



Memorandum

TO: Honorable Mayor &
City Council

FROM: Dennis Hawkins, CMC
City Clerk

SUBJECT: The Public Record
March 16 - 22, 2012

DATE: March 23, 2012

ITEMS TRANSMITTED TO THE ADMINISTRATION

ITEMS FILED FOR THE PUBLIC RECORD

- (a) Letter from Mayor Reed to Egon Terplan, Regional Director, SPUR, dated March 20, 2012 regarding Mr. Terplan's March 9, 2012 letter regarding discussion papers - *Reforming Regional Government: Adjusting county and city representation at the Metropolitan Transportation Commission.*
- (b) Letter to City Clerk Dennis Hawkins from Jim Lawson, Executive Policy Director, Santa Clara County Valley Transportation Agency, dated March 9, 2012 offering to present information to the City Council regarding a proposal for a Blended High Speed Rail/Caltrain project on the Caltrain right of way.
- (c) Notification letter to Mayor Reed and City Council from PG&E dated March 13, 2012 regarding Application Filing to recover costs associated with its customer data access application (A.12-03-002)
- (d) Notification letter to Mayor Reed and City Council from Verizon Wireless dated March 13, 2012 regarding Piedmont Sierra of GTE Mobilnet of California Limited Partnership (U-3002-C) of San Jose, CA MSA
- (e) Letter to Mayor Reed and City Council from Ranjan J. Mathew dated March 23, 2012 regarding a request to postpone the John Mise upgrade topic at the City Council.
- (f) Letter to Mayor Reed and City Council from the Senior Citizens Commission Chair Martha O'Connell dated March 21, 2012 regarding Adult Activity Cards.
- (g) Letter to Mayor Reed and City Council from David Wall dated March 19, 2012 regarding "demand for REFUND of portion of Sewer Services and Use (& other damages) as applied to SBWR."
- (h) Letter to Mayor Reed and City Council from David Wall dated March 20, 2012 regarding "All Tributary Agencies and hundreds of thousands of citizens ready for SBWR refunds/damages."
- (i) Letter to Mayor Reed and City Council from David Wall dated March 20, 2012 regarding "ESD employee gives 6-week notice to quit job, but gets to travel to a conference, on the City's dime?"
- (j) Letter to Mayor Reed and City Council from David Wall dated March 21, 2012 regarding "****Correction & Apologies*** Wrong 'State' cited as travel destination."
- (k) Letter to Mayor Reed and City Council dated March 22, 2012 regarding "(Week #4): City Manager needs to 'Thank' City Attorney do to Convention Center Screw-up!"
- (l) Letter to Mayor Reed and City Council from David Wall dated March 22, 2012 regarding "(Week #12): Billowing plumes of 'Black smoke' emanate from 17th Floor. (No Apology, yet.)"

Honorable Mayor and City Council Members
March 23, 2012
Subject: The Public Record: March 16 -22, 2012
Page 2 of 2

- (m) Letter to Mayor Reed and City Council from David Wall dated March 22, 2012 regarding "ICMA says, 'March is National Ethics Awareness Month – Make Ethics Your Personal Cause.'"



Dennis Hawkins, CMC
City Clerk

DH/tld

Distribution:	Mayor/Council	Director of Transportation
	City Manager	Public Information Officer
	Assistant City Manager	San José Mercury News
	Assistant to City Manager	Library
	Council Liaison	Director of Public Works
	Director of Planning	City Auditor
	City Attorney	Director of Finance



Chuck Reed
MAYOR

March 20, 2012

Egon Terplan
Regional Planning Director, SPUR
38 West Santa Clara Street
San José, CA 95113

Dear Mr. Terplan,

Thank you for your recent letter dated March 9, 2012 regarding the discussion paper entitled *Reforming Regional Government: Adjusting county and city representation at the Metropolitan Transportation Commission*.

I thank you for your support of AB 57, which takes a critical first step in reforming our governance structure by adding two voting seats for the cities of San José and Oakland. San José and Oakland have long been underrepresented and I appreciate SPUR's efforts to create a more fair MPO governance structure.

Thank you for sharing your organization's study of MPO governance. I look forward to working with you on this very important issue.

Sincerely,

A handwritten signature in cursive script that reads "Chuck Reed".

Chuck Reed
Mayor

RECEIVED
San Jose City Clerk

2012 MAR 13 P 2:27



March 9, 2012

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

At the request of the Santa Clara Valley Transportation Authority Board of Directors, I would like to offer an opportunity for a presentation to the City Council at either a Council Meeting or a workshop on the recent proposals for a Blended High Speed Rail/Caltrain project on the Caltrain right of way.

