RULES COMMITTEE: 01-25-12
Item: F

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

Memorandum

TO: Honorable Mayor & City Council

FROM: Dennis Hawkins, CMC City Clerk

SUBJECT: The Public Record January 13 - 19, 2012

DATE: January 20, 2012

ITEMS TRANSMITTED TO THE ADMINISTRATION

ITEMS FILED FOR THE PUBLIC RECORD

(a) Letter to Mayor Reed and the City Council from Charles Keenan III, Keenan Land Company dated January 12, 2012 regarding San José's 2040 General Plan Policies on Housing Production.

(b) Notice of Public Hearings on a Substantial Amendment to the 2011-2012 Consolidated Annual Action Plan for the City of San José, received by the Office of the City Clerk January 19, 2012.

(c) Letter to Mayor Reed and the City Council from David Wall dated January 19, 2012 regarding "City Manager has yet to publicly 'Thank' Office of the Attorney for 'bailout' on EIC!"

(d) Letter to Mayor Reed and City Council from David Wall dated January 19, 2012 regarding "Eliminate the 'Office of Cultural Affairs' and the 'Public Art Tax!'"

(e) Letter to Mayor Reed and the City Council from David Wall dated January 19, 2012 regarding "Should the City Manager and Assistant City Manager resign over Applegate-Johnson?"

(f) Letter to Mayor Reed and the City Council from David Wall dated January 19, 2012 regarding "Accurate clothing allowances for city employees are fair if YOU enforce a 'Dress Code'".

Dennis Hawkins, CMC
City Clerk

DH/rmk

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KEENAN LAND COMPANY

January 12, 2012

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

RE: San Jose's 2040 General Plan Policies on Housing Production

Dear Mayor Reed and Members of the City Council:

The 2040 General Plan establishes a vision for San Jose's long term economic, fiscal and social vitality, ostensibly based on the tenets of "Smart Growth". Rather than providing responsibly for the future, however, San Jose's version of intelligent planning takes sound principles to an illogical extreme. Unfortunately, the Plan suffers from the fundamentally flawed proposition that the City can boost jobs, maintain affordability, and safeguard San Jose's historically high quality of life while severely constraining housing production.

Policy makers and planners have endowed the Plan with a restrictive and highly convoluted set of residential growth control policies. The Plan's policies represent an aggressive move to capture more of the region's expected job growth, while irresponsibly (and unapologetically) deflecting the obligation for housing future residents to San Jose's neighbors. These policies run afoul of State law requirements for meeting San Jose's fair share of the regional housing need.

The City's onerous approach to housing production is sure to frustrate and confuse residents, property owners, and business owners looking to invest in San Jose. Moreover, the City's purposeful strategies to limit the range of housing options and artificially restrict supply will undermine San Jose's primary economic development objective – to entice jobs - by discouraging companies from locating in San Jose.

San Jose's Aggressive Housing Growth Management Strategy

Underneath the compelling goals and policy statements about enticing jobs, protecting City neighborhoods, and bolstering public coffers, is a plan that defiantly ignores fundamental market forces. The Plan gives staff and future City Councils an unprecedented ability to micro-manage and strictly meter new residential development to achieve a contrived, numerical computation for San Jose planners' own version of the "optimal" balance between jobs and housing.

To keep a tight rein on housing production, the Plan places extraordinary burdens on those who would seek to bring new housing opportunities to San Jose:

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- In order to boost its ratio of jobs to housing, through a target of 1.3 jobs-to-employed residents, the Plan places an artificial cap on housing capacity, resulting in a shortfall of 40,000 to 57,000 units through 2040.

- Virtually all new housing must come in the same, predefined package: mixed-use, transit-oriented, and high-density (a min. of 4 stories and 55 – 250 dwelling units/acre), limiting choices for future residents who are not interested in the urban lifestyle dictated by the Plan. [1]

- Unlike previous San Jose General Plans, no residential development is allowed outside the Plan's narrowly defined "Growth Areas." [2]

- The Plan's newly designated residential growth capacity is relegated to the redevelopment of older, improved, "low intensity" commercial sites in questionably desirable, non-residential areas, where attracting investment (and residents) will be challenging. [3]

- No new low density, family-friendly housing (in strong neighborhoods close to parks and good schools) is planned in the City for at least the next 30 years.[4]

- New housing is subjected to growth control measures through sequential, multi-year phasing plans, and is strictly metered over time to meet arbitrary, sub-area specific, jobs/housing allocations.

- Housing developers must run the gauntlet through an exhaustive, costly and uncertain planning process prior to receiving entitlements to build.

By design, this tight framework for regulating housing production over the next 30 years is consistent with the City's intention to shift future housing development, and its perceived burdens, to other cities in the region:

> "By planning for more jobs and less housing growth capacity, the Envision 2040 San Jose General Plan update was a critical opportunity for San Jose to define itself as a city and to plan for fiscal sustainability and a significantly greater role in the regional economy." [5]

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[1] CHAPTER 2, Page 20: FS-4.8: "Emphasize mixed-use development for most new development, to achieve service efficiencies from compact development patterns and to maximize job development and commercial opportunities near residential development.

[2] CHAPTER 5, Page 2: "Unlike the San Jose 2020 General Plan, which provides considerable flexibility for residential development throughout the City, the Envision San Jose 2040 General Plan strategy focuses all growth to identified Growth areas and precludes large scale residential development from occurring on other sites that have not been allocated new growth capacity." New capacity is planned in designated "Urban Villages" and "Growth Corridors"; existing capacity is located within previously designated commercial and industrial areas in Downtown, North San Jose, and approved Specific Plans.

[3] CHAPTER 1, Page 67: "Because it is generally not feasible or desirable to plan intensification within existing, fully developed single-family neighborhoods, the identified Growth Areas largely correspond to lands currently planned and developed for commercial or other employment uses . . . "

[4] Existing single family neighborhoods are exempt from further intensification, except for compatible, minor small lot subdivisions.

[5] CHAPTER 1, Page 60.

And under its Fiscal Sustainability Land Use Framework, Policy (FS-3.13), the Plan states:

> "Encourage other cities within the region to take on a greater share of the region's housing needs to promote an improved regional jobs-housing balance."

