of a show, and without cost predictability, costs related to exhibitions held in San Jose will not be able to be budgeted causing significant hardship for our members.

In your letter, you state that "Team San Jose believes" that any jurisdiction conflicts between Local 287 and Local 85 will be resolved internally by the Teamsters and that our general service contractors will not be held liable.

- Speculation by Team San Jose about how such conflicts will be resolved is not an adequate remedy. There must be a written guarantee issued by both Locals that they have indeed agreed to settle any jurisdiction issues amongst themselves. Anything less is unacceptable.

Likewise, you suggest in your letter that you have met with risk managers, legal counsel and decorators to address our concerns about third party liabilities and say "we have the capability to add anyone needed as an additional insured *upon request*."

- We strongly believe that the Lease Agreement for the use of McEnery must be revised immediately to clearly stipulate that general service contractors, event organizers, exhibitors and others connected with the logistics and support of an exhibition and/or event in the building will be *automatically* added as an additional insured under your worker's compensation and general liability insurance policies. Again, anything less is inadequate.

You cite the increased flexibility of work rules under the new agreement. It is true that some favorable modifications have been made.

- Nevertheless, there remain some very troubling new rules that must be addressed such as the costs associated with non-working supervisors, the costs of providing full-time benefits to workers formerly categorized as "casual workers" who will now easily qualify as "senior workers" under your agreement with Local 287. The substantial costs for these new features will immediately trickle down onto the invoices that our members will be paying. All work rules that have changed, we believe, should be subject to review and revision.

I will not comment on your assertion that the three shows that have taken place since 1 August have been satisfied with the labor that they received except to point out that each of them are relatively small events that bear no real resemblance to the larger more intricate events that our members produce. The experience of three shows of any size is hardly an indicator of future success.

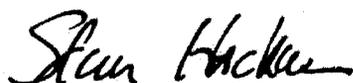
- One of the critical factors bearing on the ability to provide satisfactory service standards is training and orientation. When we met with you on 27 August a question was raised about what exactly Team San Jose now has in place with respect to the ongoing training of the Teamsters work force. We asked, then, for details and would appreciate knowing what they are. This is especially vital now that our general service contractors are prevented from holding labor accountable for their performance standards.

Finally, we noted in our discussion with you our concerns with the loosening of provisions having to do with the creation of a drug free workplace.

- We believe that the former drug policy should be restored if Team San Jose is truly committed to achieving a safer drug-free work place. Liberalizing the policy is yet another illustration of why we are so opposed to exclusive in-house service. Just like the changed dynamics of the marketplace for labor, the absence of general service contractors from active participation in the establishment and maintenance of such policies virtually ensures that over time the policies will be diluted placing occupants of the building at greater risk. We do understand that you desire to enhance the former drug policy but the reality is that absent the presence of our general service contractors at the negotiating table there is no reason to believe that labor will willingly concede to a harsher standard.

Dan, the IAEE Board of Directors will meet on 12-13 September. This issue will be reviewed by our board at that time. If there are any additional changes to the program in San Jose it would be helpful to receive them as soon as possible.

Sincerely,



Steven Hacker, CAE  
President

PUBLIC RECORD C

RECEIVED  
San Jose City Clerk

2009 SEP -2 A 10: 03

**verizon**wireless

1120 Sanctuary Pkwy  
Suite 150  
MC: GASASREG  
Alpharetta, GA 30009  
(770) 797-1070

August 18, 2009

Ms. Anna Hom  
**Consumer Protection and Safety Division**  
California Public Utilities Commission  
505 Van Ness Avenue  
San Francisco, CA 94102  
[alh@cpuc.ca.gov](mailto:alh@cpuc.ca.gov)

Re: Notification Letter for **West Campbell** GTE Mobilnet of California Limited Partnership  
(U-3002-C), of San Jose, CA MSA

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This is to provide the Commission with notice according to the provisions of General Order No. 159.A of the Public Utilities Commission of the State of California ("CPUC") for the project described in Attachment A.

A copy of this notification letter is also being provided to the appropriate local government 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 Chrissy L. Agricola of Verizon Wireless at (770) 797-1049.

Very truly yours,

  
**Chrissy L. Agricola**  
Verizon Wireless  
MTS Network Compliance

**Attachment A**

CPUC CELL SITE REPORT GTE Mobilnet of California Limited Partnership (U-3002-C)

**PROJECT LOCATION: West Campbell – I/B**

SITE NAME: West Campbell  
SITE ADDRESS: 4805 Westmont Avenue  
LOCATION: Campbell, CA 95008  
COUNTY: Santa Clara  
APN: 403-11-004  
COORDINATES: 37° 16' 22.43"/121° 59' 00.49" (NAD83)

**1. PROJECT DESCRIPTION:**

GTE Mobilnet of California Limited Partnership (U-3002-C) proposes six (6) new antennas mounted at the top of a 70 foot steel light pole. Two (2) new GPS antennas mounted to the new CMU wall enclosing equipment cabinets with associated utilities and coaxial cable lines. Also included is a standby 30kw diesel generator.

ANTENNAS: Six (6) panel antennas  
Two (2) GPS antennas  
TOWER DESIGN: New steel pole to replace existing wooden light  
TOWER APPEARANCE: Steel Pole with Stadium lights affixed at top  
TOWER HEIGHT: 70'  
BUILDING SIZE: N/A  
OTHER: N/A

**3. BUSINESS ADDRESSES OF ALL LOCAL GOVERNMENT AGENCIES:**

Cc: Joseph Horwedel, Planning Director  
City of San Jose  
200 East Santa Clara Street, 2<sup>nd</sup> Floor Tower  
San Jose, CA 95113

Debra Figone  
City of San Jose  
200 East Santa Clara Street  
San Jose, CA 95113

Lee Price  
City of San Jose  
200 East Santa Clara Street  
San Jose, CA 95113

Pamela Foley, President  
San Jose Unified School District  
855 Lenzen Avenue  
San Jose, CA 95126

**4. LAND USE APPROVALS:**

Type:	Special Use Permit (Generator)
Issued:	03/24/09
Effective:	04/03/09
Agency:	City of San Jose Department of Planning, Building & Code Enforcement
Permit No.:	SP08-066
Resolution No.:	N/A

Type:	Development Permit Adjustment (Pole & Equipment)
Issued:	04/08/09
Effective:	04/08/09
Agency:	City of San Jose Department of Planning, Building & Code Enforcement
Permit No.:	AD09-345
Resolution No.:	N/A