By way of background, last year there was a request by Congressman Anna Eshoo, State Senator Joe Simitian and State Assemblymember Richard Gordon to consider using existing rail corridors throughout the state when planning High Speed Rail. As a result, the California High Speed Rail Authority (CHSRA) has included the so-called "Blended System Approach" for the northern and southern portions of the project in its Draft Business Plan.

To provide near-term benefits to the urban areas at each end of the proposed line, CHSRA Chair Dan Richard has proposed an early investment strategy, where investments of state Prop 1A funds are made in Northern and Southern California at the same time the Central Valley portion is being constructed.

Caltrain performed an initial analysis of this approach and found it to be technically feasible along the Peninsula corridor.

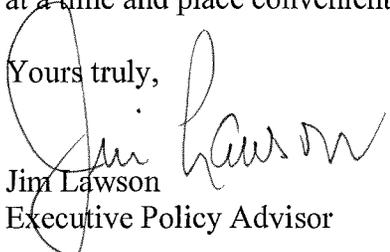
Under this scenario, Southern California, and the jurisdictions in that area, have already defined a list of projects to improve service and are circulating a Memorandum of Understanding (MOU) to define their agreement and most importantly, specify the necessary matching funds.

Northern California is expected to receive approximately \$700 million. Led by the Metropolitan Transportation Commission (MTC), the region is defining applicable projects and investigating potential local, state (non-Prop 1A), and federal funds to achieve the necessary fund match. A draft MOU is currently in circulation.

Attached for your information is a copy of the presentation made by Caltrain staff at the March 1, 2012 Peninsula Corridor Joint Powers Board Meeting.

MTC plans to consider the draft MOU at its April Committee and May Commission meetings. If you would like more information on this matter, please feel free to contact me at (408) 321-5516 to schedule a presentation at a time and place convenient for your city.

Yours truly,



Jim Lawson
Executive Policy Advisor



Caltrain Modernization Program

Prepared for: Stakeholder outreach meetings
Prepared by: Caltrain staff
February 2012



Presentation

- Blended System Planning Update
- Early Investment Proposal



Blended System Planning Update



Context

- HSR approved by voters
- Caltrain corridor selected to support HSR
- Both systems need electrified corridor
- Caltrain and HSR partnership
- Combine resources to modernize corridor



HSR Original Plan

- **“Full Build” project in peninsula**
 - 4 track system
 - Fully grade separated
- **Local rejection**
- **HSR “Full Build” design & project environmental activities in peninsula on hold**



Peninsula Vision

- **Elected officials call for “blended system”**
- **What is it?**
 - Electrified railroad from SJ to downtown SF
 - Support both Caltrain and HSR
 - Maximize use of existing tracks
- **Why?**
 - Minimize community impact
 - Lower project cost
 - Advance project delivery



Is the Blended System Feasible?