Unfortunately, the City's growth management policies will choke investment in the housing sector, which is critical to the continued vitality of San Jose and the region. As the supply of housing tightens, and existing neighborhoods age, this short-sighted approach will weaken San Jose's ability to attract jobs and to play "a greater role in the regional economy". [6]

Defining Smart Growth

What is "smart growth"? According to the Association of Bay Area Governments:

> "'Smart growth' means different things to different people. There is no single definition of smart growth; its meaning depends on context, perspective and timeframe. The common thread among different views of smart growth is development that revitalizes central cities and older suburbs, supports and enhances public transit, promotes walking and bicycling, and preserves open spaces and agricultural lands. Smart growth is not no growth; rather, it seeks to revitalize the already-built environment and, to the extent necessary, to foster efficient development at the edges of the region, in the process creating more livable communities." [7]

The Jobs/Housing Linchpin

The San Jose 2040 General Plan is more of a numbers game than a set of thoughtful growth policies. The Plan's fundamental approach to land use planning is based on one overarching goal: to achieve a ratio of 1.3 jobs-to-employed residents throughout the City (herein "J/E" or "the jobs/housing balance"). Under its Land Use and Employment Policies (IE-1.4), the Plan states:

> "Manage land uses to enhance employment lands to improve the balance between jobs and workers residing in San Jose. Strive to achieve a minimum ratio of 1.3 jobs/employed residents to attain fiscal sustainability for the City." [8]

The previous San Jose 2020 General Plan had a J/E ratio equivalent of 1.1, due to the Council's approval of additional jobs capacity in North San Jose and Downtown in 2005.[9] The City's

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[6] CHAPTER 1, Page 60: Traditionally, large cities gain prominence and influence in large part because of the role they play in the local economy."
[7] "Smart Growth Strategy: Regional Livability Footprint Project", Association of Bay Area Governments, Aug 31, 2004
[8] CHAPTER 2: Page 4: IE-1.4, Land Use and Employment Policies

decision to further increase its J/E ratio under the 2040 Plan is based on the speculative theory that, by attracting 30% more jobs than employed residents, San Jose will be able to improve its dire fiscal picture by realizing a higher proportion of tax revenue (stemming from employment growth). In addition, the City hopes to reduce the level of new housing construction and the associated costs of providing services to new residents.

As will be discussed later, the strategy of "under-supplying" housing relative to expected demand could have disastrous unintended consequences, including engendering the exact opposite effect: discouraging job growth and all of its associated economic benefits.

San Jose's Unique Status in the Region

The City claims that it is merely correcting a historical imbalance in which other cities have benefited economically to the detriment of San Jose.[10]

> ""Task Force members noted that San Jose bears the burden of a disproportionate amount of the County's projected housing growth and expressed the belief that San Jose should reverse that trend."

However, San Jose's perpetual need to evaluate the City's jobs/housing balance when compared to its neighbors is not an "apples to apples" comparison. At 176 sq. miles, San Jose has by far the largest land area of any city in the entire Bay Area, and over three times the second largest city (Oakland, with 56 sq. miles). The second largest city in Santa Clara County is Palo Alto, with just 23.7 sq. miles. Thus, San Jose naturally has had more room than other cities in both the County and the Bay Area to accommodate regional population growth. It should be noted that Mountain View (12.1 sq. miles) and Santa Clara (18.4 sq. miles), have about the same population density as San Jose (approximately 5,500 people per square mile). A more appropriate comparison is the ratio of jobs/employed residents in the Bay Area as a whole, which has an overall ratio of 1.01, slightly less than San Jose's under the 2020 Plan.[11]

Unfortunately, as explained below, the Plan's J/E ratio will create an "out of balance condition" that could have significant impacts on the economic health of the Bay Area region as a whole, and on San Jose as well. Moreover, by artificially constraining housing supply, and importing a disproportionately greater number of workers than the City can house, San Jose further heightens the pressure on existing housing prices and rents, exacerbates the affordability problem for households across all segments of the community (particularly low and moderate income households), and aggravates traffic congestion, air quality and other environmental impacts.

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[9] CHAPTER 1, Page 60. The City claims that the actual J/E ratio in San Jose (as opposed to the General Plan target ratio) as of 2011 is closer to .8. This is largely due to the economic downturn and the significant job loss experienced by San Jose and cities throughout the region and the entire state.

[10] CHAPTER 1, Page 60.

[11] ABAG Projections 2009, Regional Projections

The Plan's Projected Housing Shortfall

In formulating its growth policies through 2040, the General Plan Task Force chose to disregard established regional projections and instead create a framework that provides for significantly more jobs and less housing capacity in order to reach the Plan's target J/E ratio.[12]

> "The Envision Task Force came to the conclusion that while projections may be useful as a means of understanding possible or likely job and housing growth capacity demand, the actual General Plan capacity does not need to be determined by them. Instead, the General Plan capacity should be used to express San Jose's vision and goals for its future."

The 2020 General Plan provided for a capacity of 370,000 jobs and 310,000 units. ABAG Projections 2009 forecasts total housing demand in San Jose to reach 468,000 units by 2040. Stephen Levy, the City's independent consultant from the Center for the Continuing Study of the California Economy (CCSCE), forecasts a slightly greater demand for housing (487,000 units).

Nevertheless, over the next 30 years, the Plan proposes to more than double the City's job capacity (by 470,000) to a total of approximately 840,000, but only plans to increase housing capacity by less than one-third (an increase of 120,000 units), for a total of 430,000 units by 2040. By imposing a J/E ratio of 1.3 – and thus an artificial cap on housing capacity - the Plan would result in a housing shortfall, lacking sufficient capacity for the additional 40,000 to 57,000 units needed to accommodate projected demand. This shortfall will be exacerbated by the Plan's narrow range of choice in product type and location, and thus significantly impair San Jose's ability to produce much needed housing.

State Regional Fair Share Housing Requirements

California General Plan law requires that each city and county zone a sufficient amount of land to accommodate its fair share of the regional housing need. This share is also known as the Regional Housing Needs Allocation (RHNA). The jurisdiction is not required to make development happen, but it must facilitate housing production by ensuring that sufficient land is available and that unnecessary development constraints have been removed.[13] This means that such housing must be permitted under zoning or the city has clearly committed to such zoning within a specified and expeditious time frame. The fair-share requirements include a total number of housing units, as well as specific targets for generating units affordable to low, moderate, and above-moderate-income households.

In order to meet the City's future housing goals and RHNA requirements (as set forth in the Housing Element, which must be updated and re-certified every 5 – 7 years), the City must establish General Plan land use policies to both promote and facilitate residential development appealing to a diverse range of households. The City must also set aside and zone a sufficient number of vacant sites for residential development. These sites must at least be in areas sufficiently desirable to attract developers to be credible. The City's entitlement process must be free of unnecessary burdens so that developers may submit plans and the City can approve

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[12] CHAPTER 1, Page 58

[13] "Growth Requirements Under State Law – Issue Brief – City of Davis General Plan - Housing Element Update", Feb. 16, 2007

the requisite number of units within the prescribed timeframe (notwithstanding market forces and project specific issues).

The 2040 General Plan Housing Production Framework

In order to protect existing neighborhoods, avoid expansion into the Urban Reserve areas, and spur development in corridors linked to Downtown, the Plan funnels all newly designated residential capacity (65,640 units through 2040) to a limited number of improved but underutilized sites in older commercial areas, with the idea that these sites will eventually be redeveloped into mixed-use "Urban Villages" at the highest feasible densities.[14] None of the new housing capacity is permitted in existing suburban neighborhoods.