William J. Garbett

RECEIVED  
San Jose City Clerk

SEP 10 A 11: 27

September 4, 2009

City Clerk  
City of San Jose  
200 East Santa Clara Street  
San Jose, CA 95113

For the Public Record

James Helmer  
Director of Transportation  
200 West Santa Clara Street  
San Jose, CA 95113

Dear Jim:

This is a letter I said I owed you, on September 11, 2007, after asking you to look into the matter of being targeted by parking compliance. I gave you the red warning notice from Tracy. The matter began in September 2007 when I first observed my wife's car being targeted, on my security cameras. I called neighbors for assistance as witnesses. Before I could go outside, the first neighbor came around the corner and observed 'Ms. Piggie' marking the tread of the left front tire of the vehicle. She left briefly to go across the street to ticket a black pickup truck (GMC CA License 8D50237) that was blocking the sidewalk at 680 Faye Park Drive. She left a yellow copy of the ticket on the windshield, that both neighborhood witnesses observed. Then she crossed the street to return to the wife's car at 683 Faye Park Drive. I had arrived outside at this time and walked up behind her on the driver's side of the car as she was bent over tampering in the wheel well of the left front tire. She was startled, when I asked, what the problem was? She replied, expired tags. I went to the passenger side of the car and opened the glove box and showed her the current registration papers with fees current and paid and current insurance policy in effect, and at the rear windshield of the vehicle I pointed out the red "Temporary Operating Permit" above the license plate. She called for verification and immediately, without waiting, stated she intended to have the car towed, immediately. She insisted that the vehicle was inoperative and that it hadn't been moved in three days before, now referring to her new marking on the left front tire. I stated that the car had been driven to the store that morning, since I had been the driver, at the wife's request. She flew into a rage and began not only marking the sidewalls of the tires with the date and time, but in addition, on the painted surfaces of the fenders, facing traffic. I asked her to stop being a graffiti artist as she continued to also do the rear tires, and fenders. She said I needed to be taught a lesson and called for police assistance. While we waited, she returned to her vehicle parked across the street at 684 Faye Park Drive, and then accused me of writing "PIG" on her door. Unfortunately, her reputation must have previously been established elsewhere, since the mark was probably on her vehicle when she had arrived, or put on her vehicle by the owner of the black pickup that was now standing on the sidewalk with his girlfriend, next to her car. I still remained across the street. Three cop cars arrived, and her rage continued to mount, telling the police that I had written on her vehicle, certainly knowing better, since she had me in her vision at all times. I was told that I was

under arrest by the first cop, handcuffed, and placed in his cop car, behind hers. The other cops danced around on my lawn, across the street, faking faces with antics for my security cameras. The owner of the black pickup now complained to 'Ms. Piggie' about the ticket while holding the yellow copy retrieved from his windshield. She stated, if you will keep your mouth shut about the police incident, "I can make it disappear," and took back the yellow copy. At no time was the wife's car ever ticketed, nor was I ever given any paperwork, of any kind. I was held briefly, without probable cause, and released. As evidence that an arrest occurred, a police report of the incident was obtained during discovery on another mater, recently. While I was being transportation by the police, I was told that if they ever had to return about any vehicles, I would be shot and killed at first contact, because I had security cameras in place.

The next thing that happened, was the arrival of a courtesy notice of parking violation, dated 9-28-2007. I attempted to appeal, by submitting evidence of current registration, but was denied, because the appeal period had elapsed. Since no ticket had ever been issued and I never received notice, it was an impossible burden to overcome. The major question, is, how can one timely appeal, when there was never a citation issued? It was probably a bogus record, after the fact, to cover up for the false arrest without probable cause. They also questioned the copy of the "Temporary Operating Permit" since the one I submitted was dated after the alleged ticket. Unfortunately, the copy for the alleged proper period was discarded when a new copy was issued for the continuing period, since I had no knowledge of any alleged violation, I had discarded it routinely, having no reason or purpose to routinely keep expired paperwork.

The reason the car had the "Temporary Operating Permit" is because of the criminal scam that has been going on within the city. Code Enforcement and Parking Compliance employees vie to each become the first to identify vehicles that get a reward for removing older, higher pollution vehicles from service. This includes \$650 from Bay Area Air Quality Management District (BAAQMD) Vehicle Buy Back program for 1985 and older vehicles to be scrapped from the California Transportation Fund for Clean Air (TFCA). Especially sought after are 1976 and earlier vehicles because they are 'grandfathered' and no longer require smog tests. Concurrent fees may be obtained both from BAAQMD and the California Bureau of Automotive Repairs Consumer Assistance Program under California Air Resources Board (CARB) Voluntary Accelerated Vehicle Retirement (VAVR) that provides \$1000 after smog failure at biennial smog check for high pollution vehicles from Transportation Fund for Clean Air (TFCA). Note, with a new owner taking title, a 60 day window is provided by California Department of Motor Vehicles (DMV) effectively exempting the smog requirement, pending change of registration. The local junkyard, BAAQMD contractor, is Pick & Pull and has been granted access to DMV records. There exists a scam where after any vehicle computer entry inquiry is made, Pick & Pull then immediately marks the vehicle as being junked in the DMV data base. They keep the name of the first person alerting them, so a kick back or finder's fee (from Pick & Pull's \$200+20 commission and advertising) will eventually be given when the ultimate transaction is completed.

In this scam the current owner is unaware until the registration renewal notice seems never to arrive. The city is waiting for the tag to expire each year and immediately cites the vehicle in a never ending series of harassment. If the owner is diligent and had somehow paid the fees timely, it isn't merely the end of his problems. In most cases, he will have to pay late fees and penalties, that still doesn't end his problems. If a biennial smog check is required and he completes it, the electronic transmission of data to DMV will be unsuccessful, since the car has been entered into the data base as 'junked.' Since the smog certificate is no longer valid after 90 days he will find DMV will not accept hard copy or receipt. This means that in the biennial smog renewal period, he is now required to have 8, instead of one, over 2 year period. He now lacks a yearly tag for his plates and has to come back monthly, wasting a day of his time, each visit, for monthly renewal of his "Temporary Operating Permit" to DMV. (In fact, DMV usually gives the permit for the following calendar month, tacitly

adding a few extra days of grace). The red "Temporary Operating Permit" posted on the rear windshield of the vehicle, is like a red cape, exciting the city like a bull getting ready for the kill. Rather than a yearly event, it becomes flagged several times a year, at least.

The vehicle owner is typically approached by the city employee, who states that if they sign over title to them, they will make their problems go away. They offer a free tow if necessary. Instead of the city getting revenue from removing the vehicle from the road by BAAQMD or CARB, the city employee, personally becomes the owner (netting at least \$1650). In any case, a 'kick back' from the junk yard occurs to the original employee that first reported the vehicle, then the vehicle is 'scrapped.'