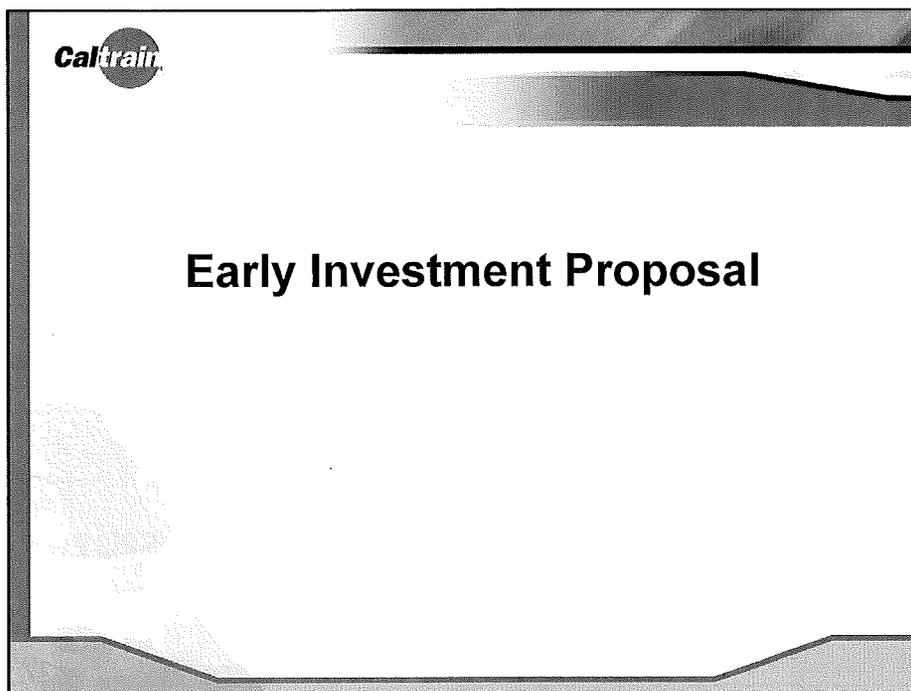
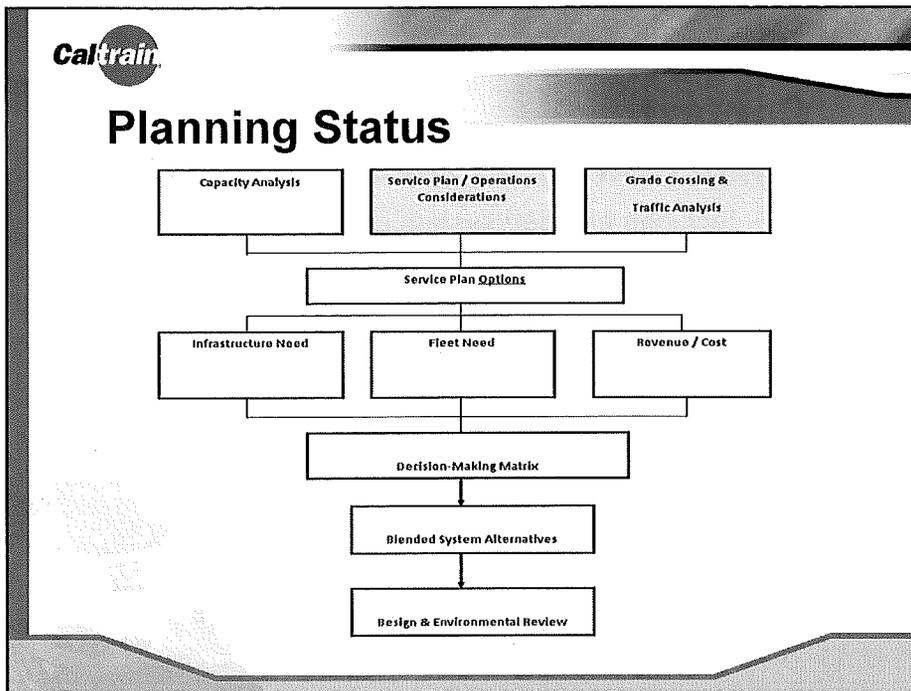
- Multiple considerations
- 1st address operational feasibility
- Computer simulation of existing railway
 - Existing mainline tracks
 - Electric system with advanced signal system
 - 3 HSR stations
 - Passing tracks



Key Findings

- Blended system concept has merit
- Potential: Up to 10 trains / hour / direction
- Speeds up to 79mph and 110mph

# of Trains	Without Passing Tracks	With Passing Tracks
Caltrain	6	6
HSR	2	4





Context

- **HSR Draft Business Plan**
 - Includes blended system concept
 - Discusses early investment in existing rail systems
- **Input to HSR Revised Plan**
 - Identification of early investment projects
 - Southern CA projects defined
 - Bay area projects being defined



Early Investment Parameters

- Located in HSR SJ to SF segment
- Support Caltrain modernization & blended system
- Do not compromise local planning process
- Short-term timeframe
- Funding: Prop 1A and match (up to \$2B?)



Draft Proposal

- **Vision: Blended System to downtown SF**
- **Early Investment**
 - Electrified Caltrain service
 - Caltrain/HSR transfer at Diridon
- **Recommended Priority Projects**
 - Advanced signal system (\$231M)
 - Caltrain electrification (\$785M)
 - Electric trains (\$440M)
 - Infrastructure upgrade (TBD)
 - Rail crossings upgrade (TBD)
 - SF / SJ (TBD)



Draft Proposal, cont.