The Plan designates a total residential growth capacity of up to 120,000 units by 2040, including 85,000 units in the near term "Plan Horizon". Of this near term total, approximately 54,360 units are located in previously designated areas in Downtown, North San Jose, and existing Specific Plans. All of these areas are designated for higher density (typically 50 du/acre and above), mixed-use, transit-oriented development.

Based on demographic projections that indicate a shift in population growth towards both older (over 55) and younger households (20 – 35), the Plan concludes that these densities will be palatable to the City's 300,000+ future residents (assumed to be mostly seniors and young professionals), all of whom the Plan presumes will want to live in 5 to 10 story towers in Downtown, North San Jose, or in revitalized commercial zones.[15] It is unrealistic to presume that most prospective residents would choose this lifestyle when there are more appealing options in the region, or that this type of housing will foster the desired level of job growth.

Plan Has No Market-Based Relevance

Housing Construction Drivers

What drives investment is a combination of locational attributes, market forces, available financing, and the ability to secure approvals for development. The absence of any one of these factors can deter investment. The Plan's policies place roadblocks before each of these key drivers to housing construction, thereby creating disincentives for future housing production.

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[14] CHAPTER 1, Page 59: ". . . San Jose . . . has reached a point in its history where it is no longer feasible or desirable to accommodate new housing demand through either outward expansion into exurban areas or lower density infill development within City limits. Either type of development would have significant negative environmental and fiscal impacts upon the City that would lower the quality of life as a result of diminished municipal service levels and a degraded natural environment."

[15] CHAPTER 1, Page 17: "Focusing new growth into the Growth Areas will help to protect the quality of existing neighborhoods, while also enabling the development of new village areas with a compact and dense form attractive to the City's projected growing demographic groups (i.e; an aging population and young workers seeking an urban experience) . . . "

Challenges of Developing Commercial Sites

Redevelopment of existing commercial sites is challenging for even the most sophisticated of investors and developers. Commercial sites often have pre-existing ground or building leases that are difficult to unravel. Building occupants may be reluctant to vacate or must be relocated. Property ownerships and parcel lines are complex and consolidation can be problematic. Existing uses, though underutilized, may have residual value, making the land purchase too expensive to build affordably priced housing. Many sites have a history of use of hazardous materials (gas stations, etc.). Demolition and clean-up is costly. Compatibility of residential uses can be challenging, given the nature of adjacent land uses, traffic, noise, and neighborhood safety concerns. Rarely are such neighborhoods conducive to families, particularly if the area does not have quality schools, parks, and other amenities nearby. These sites involve inherently greater costs and risks to developing in traditional residential areas, and will significantly limit housing production.

Unrealistic Housing Mix and Densities

Based on historic and projected residential market conditions, the bulk of the proposed housing in the Plan simply will not generate sufficient value to support investment. The Plan requires virtually all new housing to be built at high densities (min. of 4 stories over structured parking and 55 – 250 du/acre), which is ambitious for any one submarket in the Bay Area, let alone all of the Growth areas designated in San Jose's General Plan. Even in more robust economic times, the market for projects at such densities (whether rental or for-sale) likely will not be deep enough to absorb all 120,000 units of this type, most of which are designated for Downtown, North San Jose, and the Urban Village zones.

Moreover, projects in North San Jose and in the Urban Villages will be at a significant competitive disadvantage compared to more desirable locations Downtown. The increased cost of construction for projects with podium or underground parking means that sales prices and rents must be sufficiently high to support the increased building costs. Given the competition presented by new high-rise residential development in the Downtown area (which has suffered from anemic absorption, high vacancies, price depreciation, and in some cases, financial default), as well as more established locations elsewhere in the city, developers will face significant challenges trying to attract the necessary rents and sales prices to justify new construction in the Plan's less desirable, commercial infill locations.

Moreover, the Plan promotes vertical mixed-use development, suggesting that projects include retail stores, offices or some combination of employment generating uses. The older commercial zones designated for conversion to mixed-use Urban Villages must compete for tenants with stronger retail and office locations in the city. Retail and office uses in comparable mixed use projects, resulting from similar inclusionary-type policies, are often a net loser for the investor. In better economic times and with higher residential valuations, these uses potentially could be incorporated without impacting the overall viability of the project; today, this additional burden would likely render the project infeasible. Also, the local communities often lose as these inferior spaces sit vacant and/or attract undesirable tenants.

Furthermore, market and economic conditions for now and the foreseeable future mean virtually all new housing permitted under the Plan must be rental. For-sale housing at the prescribed densities is currently not viable, with the possible exception of certain types of senior housing. Condominium projects are nearly impossible to finance in the current market, and offer the greatest risk to builders. Over the past ten years, the condominium market has experienced massive overbuilding, causing prices to plummet, and hundreds of thousands of units to go unsold (or to be converted into rental units), and forcing many builders into bankruptcy.

Unlike traditional single-family wood frame construction, once a builder starts constructing a typical condominium project (with a reinforced concrete podium for garage parking), the project can't stop. So, unless the project can be phased, if the market turns in the midst of construction, the builder must keep going. And California consumer laws and banking practices make it so builders cannot close escrow until a majority of the units in the project are pre-sold. Therefore, condominium builders need steady, predictable absorption levels to cover project debt (or large amounts of equity in the bank).

Inadequate Diversity of Housing Types

A major shortcoming of the Plan is its failure to accommodate demand for other types of housing (i.e; lower density, single-family homes and townhomes), or to provide for the replenishment of this important segment of the housing market.[16] Though the principles of "smart growth" encourage cities to provide for higher densities and mixed use development, there is no mandate to eliminate all new lower density development.

The necessity for such an extreme policy is that the City has elected not to intensify existing suburban neighborhoods, convert any more industrial lands (unless the project benefits are too good to pass up, such as a new soccer or baseball stadium), or to expand into its Urban Reserve areas. Therefore, policy makers and planners have crammed all of San Jose's required housing in to what's left: older, commercial areas.

Over the lifetime of the 30 year Plan, there likely will be insufficient turnover in the City's existing, high quality, single-family housing stock to accommodate demand for housing located in good school districts, and safe and quiet neighborhoods. This type of housing is critically important, as it serves the needs of many families, executives and professionals, and even seniors, who prefer to live in this type of environment. The Academic Performance Index (API) is a key factor in attracting families. Can San Jose's school districts maintain their quality as the housing stock ages without continued reinvestment? Can we really expect the designated commercial zones in Downtown, North San Jose, and the new "Urban Villages" to support the construction of new top performing schools? San Jose will be hard pressed to compete for jobs with other cities that are continuing to invest in more family-friendly housing and in maintaining their top-flight communities.

[16] CHAPTER 4, Page 33: This is despite Housing Policy H-1.2: "Facilitate the provision of housing sites and structures across location, type, price and status as rental and ownership that respond to the needs of all economic and demographic segments of the community including seniors, families, the homeless and individuals with special needs."