Since Pick & Pull self-certifies the condition of emissions and drive train of vehicles, (although occasional verification may be made), demolition of junked vehicles is seldom ever witnessed, except a token few. Some are also moved to another San Jose facility for accumulation and judicially cannibalized, but most have customary identification such as removal of plates done before being relocated and transported to Stockton, on the way to a new life in Mexico. Pollution merely moves South of the border for the reincarnated vehicles. Abandoned non-operative

Perhaps the rant that sets the pace is from ex-Councilwoman Linda LeZotte complaining that the city only gets 35 cents a pound for abandoned vehicles, and she clearly thought the city deserved at least 39 cents a pound. She continued to say that the city streets are full of iron that needs to be mined so the city needs the revenue.

Clearly the owners of older vehicles are being targeted. The DMV has provisions for antique car licenses and non-operative registrations, and will re-register a vehicle returned to service after a period of inactivity. Many owners prefer or require an older vehicle because of morbid obesity, handicapped modifications, or lifts, or simply allergies to the anti-static compounds in air bags that could cause death if deployed. Ask the collector, low rider, or hot rodder if their vehicle contributes to a blighted neighborhood, and they may inform you of the real value their vehicle costs. The poor, elderly, and racial ethnic groups are unfairly targeted and their rights under the Unhru Civil Rights Act are violated routinely by the city.

Although litigation is always in order, the owner can merely let the DMV hold on fines expire after 2 years, so any tickets or citations, become moot, and full registration returns. In the wife's case, two years will pass and her vehicle will be able to be driven once again in September. It is nice that the city did allow a handicapped parking place in front of her residence. It seems that the overt enforcement action was mainly to remove her vehicles from the street, in order to make room for the neighbors to claim the spaces, to assist residents of the illegal apartment conversion of the house next door. Although the city isn't able to collect, the disabled owner has been without her car for two years, even after paying license and insurance fees, as an alternative.

This is an implied request for audit of all citations, tickets, and tows for the purpose of any waiver, or dismissal, to be referred to the proper city committee. Frequently the waiver is because the person has a vested interest in claiming funds that should instead belong to the city upon removal of vehicles from the street. The vehicle owner should rightfully have been informed of his right to these funds (\$1650) rather than being misled by city employees. Who pays for the free tow?

The city has now stepped up the pace. Code enforcement is now doing illegal search and seizure by leaving the streets to trespass and tamper with vehicles in a driveway. A ticket is left on the windshield as evidence thereof. If only the police were so generous. They seem to like slashing the tires instead, repeatedly.

I hope that you will look at the situation and have a better outcome, since I have appreciated your good service in leading the city away from the Cisco mess, in the past. I hope a better process will happen in the future.



William J. Garbett

# OFFICIAL WARNING NOTICE

CITY OF SAN JOSE  
SAN JOSE, CALIFORNIA 95110  
(408) 277-4931

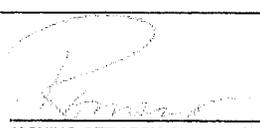
DATE SERVED

8-12-09

ISSUING DEPARTMENT NEIGHBORHOOD SERVICES

CODE ENFORCEMENT

This will give notice that you are in violation of San Jose Municipal Code (see section indicated below) and  
**YOU ARE HEREBY REQUESTED TO TAKE REMEDIAL ACTION UNDER PENALTY OF CITATION.**

TO:	RESIDENT	REMEDIAL ACTION REQUIRED	Notice to remove, relocate to a
LOCATION:			lawful location, or to make operable the
S.J.M.C. SECTION	11.104.010	VEHICLE VIOLATION	following vehicle: 8053111
The presence of an abandoned, dismantled		Ford	LTB
or inoperative vehicle, or parts thereof, on		4th St	6th Ave
private or public property is a nuisance.			(See map on file)
		<b>FAILURE TO COMPLY WILL INITIATE CITY ABATEMENT PROCEDURE WHICH MAY RESULT IN THE TOWING AND DESTRUCTION OF THE VEHICLE.</b>	
		BY DATE OF:	8-12-09
		Code Enforcement Inspector	
ISSUING OFFICER'S SIGNATURE	BADGE NO.	TITLE	

282-875A (REV. 9/96)

# OFFICIAL WARNING NOTICE

CITY OF SAN JOSE  
SAN JOSE, CALIFORNIA 95110  
(408) 277-4931

DATE SERVED

8-12-09

ISSUING DEPARTMENT NEIGHBORHOOD SERVICES

CODE ENFORCEMENT

This will give notice that you are in violation of San Jose Municipal Code (see section indicated below) and  
**YOU ARE HEREBY REQUESTED TO TAKE REMEDIAL ACTION UNDER PENALTY OF CITATION.**

TO:	RESIDENT	REMEDIAL ACTION REQUIRED	Notice to remove, relocate to a
LOCATION:			lawful location, or to make operable the
S.J.M.C. SECTION	11.104.010	VEHICLE VIOLATION	following vehicle: 21A333
The presence of an abandoned, dismantled		VW	BUG
or inoperative vehicle, or parts thereof, on		2nd	4th Ave
private or public property is a nuisance.			(See map on file)
		<b>FAILURE TO COMPLY WILL INITIATE CITY ABATEMENT PROCEDURE WHICH MAY RESULT IN THE TOWING AND DESTRUCTION OF THE VEHICLE.</b>	
		BY DATE OF:	8-12-09
		Code Enforcement Inspector	
ISSUING OFFICER'S SIGNATURE	BADGE NO.	TITLE	

282-875A (REV. 9/96)

**Straight Talk - Not Chatter**RECEIVED  
San Jose City Clerk

2009 SEP -8 P 3: 16

**H.O.M.E.****Homeowners Organized To Maintain Equity**

September 5, 2009

To: The Honorable Chuck Reed, Mayor  
San Jose City Council  
200 E. Santa Clara St  
San Jose CA 95113

From: Robert McElroy, Vice-President, H.O.M.E.  
A E Warren, Secretary, H.O.M.E. *AE Warren*

Re: Proposed Ordinance on Single-Use Bags

H.O.M.E. is very proud of San José for its commitment to preservation of the environment. We support the Green Movement.

Regrettably we cannot support the proposed ordinance to prohibit the use of single use carryout plastic and paper bags as it is currently written. First of all, the proposal does not prohibit the use of plastic and paper bags, it simply allows those with more money to buy them while the poor and moderate income citizens of San Jose are denied free ones from the stores. Section f of the proposal specifically states "exempt bulk or off the shelf purchases of plastic or paper bags."