- **Additional Investment**
 - HSR one-seat ride LA to SF
 - Cost and funding TBD
- **Key Projects**
 - DTX
 - HSR and Caltrain system integration
 - Infrastructure upgrade
 - Stations upgrade
 - Rail crossings upgrade
 - Passing Tracks TBD
 - Storage and Maintenance Facility TBD



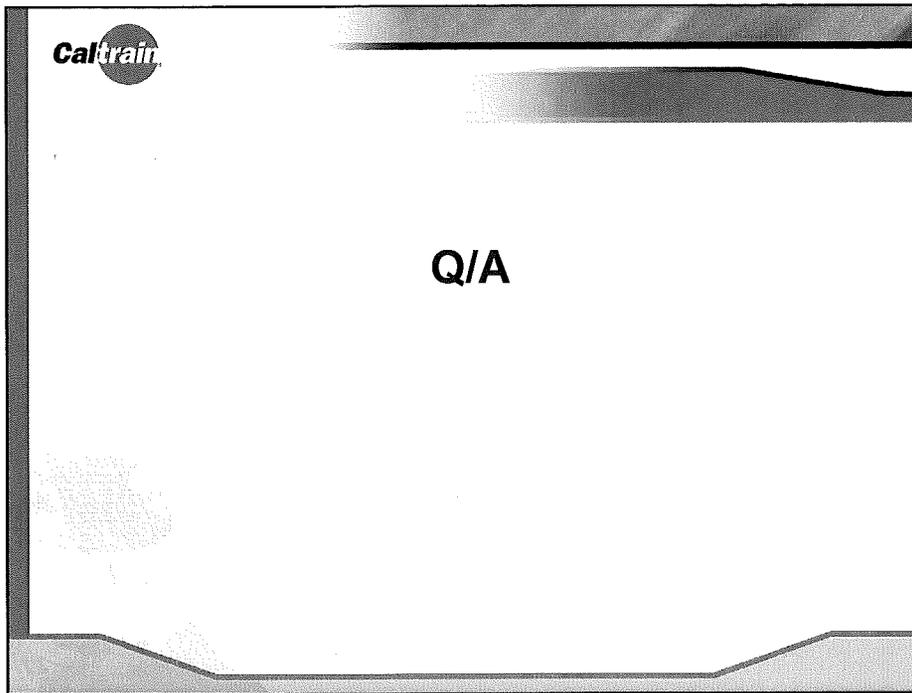
Outreach

- **City/County staff coordination**
- **Transportation agency coordination**
- **Public meetings**
 - CC meetings as requested
 - SM Rail Corridor (February 29th)
 - PCC (March 2nd)



Upcoming Transportation Meetings

- **JPB meeting – March 1st**
- **MTC meeting – March 28th**
- **HSR Board meeting – April 5th**



March 13, 2012
 TO: STATE, COUNTY AND CITY OFFICIALS

**NOTIFICATION OF APPLICATION FILING BY PACIFIC GAS AND ELECTRIC COMPANY TO RECOVER COSTS
 ASSOCIATED WITH ITS CUSTOMER DATA ACCESS APPLICATION
 (A.12-03-002)**

RECEIVED
 San Jose City Clerk

2012 MAR 16 P 2:28

What is the Customer Data Access Application?

On July 28, 2011, the California Public Utilities Commission (CPUC) issued Decision (D.) 11-07-056 which ordered Pacific Gas and Electric Company (PG&E), Southern California Edison and San Diego Gas and Electric Company to file applications with the CPUC to provide third party access to a customer's energy usage data via the utility backhaul when authorized by the customer.

On March 5, 2012, PG&E filed application 12-03-002 (Customer Data Access Project) with the CPUC to comply with the CPUC's order. Through its Customer Data Access Project, PG&E will develop a system that will allow third parties to access customer energy usage data **once the third party has been authorized to do so by the customer**. To implement this project, PG&E is requesting **\$19.4 million** to be recovered from rates from 2013 through 2016.

Will Electric Rates Increase?

Yes, this request will result in a slight increase to electric rates for bundled service customers (those using electric generation, transmission and distribution service from PG&E) and for direct access and community choice aggregation customers (those purchasing electricity from non-PG&E suppliers). Approval of this application will increase bundled rates by less than one percent. Using the 2016 (highest single year) combined cost of \$5.59 million, the bundled system average rate increase will be 0.05 percent, relative to current rates.

FOR FURTHER INFORMATION

To request a copy of the application and exhibits or for more details, call PG&E at **1-800-743-5000**.

For TDD/TTY (speech-hearing impaired), call **1-800-652-4712**.

Para más detalles llame al **1-800-660-6789**

詳情請致電 **1-800-893-9555**

You may request a copy of the application and exhibits by writing to:

Pacific Gas and Electric Company
 Customer Data Access Application
 P.O. Box 7442, San Francisco, CA 94120

THE CPUC PROCESS

The CPUC's Division of Ratepayer Advocates (DRA) will review this application.