Mr. Levy believes that continued investment in creating and fostering great communities – like the many fine neighborhoods throughout San Jose - is essential to attracting employees (not just companies), which are critical to maintaining the Bay Area's economic stature:

> "Sometimes it is easy to forget that we compete for talented people and their families as well as for companies. Fortunately, a pro-investment economic strategy speaks to both groups. Good schools, world-class infrastructure and great communities attract entrepreneurs and talented workers and make California a great place to live and work."[17]

Without reinvestment in its most attractive residential neighborhoods, the aging of the City's single-family housing stock will limit choices for future residents, and give companies a compelling reason to go elsewhere.

City-Wide Growth Control Measures

Through the implementation of aggressive, city-wide growth management policies (i.e; triggers), the City seeks to tightly control the timing and location of future development to ensure that housing production does not get ahead of jobs:

> "There is also considerable risk that housing development could go forward per the capacity available while job development remains unrealized, resulting in a significantly lower J/ER ratio. Including a phasing plan within this General Plan with triggers linking the availability of housing capacity to the development of jobs will hopefully remedy this concern." [18]

The Plan makes clear that market and economic forces will no longer be the primary drivers in determining housing production, timing and choice.[19] By imposing prescribed growth phasing plans (called "Plan Horizons") upon development, and mini jobs "triggers" in which housing construction is tethered tightly to employment generating uses, the plan delinks housing construction from market forces.[20] Investment and market forces go hand in hand. Attempts to artificially control and micromanage growth are seldom winning strategies.

In the past, the City has employed a similar approach through the use of jobs/housing triggers in the Coyote Valley and South Almaden Valley Urban Reserves (where neither jobs nor housing have been built), and a phasing plan incorporating jobs and housing in North San Jose (with limited success). The Plan's extension of trigger based growth control policies beyond specific sub-areas to virtually the entire City is a radical step that will result in economic challenges and social impacts that have not been fully analyzed or anticipated.

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[17] "California's economic health needs varied remedies", Stephen Levy, SFGate.com, January 09, 2011
[18] Chapter 1, Page 61.
[19] Chapter 7, Page 3 ". . . the City is taking an increasingly active role in shaping development decisions in order to improve the relationship between private development and public facilities, services, and interests."
[20] Chapter 7 Page 16: Implementation: "Consider the establishment of phasing triggers or other implementation tools for specific land use changes within the context of the Urban Village Plan to support achievement of the Urban Village Plan goals . . . so that implementation of the Urban Village Plan over time will consistently provide sufficient capacity for a number of jobs equal to planned new job growth capacity plus maintenance of existing job capacity."

Barriers to Entitling Land for Residential Development

Prior to allowing housing development to proceed, the Plan imposes layer upon layer of planning and entitlement hurdles. These hurdles add risk, time, cost, and uncertainty for anyone wanting to add to the supply of housing in San Jose. Development within the Urban Village Areas is predicated on the City's first allocating, and then metering, employment uses and housing in each sector in accordance with its targeted jobs/housing ratio (1.3). This "paint by numbers" approach to land use planning will both frustrate and confuse property owners and housing investors.

Beginning with the concept of the "Plan Horizons", which are designed to "carefully manage the City's expected residential growth", the Plan provides a formidable and wearying regulatory framework: [21]

- The full amount of job growth capacity is available at the outset, while housing is geographically limited to identified Growth Areas in each Plan Horizon.
- Within each Plan Horizon, the City Council must first plan and approve each Urban Village Plan (containing detailed design guidelines and potential additional phasing "triggers" for housing), after an inclusive community-based planning process. [22] The Plan describes this as a 9 month planning process followed by CEQA review.
- Prior to the development of new housing, the Urban Village Plans must provide a clear and feasible strategy for reaching the prescribed job growth targets consistent with the Plan's Fiscal Sustainability and other goals and policies.
- After Council approval of the Urban Village plans, applicants must apply for rezoning, as well as Site Development Approval, architectural review, and project-specific CEQA compliance (likely another multi-year process).
- Property owner initiated Amendments to the General Plan can only take place once a year, and not before 2013; Major reviews to the General Plan are allowed every 4 years.
- As part of a Major General Plan Review, the City Council will consider whether the jobs/housing balance, fiscal sustainability, and infrastructure are sufficiently strong to move into a subsequent Plan Horizon. Each Plan Horizon would open additional geographic areas to the "possibility of residential development."

This daunting array of regulatory hurdles is sure to dissuade even the heartiest of souls from investing in new housing in San Jose.

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[21] CHAPTER 7, Page 2.

[22] "CHAPTER 7, Page 66. By making a subset of the Growth Areas available for redevelopment with intensified mixed-use within each Horizon, the City can better meter over time the addition of residential uses within employment areas, carefully considering new development to insure that job capacity is maintained and enhanced, and allowing community engagement in more detailed land use planning of the new Growth Areas through the Village Planning process."

General Plan Internal Inconsistencies

Chapter 4 of the General Plan contains a list of Housing Policies and Objectives purported to promote a range of housing opportunities throughout the city, and to set aside sufficient capacity to satisfy the City's expected population growth and State mandated RHNA requirements. [23] However, when viewed in the context of the Plan's overarching land use policies, which severely burden and restrict housing location, choices and timing of production, the policies appear to be internally inconsistent with one another. Such consistency is required by State law:

> "A city's general plan must be internally consistent. (Gov. Code §65300.5.) Any element that is found to be inconsistent is invalid. Where a general plan on its face, shows substantial contradictions and inconsistencies, it cannot serve as an effective plan because those subject to the plan cannot tell what is allowed or forbidden."[24]

Furthermore, as described above, the laborious entitlement process in the Land Use Element of the General Plan appears to be in direct conflict with the City's Housing Element Implementation Program, which is intended (and required by State Law) to "facilitate housing production by streamlining the permitting process, reducing costs, or providing a level of predictability in the development process".[25]

Plan's Questionable Feasibility/Intent to Comply with State Law

The Plan's transparently negative view of the value of new housing's contribution to the City, combined with the barriers described above, raises doubt as to whether San Jose can – or even cares - to meet its future fair share housing obligations. The Plan imposes so many extraordinary burdens on housing production that it is reasonable to ask: In what way does the plan actually *promote* housing? In Chapter 2, entitled "Thriving Community", out of nearly 150 polices, only *one* actually serves to endorse and encourage housing, and even then it's in the context of "attracting talented workers".[26] The rest serve to place constraints on housing production relative to jobs.

The sheer magnitude of the land use restrictions on housing production casts doubt as to whether it is even feasible for the City to meet its present and future RHNA obligations under State law:

- The Plan's phasing requirements and strict metering of jobs and housing within each four year Plan Horizon constitute "growth management measures" intended to artificially cap and restrain housing production.