Furthermore, to place a .10 to .25 cent fee on "green" paper bags will again have disparate income on the poor and moderate income folks. There are many who can't afford to buy proper food or medicines. It is they who will suffer when the bags aren't freely available.

Any proposal should include the provision of free bags. The standard used for eligibility for free bags should be the Elder Economic Security Standard Index and not just the exemption of WIC and Food Stamp customers.

San Jose should not be 'going green' at the expense of the most vulnerable of its citizens.

**From:** Jones, Keith  
**Sent:** Tue 9/8/2009 7:54 AM  
**To:** The Office of Mayor Chuck Reed  
**Cc:** District1; District7; Chirco, Judy; Office of Councilmember Nancy Pyle; Price, Lee; Carr, Christine; Galea, Joe  
**Subject:** Please help small business; stop the bag ban



7-Eleven, Inc.

September 8, 2009

The Honorable Chuck Reed,  
Mayor, City of San Jose  
200 East Santa Clara Street  
San Jose, CA 95113

Dear Mayor Reed:

As you know, we recently asked our customers whether they were willing to pay a fee for take-out bags. They overwhelmingly rejected such a proposal and 1,403 in San Jose alone signed letters of opposition in only 1 week. These were part of 2,755 individuals who signed letters countywide.

We forwarded you about 1,000 of these letters several months ago, and would like to provide you with the benefit of hearing from the others now. We believe these reflect widespread opposition from the public to fees of any kind, whether they're on plastic and paper bags, or just paper bags with 50% recycled content per the proposal by 4 city council members.

Caring for the environment doesn't have to be a zero sum game. There are policies that San Jose can promote that improve the economic conditions for small businesses while protecting the environment. You have the chance to make San Jose famous for its pro-environment policy alternatives focused on recycling, public education/outreach, and litter abatement and enforcement efforts. As opposed to making San Jose infamous for anti-small business and anti-consumer product bans. I would like to reiterate our strong interest in

working with you and your colleagues on a policy that is effective and supported by the entire community. We appreciate your public service.

Sincerely,

Keith Jones  
Sr. Director, Government Affairs  
7-Eleven

cc: Honorable Members of the San Jose City Council

Keith Jones  
7-Eleven Inc.  
Governmental Affairs

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David S. Wall

PUBLIC RECORD 9

RECEIVED  
San Jose City Clerk

2009 SEP -8 A 8:44

September 8, 2009

Santa Clara Valley Water District  
Board of Directors  
5750 Almaden Express Way  
San José, California 95118-3686

**Re: Water conservation effects on the costs of treating Sewage Water a.k.a "Reclaimed Water."**

For today's discussion, the focus will be the effects of "water conservation" on the costs of producing treated sewage water a.k.a "reclaimed water".

**You should make the necessary inquires of professionals in the area of waste water treatment and associated disciplines to confirm or refute of what I am about to tell YOU.**

In any given year, the San José / Santa Clara Water Pollution Control Plant (WPCP) have "wet water flows" (during the rainy season because of cross connections with the storm drains) and average dry water flows (during the summer months) of no rainfall. These hydraulic flows affect the costs of treating waste water.

As one could surmise, the average dry water flows or hydraulic loading to WPCP drops. This requires alterations in operational parameters that govern the respective stages of processing waste water. Fluctuations concerning hydraulic loadings to WPCP are carried out as a matter of routine.

However, a new phenomenon has been occurring as a result of Mayor Reed's leadership in setting certain environmental policies in concert with YOUR leadership in the arena of water conservation. Both Mayor Reed and YOU are to be congratulated as good environmental stewards as to this issue only.

*In my opinion, as a direct and proximate cause of water conservation by the public, one unintended consequence, albeit predictable to some degree, is the decrease in average dry weather and wet weather flows to WPCP.*

Water conservation effects, as to the impact of average dry weather flows, causes the hydraulic loading to WPCP drop further but, the solids loading either remains constant or it increases. Either way, the costs of treating the solids begins to rise as a function of the concentration of the solids.

This factor alone will have a deleterious effect on the costs of producing the quality of reclaimed water to sell as applied to; debt structure, recouping initial investment, operations and maintenance and or further "enhancements to the reclaimed water system.

*Any talk that reclaimed water will be "profitable or pay for itself" is irresponsible banter.*

I contend the cost of producing reclaimed water will become increasingly cost prohibitive due to the effects of water conservation. Any investment for further treatment is cost prohibitive and ill advised.

Respectfully submitted,

David S. Wall 09.08.09

**Cc: Mayor Reed and Members City Council / City Attorney / City Auditor / City Manager  
Members Treatment Plant Advisory Committee (TPAC)**

RECEIVED  
San Jose City Clerk

Bob Brownstein

San Jose, CA 95110  
September 9, 2009

2009 SEP -9 A 11: 07

Mayor Chuck Reed  
San Jose City Council  
200 E Santa Clara St  
San Jose, CA 95113

Dear Mayor Reed and Members of the City Council,

I request that the Rules and Open Government Committee agendaize a hearing to evaluate the following complaint regarding a violation of the city's Sunshine Policy.

The violation occurred at the Council meeting of August 4, 2009. During the Agenda Item, Orders of the Day, Councilmember Nora Campos made a motion to drop Agenda Item 5.3. The reason she stated for her motion was that the memorandum requesting that the item be placed on the agenda had arrived late, thereby failing to meet the standards of San Jose's Sunshine Policy. The motion was seconded by Councilmember Kalra, and councilmembers began debate on her motion. Immediately upon hearing a second for the motion, Mr. Neil Struthers and I both submitted cards to the City Clerk requesting to speak on this matter. A city staff person approached the Mayor to indicate our desire to speak. He returned and informed us that the Mayor refused to allow public testimony on the motion.

The Mayor's refusal to allow me to speak violates Section 2.7A of the Sunshine Policy (Phase 1 Report, page 15) which states, "Any person attending an open meeting of a policy body or ancillary body must be provided an opportunity to directly address the body, during the body's consideration of the item and during the open forum session, on any item of interest to the public that is within the body's subject matter jurisdiction." The Sunshine Reform Task Force recommendations on open meetings were adopted by the City Council on June 10, 2008.

On August 11, I filed a protest with the City Attorney arguing that the Mayor's refusal to allow testimony violated the Brown Act. The City Attorney informed me that the Brown Act did not cover City Council motions regarding the addition or removal of items from the agenda. He defended his position by citing *Coalition of Labor...vs. County of Santa Barbara Board of Supervisors*, a case in which the Court observed that the legislature had not specifically included language in the Brown Act that mandated an opportunity for public testimony on motions to place or remove items on the agenda. Taking a strict interpretation of legislative intent, the Court concluded, "There is nothing to indicate the Legislature's omission of public comment in setting the agenda was inadvertent."