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[23] In CHAPTER 4, FS-1.5, the Plan states: "Provide speed, consistency, and predictability for the land use entitlement processes while using these processes to add value and improve the quality of new development."
[24] PEOPLE OF THE STATE OF CALIFORNIA,ex ret EDMUND G. BROWN JR., ATTORNEY GENERAL, et al. , Plaintiff-Intervenor, v. CITY OF PLEASANTON, A MUNICIPAL CORPORATION; THE CITY COUNCIL OF PLEASANTON; AND DOES 1-10 Respondents and Defendants; Case No. RG 06 293831 Action Filed: October 17, 2006; County of Alameda
[25] Chapter 7, Page 40.
[26] CHAPTER 2, IE-1.13 "Achieve goals related to Quality Neighborhoods, including diverse housing options . . . to attract talented workers to the City."

- Nearly all of the sites designated by the City for residential development within the next 30 years are already developed, older commercial properties in areas questionably suitable for residential development.
- The Plan fails to provide an adequate range of new housing options (both rental and for-sale at varying densities) for families, seniors, and those who do not desire high-rise urban living.
- Even if future City Councils decide to reduce residential densities, perhaps to provide a greater range of housing options, the Plan seeks to prohibit them from doing so, even through amendment to the General Plan.[27]
- By severely limiting the location and availability of housing sites, as well as the densities and mix permitted, the Plan will deter, not promote, investment in the housing sector.

Moreover, although the City purports to provide residential growth capacity for up to 120,000 new units through 2040, the Plan makes clear that "location of a site within the Urban Village Boundary does not necessarily allow residential or other specific uses." Specific allowable uses will be determined through the Urban Village planning process.[28] The Plan states:

> "In most cases, the underlying Land Use Designation for properties within the Growth Areas continues to support employment uses, and should be maintained until the City is ready to plan and implement the redevelopment of these properties for new high-density, residential mixed-use development."[29]

This conditional framework inherently built-in to the 2040 General Plan raises concern over whether the Plan can meet State Law requirements for housing production.

State Law and Regional Impact of San Jose's Housing Policies

At the very least, it can be said that the City is not taking steps to remove unnecessary barriers to residential construction, as required by law. The Plan is unabashed over its bias against housing. The City blames historic patterns of housing development for its fiscal woes. The notion that housing doesn't pay for itself is entrenched in the City's belief system. Moreover, the City argues, San Jose has historically contributed more than its fair share of housing to the region, serving as a bedroom community to other job centers in Silicon Valley. The Plan plainly asserts that now it is time for other cities to step up and be held accountable for the region's pressing housing needs.

Regardless, State law prevents cities from acting in their self-interests to the detriment of their neighbors on issues of critical state-wide importance. The Legislature has declared that the availability of housing is a matter of "vital statewide importance" and that "the early attainment of

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[27] LU-10.6 "In identified growth areas, do not approve decreases in residential density through zoning change or development entitlement applications or through General Plan amendments." Such a restriction is likely not enforceable, given that the City cannot lawfully "bind the hands" of future Councils.
[28] CHAPTER 5, Page 22.
[29] CHAPTER 1, Page 68.

decent housing and a suitable living environment for every Californian . . . is a priority of the highest order." (Gov.Code §65580subd. (a).) More specifically, in adopting the Housing Element Law, Gov. Code sections 65580 *et seq.,* the Legislature intended, "To assure that counties and cities recognize their responsibilities in contributing to the attainment of the state housing goal" (Gov. Code §65581(a).) [30]

Furthermore, California Courts have recognized that it is contrary to the public interest for local communities to limit their obligations to provide for sufficient housing through restrictive growth management programs. For example, as Justice Mosk stated in his concurring opinion in *Building Industry Association v. City of Camarillo* (1986) 41 Cal.3d 810, 825:

> "I must repeat the misgivings I retain about the constitutional validity of no-growth or limited-growth ordinances. An impermissible elitist concept is invoked when a community constructs a legal moat around its perimeter to exclude all or most outsiders. The growing tendency of some communities to arbitrarily restrict housing to present residents appears at odds with Supreme Court pronouncements from *Shelley v. Kraeiner* (1948) 334 U.S. I, to the words of Justice Douglas in *Reitman v. Mulkey* (1967) 387 U.S. 369, 385: "housing is clearly marked with the public interest." [31]

Under Government Code section 65583, the City must "identify adequate sites for housing . . . and shall make adequate provision for the existing and projected needs of all economic segments of the community." The statute also provides, "These existing and projected needs shall include the locality's share of the regional housing need..." (Gov.Code,§65583 subd. (a)(l).) State law further mandates that "[i]n exercising its authority to zone for land uses and in revising its housing element ..., a city... shall designate and zone sufficient vacant land for residential use with appropriate standards, in relation to zoning for nonresidential use, and in relation to growth projections of the general plan to meet housing needs for all income categories as identified in the housing element of the general plan." (Gov. Code, §65913.1; *see also,* Gov. Code, § 65583 subd. (c)(l)(A).)[32]

Further, according to State law, "A land use restriction violates the Due Process Clause of the California Constitution if it is not reasonably related to the general welfare. (Cal. Const. art 1, §7(a).)[33] The Constitutionality of a restriction must be measured by its impacts not only upon the welfare of the enacting community, but upon the welfare of the surrounding region."[34] As described below, San Jose's 2040 General Plan could result in substantial unforeseen impacts, both economically and environmentally, to the Bay Area region as a whole.

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[30] Based on excerpts from a 2006 complaint filed against the City of Pleasanton for failure to meet its State housing obligations due to the adoption of a housing growth cap initiative. PEOPLE OF THE STATE OF CALIFORNIA,ex ret EDMUND G. BROWN JR., ATTORNEY GENERAL, et al. , Plaintiff-Intervenor, v. CITY OF PLEASANTON, A MUNICIPAL CORPORATION; THE CITY COUNCIL OF PLEASANTON; AND DOES 1-10 Respondents and Defendants; Case No. RG 06 293831 Action Filed: October 17, 2006; County of Alameda
[31] Ibid.
[32] Ibid.
[33] Ibid.
[34] Ibid.

Environmental Impacts

Though the Plan claims to adhere to Smart Growth principles, such as providing higher density, mixed use, walkable, urban areas, close to transit, the City's steadfast commitment to produce and maintain a ratio of 30% more jobs than employed residents undermines its case.

The optimal jobs-to-employed residents ratio is typically considered to be 1.0, which indicates that, theoretically, there are the same number of jobs in the city as workers who live there. A ratio greater than 1.0 indicates that the community provides more jobs than it has resident workers. "With this out-of-balance condition, the community is likely to experience in-commuting (traffic congestion), as those living outside the area commute to jobs inside the area, as well as intensified pressure for additional residential development to house the out-of-area employees locally. . . The resulting commuting patterns can lead to traffic congestion and related adverse air quality effects."[35]

Therefore, the City's General Plan, which promotes a sizeable imbalance between jobs and housing, and employs restrictive housing policies that limit options for future residents, will exacerbate commuting patterns, as workers employed in San Jose are unable to find sufficient housing to live near their work. This increase in commuting may adversely impact traffic congestion, air quality, and other environmental impacts."[36]

Economic Impacts

One of the biggest risks to San Jose's approach to linking jobs and housing is: what if San Jose does not get the number of jobs it wants? If jobs are the gatekeeper, housing production must wait and the City will not meet its housing production goals. What if every city held housing hostage to jobs? This strategy would act as a tourniquet restricting the vital flow of housing investment in the region. In turn, this would be a death knell for the economic future of the Bay Area, as other regions have become increasingly competitive for jobs.

According to ABAG's Regional Livability Footprint Project:

> "Chief among the factors negatively impacting the Bay Area economy is the shortage of housing. Many workers struggle to find housing they can afford, while businesses are facing upward pressures on wage levels, and often have difficulties recruiting employees.
>
> In recent years, new housing construction has not nearly kept up with the pace of job growth, particularly in booming job centers such as Silicon Valley, where just over half the housing needed for expected workers and their families by 2010 is projected to be built. If current trends continue, the Bay Area economy is projected to grow by an additional 1 million new jobs in the next 20 years. Local jurisdictions have zoned for only a little over half the amount of housing needed to accommodate these workers and their families . . . This will leave a staggering excess of 250,000 jobs over employed residents by 2020, leading to higher housing prices and more long-distance commuting." [37]

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[35] Berkeley Downtown Area Plan Draft EIR, Page 4-208
[36] Berkeley Downtown Area Plan Draft EIR, Page 4-208
[37] "Smart Growth Strategy: Regional Livability Footprint Project", August 2004, Association of Bay Area Governments

One of the Plan's major failings is the inability to grasp that San Jose plays a critical role in enticing jobs to the region. San Jose is consistently ranked one of the most desirable big cities to live in the country. With the largest land area of major cities in the Bay Area, San Jose has historically provided a range of attractive housing options that undoubtedly serves to attract talented workers and companies to the region, and to San Jose itself.

San Jose provides a vital role in housing production in the region and must continue to do so if the economy is to recover and regain the jobs lost. Mr. Levy writes:

> "The short answer to why California's job losses and unemployment rate are so high lies in the housing market. Home building fell from 200,000 units a year in 2005 to 40,000 in 2010, and 600,000 jobs were lost in construction and related sectors. In addition, the large loss in home values led to declines in consumer spending and local government revenues and employment." [38]

The Critical Link Between Job Growth and Housing Construction

The biggest failing of San Jose's General Plan land use policies is that they are based on a fundamental misunderstanding of the economics of job growth (aka "housing demand") as it relates to housing construction ("supply"). The Plan's policies - designed to "import" jobs and export housing to other cities in the region - will drive up housing costs in the City, disproportionately harm lower income households, thwart the City's efforts to attract jobs, and adversely impact the supply and distribution of housing throughout the Bay Area.

According to Raven E. Saks, an Economist at the Federal Reserve Board, in a Working Paper on the correlation between restrictive housing construction polices and job creation by the Joint Center for Housing Studies at Harvard University, Ms. Saks concludes: [39]

> "Housing supply regulations have a substantial impact on housing and labor market dynamics in metropolitan areas across the United States. By raising the marginal cost of construction, land use restrictions and other government regulations lower the elasticity of housing supply. Thus, these regulations change the geographic distribution of relative housing prices and alter the pattern of labor migration. As a result, employment growth is lower in places where the housing supply is more constrained.
>
> Indeed, metropolitan areas with constrained housing markets respond differently to a labor demand shock than less restricted locations. Raising the degree of housing supply regulation by one standard deviation results in 17 percent less residential construction and twice as large growth in housing prices in response to an increase in labor demand. Moreover, housing supply regulations have a lasting effect on metropolitan area employment. In the long run, an increase in labor demand results in 20 percent less employment in metropolitan areas with a low elasticity of housing supply.

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[38] "California's economic health needs varied remedies", Stephen Levy, SFGate.com, January 9, 2011

[39] "Job Creation and Housing Construction: Constraints on Employment Growth in Metropolitan Areas" , Raven E. Saks, Joint Center for Housing Studies, Working Paper Series, John F. Kennedy School of Government, Harvard University, December 2004. (Citation from California Department of Housing and Community Development website.)

> These results demonstrate that the interaction between the housing supply and local labor markets is an important determinant of regional patterns of employment growth.
>
> As places with a large degree of regulation experience rising housing prices, these restrictions may also have an impact on the composition of the population within metropolitan areas. Because young people and minorities have a higher propensity to move (U.S. Census Bureau 2004), areas with many housing supply constraints may end up with a smaller fraction of people in these groups. Furthermore, high housing prices may mean that only rich people can afford to move into an area and that poorer people are forced out, leading to higher income inequality within the area (Gyourko, Mayer and Sinai 2004)."; and
>
> ". . . . The results in this paper show that the costs of housing supply regulations will be underestimated if the effects on the labor market are not taken into account. Therefore, a complete discussion of land use policy should include not only the impact on housing markets, but the implications for labor markets and employment growth as well."

Over the past decade, Oakland and San Francisco have successfully lured high-tech and green-tech companies with aggressive housing production. The new wave of Bay Area internet, social media and renewable energy companies is spreading up and down the San Francisco Peninsula, and to East Bay cities as well, seeking affordable and livable communities for their employees. These cities have wisely recognized that job growth and housing production are synergistic.

Competition for companies among cities regionally and nationally is, and will continue to be, fierce. But San Jose can earn its fair share of jobs by establishing rational policies that companies and investors can understand. Unfortunately, the 2040 General Plan sends a mixed message to job generators: we want your employees to work here but we don't want them to live here.

Housing: The Fiscal Scapegoat

San Jose city planners and economic development administrators have done the City and its residents a disservice: they have made them fear housing. Fed a steady diet that housing is a deadly drain on city services, San Jose policy makers have bought into a whole slew of cockeyed methods for controlling and micro-managing growth via the City's newly minted 2040 General Plan. These types of methods have never, nor will they ever, bear fruit.

Planners are taking the City down a dangerous path under the misguided notion that they can fix San Jose's fiscal predicament by turning housing away. Although the Plan sets aside a theoretical capacity for 120,000 new units through 2040, planners are playing a rather transparent numbers game in order to meet San Jose's RHNA allocation. The practical import of the City's land use policies is that most of this housing will never get built. The Plan stifles demand by restricting the housing choices for prospective residents to high density living (5 to 10 stories) in marginal commercial and industrial areas that lack neighborhood amenities and access to quality schools. Moreover, the Plan imposes excessive risk and regulatory burdens on developers. Investment flows into a rational market relatively free of unnecessary regulatory

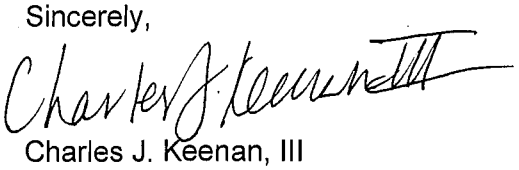
obstacles. Not only does San Jose's housing production strategy defy State housing regulations, but it puts the City at risk of stagnating.