In the case of San Jose's Sunshine Policy, however, we have ample information about the more expansive legislative intent of the city's policy because the Sunshine Task Force which drafted that policy specifically adopted 10 Sunshine Reform goals as the "over-arching philosophical framework" that guided their efforts. Goal 3 states, "The public should have a

meaningful opportunity to participate in public decisions.” Goal 4 states, “The public should have both easy access and sufficient time to fully review all information that is relevant to an item being discussed at a public meeting.” Goal 6 states, “Stakeholders should be provided with an opportunity to be fully engaged before significant items are brought to a public body for consideration.” Goal 10 states, “Reforms should be enforceable...” These goals demonstrate a strong intent to maximize the ability of citizens to impact City Council decisions.

Moreover, the Task Force specifically recognized that the Brown Act covered many of the same kinds of issues as the Sunshine Policy and that questions might arise as to the application of the Sunshine Policy where the Brown Act was also potentially applicable. To further illustrate their intent that the Sunshine policies should be broadly interpreted in favor of public participation, the Task Force members included in their Phase I report the following statement, “In the case of inconsistent requirements under the Brown Act and the Sunshine Ordinance that is enacted, *the requirement that would result in greater public access will apply*” (Section 2.1).

In light of the clear intent indicated in these goals and provisions that the public should have maximum opportunity to meaningfully participate in decision-making, it would be simply irrational to claim that San Jose’s Sunshine Policy allowed the Mayor to deny all public comment on Councilmember Campos’s motion. The Clerk’s decision to allow the item to be placed on the agenda occurred on Friday at approximately 3:40PM. The motion to question the Clerk’s decision happened the following Tuesday afternoon. Other than the chance to speak on that motion, the public had no opportunity to participate in a review of the Clerk’s decision or to participate in the discussion over the Clerk’s decision and comment on its implication for the administration of Sunshine Policy in San Jose. Once the motion was defeated, it could not be reheard without a motion to reconsider by a councilmember who had opposed it.

Because of Mayor Reed’s action, public participation in a debate over a key goal of the Sunshine Policy, its enforceability, was denied in total. His refusal to allow testimony violated any reasonable interpretation of the Public Meetings section of the city’s Sunshine Policy.

I request that the Rules and Open Government Committee hold a hearing on my complaint as soon as possible. At that hearing, I request the opportunity to present evidence and argument in support of my claim. I also request the opportunity to argue that the Mayor has a conflict-of-interest on this matter and should not be allowed to vote on the merits of my presentation. Should the Rules and Open Government Committee agree with my claim that the Sunshine policies were violated, I propose the following remedy:

- 1) The City Council should make a formal finding that the Sunshine policies require that public testimony must be allowed on any motion before a policy or ancillary body with the exception of ceremonial items.
- 2) The City Council should admonish the Mayor for denying me the right to address the City Council on August 4<sup>th</sup> and alert the Chairs of all policy bodies and ancillary bodies that the Sunshine regulations guaranteeing the public the right to present testimony will be strictly enforced in San Jose.

Thank you for your attention to this matter. If you wish to discuss this issue with me, I can be reached during the day at \_\_\_\_\_

Sincerely,

A handwritten signature in black ink, appearing to read "Bob Brownstein", with a long, sweeping horizontal line extending to the right.

Bob Brownstein

cc: City Attorney Richard Doyle  
City Clerk Lee Price

David S. Wall

PUBLIC RECORD 1

RECEIVED  
San Jose City Clerk

2009 SEP -9 P 1:10

September 09, 2009

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

**Re: THANK-YOU! City of San José Anti-Graffiti Program and specifically;**

**Thanks, Mr. Michael Carrasco, Mr. Gordon T. Castro and Mr. Manuel Frausto!**

**Vandalism to “San José Train Depot 1864 Mural” and other “criminal tags” mitigated.**

Friday morning (09.04.09), I had the privilege of witnessing the **City of San José Anti-Graffiti Program**, in full battle regalia; attack the “gang banger associated tags” that defaced the “San José Train Depot 1864 Mural” a.k.a the “Ryland Park Train Mural” and other “tags” in the neighborhood.

**Mr. Michael Carrasco, Mr. Gordon T. Castro and Mr. Manuel Frausto** comprised the **City of San José Anti-Graffiti Program’s** response to the latest undeterred “gang related” expression of criminal behavior to afflict our society across from Ryland Park.

The mitigation work by **Mr. Michael Carrasco, Mr. Gordon T. Castro and Mr. Manuel Frausto**, to remove the “gang-like graffiti”, was better than I expected.

The original painter of the “San José Train Depot 1864” Mural (a.k.a Ryland Park Train Mural) was Andrew Sabori.

The “dedication portion” of this art piece is the following:

**“San José Train Depot  
1864**

**Painted by Andrew Sabori  
Dedicated to the Youth of San José  
In memory of Rev. Alfred Sabori”**

In a way, **Mr. Michael Carrasco, Mr. Gordon T. Castro and Mr. Manuel Frausto** are “muralists at large”. Artisans, who repair the creation and contribution of one generation of youth at the contemptible and destructive hands of another generation of youth not yet deterred or held accountable.

Their actions this date, restored to this neighborhood, a sense of hope and permitted the foundation for long term restoration of the “San José Train Depot 1864” Mural (a.k.a Ryland Park Train Mural).

Please thank **Mr. Michael Carrasco, Mr. Gordon T. Castro and Mr. Manuel Frausto** for their efforts in this and all other City of San José Anti-Graffiti Program regards.

*Respectfully submitted,*

**Cc: City Attorney / City Auditor / City Manager  
Director Human Resources / Director Employee Relations**

*David S. Wall  
09.09.09*

David S. Wall

PUBLIC RECORD    j   

RECEIVED  
San José City Clerk

September 9, 2009

2009 SEP -9 P 1:13

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**

**Labor Day- Recycle Shops closed.**

On Monday, (09.07.09) approximately 1339 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 four (4) stolen and abandoned shopping carts. *This was the same number last week, so there is no increase or decrease as to the number of stolen and abandoned shopping carts.*

Garbage was primarily contained in the stolen and abandoned shopping carts. There were some rotted citrus fruit on the railroad property. General litter, consistent with a ghetto, was present.

**Ownership of the stolen and abandoned shopping carts is as follows;**

**(No "plastic zip tied" carts with Julian dates present)**

World Market (1), Safeway (1), PW Supermarket (1), Trader Joe's (1) and Gallery Market (1).

**One (1) interview this week.**

I spoke with Manuel; an employee of one of the local markets whose job is to try to retrieve his store's stolen and abandoned shopping carts. I told Manuel that today there were none of his shopping carts present. He told me he would go up further on North Tenth Street and look for some "under the bridge". I told him to be careful for some of the people down there might be criminals. He said he would "watch out", then he thanked me and was off.. It is always good to see and talk with Manuel.

No "encampments" were noted on the railroad tracks; however, garbage is starting to reappear. Nothing like it has been in the past. Just a "light dusting" of garbage.

Manuel's chickens are still subdued in their cluckery, keeping a very low profile.

Has Code Enforcement "put the fear" into the chicken community?

*Respectfully submitted,*

*David S. Wall*  
09.09.09

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///  
///

Cc: City Attorney / City Auditor / City Manager

David S. Wall

PUBLIC RECORD K

RECEIVED  
San Jose City Clerk

2009 SEP -9 P 1:12

September 9, 2009

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

**Re: Guadalupe River Park Heritage Rose Garden needs care and attention.**

**Reliable Docent Program would help.**

**Safety issues abound.**

On Sunday, (09.06.09) at approximately 1340 hours, my wife and I entered the **Guadalupe River Park Heritage Rose Garden** area on bicycles. We enjoyed the bucolic vistas associated with one of YOUR glowing achievements to preserve at least one vestige of culture, a manicured garden, which serves to accentuate refined society.

**The Heritage Rose Garden is in dramatic need of care and attention.**

The roses require significant pruning, for in many instances, the rose canes protrude into the trail paths and at different levels of elevation thereby posing the potential for serious injuries to the eyes and faces of others should a gust of wind arise and whip a rose cane in someone's face.

The trails have several areas where erosion by water and the effects of uncontrolled ground squirrel populations which have wrought their own specific destructive influences. Some of the trails' wooden borders are also in need of replacement.

Wooden slats on benches within the inner circle of the Heritage Rose Garden are sagging and warped. *New benches providing the names of donors could be a source of revenue.*

The nursery and potting areas are a cry for help all into themselves and deserve significant care. Without ongoing propagation, some cultivars might die and be hard or impossible to obtain. Also, roses propagated could be used throughout the City.

**This should be dealt with immediately.** There exists a significant "fire danger" on the north fence line of the orchard, just south of the nursery and potting area. A large pile (perhaps a couple of cubic yards) of pruned branches from the orchard have been loosely stacked, are dried out and one match or lighted cigarette butt from creating a firestorm.

***The San José Police should routinely keep the vagrants from loitering and inhabiting this area.***

The aforementioned are indicators that a reliable Docent program should be established for the Heritage Rose Garden.

With the appropriate accommodations, I would like to volunteer my help.

***Respectfully submitted,***

Cc: City Attorney / City Auditor / City Manager

*David S. Wall*  
09.09.09

David S. Wall

PUBLIC RECORD 1

RECEIVED  
San Jose City Clerk

2009 SEP -9 P 1: 12

September 9, 2009

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

**Re: THANK-YOU! City of San José Department of Transportation and specifically;**

**Thank-You! Ms. Lynette Wosick and Alternate Work Program!**

Saturday morning (09.05.09) in the ghetto neighborhood by Ryland Park, I began "trash detail" whereupon; I noticed a large tree branch had been recklessly broken from the trunk of a street tree planted in front of "Sara's Store" by person(s) unknown in a "large vehicle".

*This person(s) did not have the common decency to own up to the damage and call for assistance or alert the City as to the hazard to public safety.*

The "branch" was estimated to be in the range of fifteen (15) to eighteen (18) feet long, with assorted braches protruding from it, hanging partly in the street and hanging partly onto the City side walk.

I phoned the 311 operator to give the information to Department of Transportation (DOT). Shortly thereafter, SJPD Officer Jeff Harwell (#3966), on routine patrol, rolled up.

Officer Harwell observed the "branch", said DOT was on their way then resumed patrol.

**Ms. Lynette Wosick** and her "alternate work program" crew from DOT arrived sometime later. Upon arrival, **Ms. Wosick** and "crew" went about their business in a very efficient manner. Two crew members, with loppers, began stripping the ancillary branches. Another picked up the smaller branches and placed them onto the bed of the truck and another crew member in the bed of the truck, stacked the cut branches for proper storage and transport. Then **Ms. Wosick** fired up her chainsaw and began cutting the damaged branch from the trunk of the tree.

Under the watchful eye of **Ms. Lynette Wosick**, the entire process was completed within a few minutes. Adherence to *personal safety* of her crew and herself during this process was observed and found to be acceptable. This is another area of expertise attributed to **Ms. Wosick** that should be cause in itself for the appropriate level of positive recognition.

One additional recommendation for safety improvement is provided. Due to their workload, DOT "tree crews" should be outfitted with multiple chain saws per vehicle along with extra pre-sharpened chains. A sharp chain is a material element of tool safety.

Please give my sincerest regards to **Ms. Lynette Wosick** and her crew, for a job well done!

(**Ms. Lynette Wosick** has 20+ years of service)

*Respectfully submitted,*

**Cc: City Attorney / City Auditor / City Manager  
Director Human Resources / Director Employee Relations**

*David S. Wall*  
09.09.09

David S. Wall

PUBLIC RECORD M

RECEIVED  
San Jose City Clerk

2009 SEP 10 P 4: 24

September 10, 2009

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

**Re: Alcohol Consumption not deterred at Ryland Park! What about the same in other Parks?**

**Drunks make City Ordinance forbidding Alcohol in Ryland Park; "Another joke to laugh at".**

**Pass the "bottle and the buck"? Office of City Manager fails to keep a "pulse" on the problem.**

**Does the Office of the City Manager have a "pulse" to begin with?**

On Sunday (09.06.09) during trash detail at Ryland Park's barbeque area, I picked up and recycled the following empty containers of alcohol:

(4) – 32 ounce Bottles of Anheuser Busch "Natural Ice" (5.9 % Alcohol by volume).

(5) – 40 ounce Bottles of Anheuser Busch "King Cobra" (6.0 % Alcohol by volume).

(12) - 12 ounce Bottles of Anheuser Busch "Miller Genuine" (? As to Alcohol by volume).

(3) – 12 ounce Bottles of "Carta Blanca" (? As to Alcohol by volume).

**One "full and open container" was also picked up, emptied and recycled:**

(1) 12 ounce can of Anheuser Busch "Bud Light" (? As to Alcohol by volume).

**Issue:** Why has not the Office of the City Manager taken the "pulse of the Parks System, concerning of Alcohol consumption" and offered a menu of remedies to the Council?