San Jose planners and finance officers point to historic land use policy as the major cause of the City's fiscal problems (with the cost of providing services to low density neighborhoods as the culprit). They are convinced that by subordinating housing production to job growth, and transitioning the City from a suburban haven to a mature urban city, they can move the fiscal arrow from red to black. Such notions are vastly over simplistic, and underestimate to San Jose's detriment, the innumerable factors that contribute to the City's fiscal health. Such factors include budget policy, growth in employee salaries, pensions and benefits, and economic, regulatory and other factors.

San Jose's signature neighborhoods have become the popular scapegoat for poor decision-making and a lack of fiscal rectitude by a City that historically has placed a higher priority on building up downtown (pouring $2 billion into redevelopment), than safeguarding its greatest assets. San Jose is not an urban city like San Francisco or Chicago or Boston, and it doesn't need to be. The attributes that define San Jose are attractive neighborhoods, a high quality of life, outstanding schools and extraordinary human capital. San Jose consistently ranks one of the most highly livable cities in the country. Of course, residents want less traffic congestion. They want more money for parks and libraries. But they don't care about competing with San Francisco for regional stature. It's not the residents that have a chip on their shoulders – it's the inhabitants of City Hall who can't seem to shake it.

If one of San Jose's primary goals is to remain an economic engine of technological growth that fuels the region and the nation, it needs to re-examine what has driven the City's success to date, and what is necessary to drive its success in the future. The first step is to understand that supplying great neighborhoods and attracting jobs are inextricably linked. The highly imbedded "group think" that has taken hold at City Hall which has made housing "the enemy" makes it difficult to have meaningful dialogue and participation on the critical issues facing the city.

Sincerely,



Charles J. Keenan, III

Cc: Kamala D. Harris, Attorney General for the State of California
Cathy E. Creswell, Director, California Dept of Housing and Community Development
Paul Campos, General Counsel, Building Industry Association
Ed Berg, Manatt, Phelps and Phillips, LLP
Anne Mudge, Cox Castle and Nicholson

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2012 JAN 19 AM 10:19

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

NOTICE OF PUBLIC HEARINGS ON A SUBSTANTIAL AMENDMENT TO THE 2011-2012 CONSOLIDATED ANNUAL ACTION PLAN

THIS NOTICE is to announce public hearings on a Substantial Amendment to the 2011-2012 Consolidated Annual Action Plan for the City of San Jose to:

1. **Budget $550,000 of Community Development Block Grant (CDBG) funds for the City's Fire Department to purchase fire protection equipment (a fire truck) to serve a Low-Moderate Income Area; and**
2. **Direct $100,000 of HOME Investment Partnership (HOME) program funds to implement a tenant-based rental assistance pilot program which has a target population of low-income, homeless households and individuals with substance abuse problems who live in and around Saint James Park in Downtown San Jose.**

A draft document of the amendment(s) will be available for review on the first day of the public comment period at the City of San Jose Housing Department, 200 East Santa Clara Street, 12th Floor, San Jose, CA 95113, or online at http://www.sjhousing.org/

The Consolidated Annual Action Plan outlines the City's proposed activities to meet the housing and community development goals outlined under the federally-required Consolidated Plan, and covers the HOME Investment Partnership Program (HOME), the Emergency Shelter Grant (ESG) Program, the Community Development Block Grant (CDBG) Program, and the Housing Opportunities for People with AIDS (HOPWA) Program

The following is the anticipated schedule for the review and approval of the Substantial Amendment:

Date	Action
January 19, 2012 – February 28, 2012	Public review and comment period
January 25, 2012	Housing and Community Development Advisory Commission Public Hearing 200 East Santa Clara St., 12th Floor, Room 1254 San José, CA 95113 5:45 PM
February 28, 2012	City Council Public Hearing and Final Action City Council Chambers, San José City Hall, 200 East Santa Clara St. San José, CA 95113 1:30 PM

The public is invited to attend any of the meetings listed above or provide written comment to the City of San José Housing Department, 200 E. Santa Clara Street, San José, CA 95113, Attn: Daniel Murillo. Comments may also be submitted via e-mail to daniel.murillo@sanjoseca.gov or via telephone at (408) 793-4195. For those with speech/hearing impediments or those requiring special assistance under the Americans with Disabilities Act, please call (408) 294-9337 (TTY) as soon as possible, but at least three business days before the meeting.

Este aviso contiene información sobre modificaciones al Plan Consolidado – Plan de Acción Anual 2011-2012 para San José. Para más información, póngase en contacto con Eric Calleja al 408-975-2650.

本通知含有關於聖荷西整合計劃 – 2011-2012 年度行動計劃的資訊。詳情請致電 535-8242 洽詢 Linda Chan ...

Thông báo này có thông tin về các sửa đổi trong Kế Hoạch Thống Nhất - Kế Hoạch Hành Động Hàng Năm 2011-2012 cho San Jose. Để biết thêm chi tiết, xin liên lạc Therese Tran tại số 408-793-5549.

David S. Wall

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2012 JAN 19 P 4: 20

January 19, 2011

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

Re: (Week #3): City Manager has yet to publically "Thank" City Attorney for "bailout" on EIC!

The City Manager's "Thank-You" to the Attorney should be public and in writing for all to hear & see.

First salvo of lost taxpayer money for the ridiculously insane EIC is now for the ages.

City Manager should resign, Assistant City Manager should resign.

The Applegate Johnson, Inc. settlement as it fully appears on the City Council Meeting Agenda for [Tuesday, (01.10.12); Consent Calendar, (Item 2.7)] is a glaring testament that the Mayor and six (6) Councilmembers political careers should be over. Throwing away $440,000 "free dollars" let me repeat, "Free dollars" is why the city's finances are in the bottom of a roadside ditch.

The time for charity is over. The Piper must be paid.

Does the City Manager, Assistant City Manager and two (2) Deputy City Managers have any justifiable excuse(s) as to why the city engineer didn't "light a fire" under the rump or rumps of the contractor building Fire Station No.19 so the $440,000 dollars in liquidated damages would not have occurred in the first place? If so, what are the "excuses?"

Does the City Manager, Assistant City Manager and two (2) Deputy City Managers have any justifiable excuse(s) as to why FUND 475 was used without noting the "restrictions on this FUND" for spending $105, 000 on a "Public Art project" located at Fire Station No. 19? Again, list the excuses.