**Issue:** Does the Office of the City Manager have a "pulse"?

Is there any creative life at the top levels of the administration? Has there been any inquiries made by the Office of the City Manager as to the state of alcohol consumption to the Director of PRNS?

**Citizens cannot solve this problem by "calling the Police".**

**Special note:** My participation in trash details is not without constant pain and difficulties due to my implants. *But, what is more painful is; highly paid and benefited administrators "fail to deliver the performance based services for what they were hired" and are not held accountable by Council.*

Also, the water faucet, in the aforementioned barbeque area, leaks.

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

*Respectfully submitted,*

*David S. Wall*  
*09.10.09*

David S. Wall

PUBLIC RECORD   n  

RECEIVED  
San Jose City Clerk

2009 SEP 10 P 4: 24

September 10, 2009

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

**Re: Inform City Employees of budget cuts and layoffs before holiday season. (#3)**

I have requested, for the third time at RULES, (Wednesday, 09.09.09) that City employees be notified of the next series of layoffs *before* the holiday season.

Next year is not going to be fun for many City employees who may be facing the loss of their employment and health care benefits.

YOU should all have the decency to give timely and accurate financial reports to City employees as to the state of their jobs for YOU are all good hearted and caring caretakers of the public's trust.

January 2010 and the following months thereafter will see dramatic changes in City operations.

*YOU can help mitigate these feelings by being forthright with the financial realities facing City coffers and by giving direction to the Office of the City Manager to do the following:*

1. Inform City employees as to the intentions of the administration as the financial conditions worsen and how the layoffs will be prioritized.
2. Create menus of options to protect City employees and their healthcare benefits for Council to discuss and debate within one week and every week thereafter until all hope is lost.

**No menus of options to protect City employees and their healthcare benefits for Council's perusal have been to date, publicly discussed.**

*Respectfully submitted,*

*David S. Wall*  
*09.10.09*

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Cc: City Attorney / City Auditor / City Manager

David S. Wall

PUBLIC RECORD 0

RECEIVED  
San Jose City Clerk

2009 SEP 10 P 4: 24

September 10, 2009

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

**Re: "Toxic Witches Brew" a.k.a "Reclaimed Water" use on "Community Gardens"?**

**Chronic Toxicity of Plant effluent concerns WPCP and others.**

**Outside Laboratory conformation "fans the flames of concern".**

**Gardeners and others using "Reclaimed Water" are unaware.**

**Harvest *may contain* toxic travelers of doom.**

There is growing concerns as to an alarming series of events occurring at the San José / Santa Clara Water Pollution Control Plant. There are serious questions being asked as to why the Chronic Toxicity Tests on the Final Effluent have been failing for some time.

**Cause for worry?** Ask the Office of the City Manager to explain the gruesome details.

**Have the "Toxic constituents" been identified and are the "Toxic constituents" entering the "Reclaimed Water System"?** Again, ask the Office of the City Manager.

**Have ALL the users of; "Reclaimed Water", NOTICED as to the possibility that "Reclaimed Water" may be a "Toxic Witches Brew"?** *Especially, has notice been given to the gardeners at City Community Gardens where food is grown for human consumption?* Could toxins be continuously deposited on growing food sources at the Community Gardens from the use of "Reclaimed Water"? Again, ask the Office of the City Manager.

**What is going on?** Again, ask the Office of the City Manager or Ask the Mayor.

**The Office of the City Manager's phone number is: 408 – 535 – 8100.**

**The Mayor's phone number is: 408 – 535 – 4800.**

You might want to make inquiries as to the safety of food grown using "Reclaimed Water".

**Especially, if there exists "unknown Toxins" present in the "Reclaimed Water".**

(That is, only if you are concerned about seeing funny and your body parts start falling off.)

*Respectfully submitted,*

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

*David S. Wall*  
09.10.09

David S. Wall

PUBLIC RECORD   p  

RECEIVED  
San Jose City Clerk

2009 SEP 10 P 4: 23

September 10, 2009

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

**Re: "Wonders of Our Water Works" or alternatively, "More stupid decisions by ESD".**

**Final Effluent quality is under intense scrutiny. But, sign up for the Mystery Tour!**

**"FREE TOUR of your waste water treatment facility" is a misrepresentation.**

**Plant Master Plan is a waste of time and money.**

For some time, the Administration of the Environmental Services Department (ESD) has been publically embracing their congenital and ongoing stupidity as opposed to staying in the "stupid closet".

**"Free Tours of your waste water treatment facility"** is not only a misrepresentation it is a bold face lie. Although, admission is not charged "at the front door", it certainly is "charged in the rear" via allocations from a variety of taxpayer funded sources. Let us also not forget the *staff infrastructure and related costs* required to carry out this "make work project".

**"Free Tours" may have hidden and potentially deadly costs.** WPCP operations can be inherently dangerous and as such, WPCP is not to be confused with a "Disney Land Adventure".

**The costs associated with terrorism.** Tour "guests" are not screened for weapons and there is not an onsite San José Police presence. "Soft targets" are easier to bring down than hardened ones. The "Free Tour program" can educate terrorists at taxpayer expense. **WPCP is very vulnerable.**

**One would think as Chronic Toxicity testing failures as to the quality of Final Effluent continues, focusing on "waste water operations" would be a priority.** Not so. Signups for the "Free Tours continue and Council does not understand what the gravity of the Laboratory results entail. What are the "Toxic constituents" and are "Toxic constituents" entering the Reclaimed Water System?

The continuing expenditure of taxpayer monies for staff time (and the need for staff on the payroll) to deal with the **"Plant Master Plan"** is a ludicrous waste of money and resources. The San José / Santa Clara Water Pollution Control Plant is an obsolete facility held together by "band aides". The facility needs to be replaced along with the collection system. But, this is a story for another day.

**The apparent endorsement;** *"One of the sleeper hits of the year!- Scott Herhold, San José Mercury News, 2008"* on the **"Wonders of our Water Works" flyer**, published and delivered in garbage bill envelopes, raises an interesting property law question. *Does Mr. Herhold have property rights for his public endorsement as applied to profits generated through its use by third parties?*

*Respectfully submitted,*

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

*David S. Wall*  
09.10.09

David S. Wall

PUBLIC RECORD *9*

RECEIVED  
San Jose City Clerk

2009 SEP 10 P 4: 23

September 10, 2009

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

**Re: Redirect \$65,000 Public Art Funding to Public Schools Art Programs.**

**Allocate FUND 465 to fund Public Schools Art Programs for Public Art Projects.**

**The Office of Economic Development is an embarrassment that should be eliminated.**

On the City of San José; City Council Agenda for September 15, 2009, Consent Calendar, Item 2.5 is a recommendation to adopt an "Appropriation Ordinance and Funding Sources Resolution Amendments in the Construction Excise Tax Fund (FUND 465); to increase the beginning fund balance by \$65,000 and Increase the Public Art appropriation to the Office of Economic Development by \$65,000".