Does the City Manager, Assistant City Manager and two (2) Deputy City Managers have any justifiable excuse(s) as to why "no one" was not paying attention to the insurance and bonding requirements required by the New Market Tax Credit lenders in reference to the $4,500,000 loan the city was applying for to fund the ridiculously insane Environmental Innovation Center (EIC). Again, list the excuses.

How is it possible that a company that racked up $440,000 in liquidated damages is allowed to compete for any other contract in the city? Then the same company is awarded over $10,000,000 in an additional contract to build the ridiculously insane Environmental Innovation Center?

Mayor Reed, Vice-Mayor Nguyen, Councilmembers; Constant, Herrera, Liccardo, Pyle, and Rocha should all "pony-up" $440,000 from their salaries to compensate the loss since the aforementioned "voted" in the affirmative to settle with Applegate-Johnson.

Whether or not the Council could get the City Manager, the Assistant City Manager and all other participants in this grievous scandal to "chip in" is their responsibility.

Respectfully submitted,

David S. Wall
01.19.12

Cc: City Attorney / City Auditor / Manager

David S. Wall

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San Jose City Clerk

2012 JAN 19 P 4: 19

January 19, 2011

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

Re: Eliminate the "Office of Cultural Affairs" and the "Public Art Tax!"

Office of Economic Development should perform or face the budgetary axe.

The Office of Cultural Affairs is a grotesque waste of taxpayer monies. Fund raising or "grant farming" can be accomplished by third party contractors. Providing entertainment for the Downtown as well as for the entire city could be done more efficiently by doing business with the Downtown Business Association directly.

There is a need for the city to monitor contracts with consultants. This is an Attorney function. Cutting out the wasteful "Office of Cultural Affairs" and corresponding "overhead costs," consolidating contract; formation, oversight and compliance within the Office of the City Attorney is the right move. It is always prudent to have as many Attorneys on the payroll than a myriad of administrative flunkies in the Office of the City Manager.

The Office of Economic Development has become a bloated empire all into and about itself. If noteworthy performance in the improvement of the San José economy occurs from their efforts, they have earned their pay. However, excuse making and marginal accomplishments should be regarded as the sound that blowhards make as they receive the "boot of separation from service" as applied to their administrative backsides. Continuous performance is the only expectable standard.

The ART TAX must go.

The ART TAX, the percentage of taxpayer monies allocated for "Public Art" added to the cost of a public building must be eliminated. This tax supports the grotesque "Public Art" infrastructure; the unacceptable high salaries, benefits, retirements and worst of all…the "Art."

YOU should all be prepared to explain your parts in creating the city's protracted deficits to begin with. Having to explain why the enormous costs of "Public ART" is going to enhance a Fire Station operations or any other public building to the taxpayers is going to be come increasing difficult.

Public Art should be financed through donations. You have never had the money to create the wasteful Public Art infrastructure of the unacceptable high salaries, benefits, and retirements.

It would be interesting commentary of the Office of the City Manager as to the "Public Art Tax" revenues and alternatives to manage the accursed program at a lower cost prior to eliminating this ridiculous waste of taxpayer monies and their contributions to the "unfunded liabilities."

Respectfully submitted,

David S. Wall
01.19.12

Cc: City Attorney / City Auditor / Manager

David S. Wall

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San Jose City Clerk

2012 JAN 19 P 4: 19

January 19, 2011

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

Re: Should the City Manager and Assistant City Manager resign over Applegate-Johnson?

Add in the problems at ESD, especially at WPCP for they are "Legion."

Don't forget the $500,000 dollars lost on Mercado Suvianda.

Don't forget 9-Par Anaerobic Digester project.

Don't forget the "Drunk in Public Task Force appointments."

They should have been asked to resign a long time ago.

A good reason: "Not paying a lick of attention" to the accursed New Market Tax Credit requirements to obtain a $4,500,000 loan for the ridiculously insane Environmental Innovation Center thereby; causing to be wasted $440,000 dollars of "FREE MONEY", that could have gone into the General Fund that flowed from "piss-poor oversight" of the construction of Fire Station No. 19 via "Liquidated Damages."

The Assistant City Manager didn't even know that the Municipal Regional Storm Drain National Pollution Discharge Elimination System (NPDES) permit was different from the NPDES permit regulating the San José / Santa Clara Water Pollution Control Plant. This was evident during testimony at the Rules and Open Government Committee Meeting on [Wednesday: (01.10.12); for the City Council Agenda (01.24.12); Item 7.1 (a): "Actions related to a Short Term Trash Load Reduction Plan."]

Further, the Management of the Watershed Protection Division has been a problem for several years. How many negative "Environmental Protection Agency (EPA) Audits and Administrative Orders" flowed from the "Source Control program?

The complete lack of oversight by the entire Senior Staff at ESD concerning the same as they justified ramping up Watershed Protection Division with at least five (5) Program Manager positions, the issue of "hiring friends" for some of these positions and not to forget; the grossly incompetent excuses for deferrals of reports to the Transportation and Environment Committee with reference to protecting the thirty-thousand (30,000) storm drains from being the conduit of trash and debris to the waterways of San José.

What really bothers me the most? None of the above as well as other acts of mentally retarded management decisions would have ever been permitted to occur if I was the City Manager.

Respectfully submitted,

David S. Wall
01.19.12

Cc: City Attorney / City Auditor / Manager

David S. Wall

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2012 JAN 19 P 4: 18

January 19, 2011

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

Re: Accurate clothing allowances for city employees are fair if YOU enforce a "Dress Code."

Too many employees "have to" wear suits, ties, etcetera while taking pay and benefit cuts.

Employees should be able to dress in blue jeans and Hawaiian shirts every day of the week.

Why should employees "have to tolerate" an archaic dress code?

It is past time for employees to be able to dress in clothes they are comfortable in and can afford.

Why should employees be compelled to purchase wardrobes that require an enormous amount of time and money to maintain a façade they do not want or wish to spend what little money that has yet to be stolen from them by your budgetary impositions?

Not to mention the lack of "Greenness" that these wardrobes wrought on the environment.

All that fuel and time spent going to and from the drycleaners, (since YOU took away their ECO PASSES), and for what, so they can look good on their way to the poor house as YOU cut their pay and benefits? No, that is not right.

How about "Spare the Air" by allowing city employees to wear bib-overalls and a dungy white T-shirts? Works for me and I still make better decisions than the entire Office of the City Manager and Council combined.

Every meeting I attend at city hall has city employees dressed in the most expensively uncomfortable clothes on the planet. If they are forced to do so by governmental edict, then they should receive a clothing allowance that reflects the actual costs of maintaining this farce.

I am even told that employees in Human resources and the Office of Employee Relations have to wear "leather shoes" instead of "sneakers" and that in itself is an interesting philosophy. One would think that the good folks at OER could walk all over and destroy the careers of city employees in "sneakers" just as well as by wearing leather shoes (although hobnailed Nazi storm trooper boots seem to be preferred).

Respectfully submitted,

David S. Wall
01.19.12

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