**I would only support giving OED "pink slips" along with vehement, vituperative vulgarities of the equivalent of, "You are now history, get the Hell out of here".**

Consider holding back this resolution.

Consider entering into discussions with the public schools to transfer this funding to support real "PUBLIC ART" and not fund the crap hoisted on the taxpayers by first paying for the farce of OED as a pathetic entity, then paying for the overpriced pieces of Art work nobody really wants.

As a City; whose finances are in bleak array, whose Public Schools are in a deep apogee of decay; Council can make a budgetary decision to maintain the status quo by supporting a worthless entity, OED, or by innovation, Council can decide to support Public Art via Public School Art Programs whose "works of art" would be Public property. **Graffiti would plummet.**

**From a practical political side, count the votes.**

Support of the voting public for retention of OED compared with the tens of thousands of votes from parents of Public School age children.

**Throw OED to the dogs.**

Better yet, save the dogs. Drop OED off at the County's Household Hazardous Waste Program.

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

*Respectfully submitted,*

*David S. Wall*  
*09.10.09*

David S. Wall

PUBLIC RECORD  
RECEIVED  
San José City Clerk

2009 SEP 10 P 4: 25

September 10, 2009

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

**Re: David S. Wall proven wrong and is rightfully "Shamed" at RULES!**

**Mayor Reed gives justified chastisement for failure to report the truth.**

**Mayor Reed takes a \$27, 237.50 pay cut and not a mere \$17,237.50 pay cut.**

**Apologies, atonements and more praise of Mayor Reed's service will follow every week.**

At the RULES AND OPEN GOVERNMENT COMMITTEE MEETING Wednesday (09.09.09) I made a horrible, shameful mistake to which remedy must follow.

I have testified, for several weeks now, during the Open Forum section at RULES, praise on Mayor Reed for volunteering to take a \$17, 237.50 pay cut. **I have been substantially in error.** Mayor Reed stated that he is taking an additional \$10,000.

*This makes the total pay cut that Mayor Reed is voluntarily taking to be a whopping \$27,237.50.* And not to accurately report this material fact, is simply not acceptable, to wit, I apologize and will construct a remedy for his Honor's consideration.

First the math; since I have made a \$10,000 error in the amount of Mayor Reed's pay cut of \$27,237.50, a percentage of "praise increase multiplier" is to be calculated.

$\$10,000 / \$27,237.50 \times 100\% = 36.71\%$  "**praise increase multiplier**" that is to be applied to **any** current and future praise of Mayor Reed's decisions, be said decisions be "good ones or bad ones".

The same 36.71% "praise increase multiplier" will be applied, **retroactively** from the date and time of my first error in not reporting Mayor Reed's exceptional leadership and sacrifice in his volunteering to take a \$27, 237.50 pay cut in the first place.

The **daily compounded percentage rate** to be applied directly to "praise increase multiplier" owed to his Honor is yet to be ascertained. I will have to ask Mayor Reed about this at RULES next week.

Now, as to the total pay cut percentage that Mayor Reed has voluntarily and valiantly tendered back into the taxpayers coffers;

$\$27,237.50$  (total pay cut) /  $\$122, 237.50$  (authorized salary) X 100% = 22.28% Mayoral pay cut.

**Compare with the pay cut tendered by the City Manager of 3.75%.**

22.28% Mayoral pay cut - 3.75% City Manager pay cut = 18.53% difference between Mayor and Manager.

**Does the City Manager owe the taxpayers a larger pay cut?** Well, even if the answer is "NO", the City Manager should remedy the 3.75% pay cuts to the Office of the City Attorney and to the Office of the Auditor. I assert the age old doctrine, "A penny saved is a penny earned" as proof.

Both the Attorneys and the Auditors should not have to suffer any pay cuts because they actually save money, thus make money for the taxpayers by "fixing the mistakes" of the Office of the City Manager.

In addition, the Office of the City Manager might be on the hook for all the additive praise I have to heap on his Honor, as a direct and proximate cause relating to a portion of damages attributed to detrimental reliance, on facts and figures contained in a letter dated August 12, 2009, referenced and incorporated herein, from the Communications Office. A copy of this document is hereby tendered for perusal.

**I think Mayor Reed has just won a political lottery.**

*Respectfully submitted,*

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

David S. Wall  
09.10.09



RECEIVED  
San Jose City Clerk

Office of the City Manager  
COMMUNICATIONS OFFICE

2009 SEP 10 P 4:25

August 12, 2009

David S. Wall

Dear Mr. Wall:

This letter is in response to your request for public records, received August 6, 2009, regarding compensation and employee benefits afforded to the Mayor and Councilmembers.

Mayor Reed currently receives \$105,000 per year in salary. The Mayor's authorized salary is \$122,237.50 annually. However, Mayor Reed has declined the salary increases recommended for the Mayor by the Salary Setting Commission and approved by the City Council in May 2007 and again this year. The City Councilmembers currently receive a salary of \$86,625 annually. Several Councilmembers have initiated additional voluntary salary reductions for this fiscal year.

The Councilmembers are entitled to health care benefit programs that are the same as the plans provided to the City's management employees (Unit 99). I recently provided you with a copy of the most recent Unit 99 benefit plan—please let me know if you need another copy. In addition, a copy of the most recent Employee Benefit Handbook is available at the Office of the City Clerk. Should you wish photocopies, the charge will be \$.20 per page. You may also access this document and other information related to City employee benefits on the City's web site at [http://www.sanjoseca.gov/HumanResources/survey/ee\\_benefits.asp](http://www.sanjoseca.gov/HumanResources/survey/ee_benefits.asp).

Since 1995, the Mayor and City Councilmembers have participated in a CalPERS retirement 2% at age 55 plan, funded through both employee and employer contributions. The City's contribution rate is 15.337% of compensation and the Mayor or Councilmember contributes 7% of their compensation to the plan. Based upon current salaries, the Mayor contributes \$7,350 to the retirement plan and the City contributes \$16,103.85 on his behalf; and each Councilmember contributes \$6,063.75 to the plan, assuming they have not taken a voluntary salary reduction, with a City contribution of \$13,285.68. A Councilmember may opt out of the CalPERS plan. If they did so, he or she would then participate in the City's PTC 457 plan in which both the City and the employee contribute 3.75% of compensation to a deferred compensation account.

This concludes the City's response to your request for public records.

Regards,

Thomas D. Norris  
Public Records Manager