The DRA is an independent arm of the CPUC, created by the Legislature to represent the interests of all utility customers throughout the state and obtain the lowest possible rate for service consistent with reliable and safe service levels. The DRA has a multi-disciplinary staff with expertise in economics, finance, accounting and engineering. The DRA's views do not necessarily reflect those of the CPUC. Other parties of record may also participate.

The CPUC may hold evidentiary hearings where parties of record present their proposals in testimony and are subject to cross-examination before an Administrative Law Judge (ALJ). These hearings are open to the public, but only those who are parties of record may present evidence or cross-examine witnesses during evidentiary hearings. Members of the public may attend, but not participate in, these hearings.

After considering all proposals and evidence presented during the hearing process, the ALJ will issue a draft decision. When the CPUC acts on this application, it may adopt all or part of PG&E's request, amend or modify it, or deny the application. The CPUC's final decision may be different from PG&E's application.

If you would like to learn how you can participate in this proceeding or if you have comments or questions, you may contact the CPUC's Public Advisor as follows:

Public Advisor's Office
 505 Van Ness Avenue
 Room 2103
 San Francisco, CA 94102 **1-415-703-2074** or **1-866-849-8390** (toll free)
 TTY **1-415-703-5282** or **1-866-836-7825** (toll free)
 Email to public.advisor@cpuc.ca.gov

If you are writing a letter to the Public Advisor's Office, please include the number of the application (12-03-002) to which you are referring. All comments will be circulated to the Commissioners, the assigned Administrative Law Judge and the Energy Division staff.

A copy of PG&E's Customer Data Access Application and exhibits is also available for review at the California Public Utilities Commission, 505 Van Ness Avenue, San Francisco, CA 94102, Monday-Friday, 8 a.m.-noon, and the CPUC's website at www.cpuc.ca.gov/puc.

RECEIVED
San Jose City Clerk

2012 MAR 21 P 3: 28

verizonwireless

1120 Sanctuary Pkwy
Suite 150
MC: GASA5REG
Alpharetta, GA 30009
(770) 797-1070

March 13, 2012

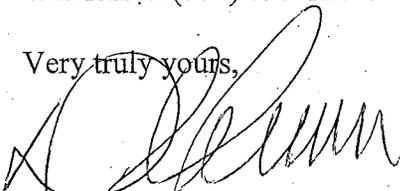
Ms. Anna Hom
Consumer Protection and Safety Division
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102
alh@cpuc.ca.gov

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

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 Dave Chervin of Verizon Wireless at (770) 797-1284.

Very truly yours,



David A. Chervin
Verizon Wireless
MTS Network Compliance

Attachment A

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

1. PROJECT LOCATION: Piedmont Sierra - Mod

SITE NAME: Piedmont Sierra
SITE ADDRESS: 3430 Sierra Rd
LOCATION: San Jose, CA 95132
COUNTY: Santa Clara
APN: 595-04-073
COORDINATES: 37° 25' 05.00"/121° 50' 30.30" (NAD83)

2. PROJECT DESCRIPTION:

GTE Mobilnet of California Limited Partnership (U-3002-C) proposes to extend the existing AT&T stealth bell tower and raise the six (6) existing panel antennas.

ANTENNAS: Six (6) Panel Antennas
TOWER DESIGN: Stealth bell tower
TOWER APPEARANCE: Stealth bell tower
TOWER HEIGHT: 40 ft
BUILDING SIZE: N/A
OTHER: N/A

Notification Letter
GTE Mobilnet of California Limited Partnership (U-3002-C)
March 13, 2012
Page 3

3. BUSINESS ADDRESSES OF ALL LOCAL GOVERNMENT AGENCIES:

Cc: Laurel Prevetti
Planning Director
Santa Clara County Planning Division
200 E. Santa Clara St.
San Jose, CA 95113

Debra Fogone
City Manager
Santa Clara County
200 E. Santa Clara St.
San Jose, CA 95113

Dennis Hawkins
City Clerk
Santa Clara County
200 E. Santa Clara St.
San Jose, CA 95113

4. LAND USE APPROVALS:

Type: Development Permit Adjustment
Issued: 7/22/11
Effective: 7/22/11
Agency: San Jose Dept of Planning
Permit No.: AD11-602
Resolution No.: N/A

Type: Building Permit
Issued: 10/14/2011
Effective: 10/14/2011
Agency: City of Santa Clara
Permit No.: 36036
Resolution No.: N/A

Mar 23, 2012

RECEIVED
San Jose City Clerk

Ranjan J Mathew

2012 MAR 23 A 9: 54

Subj: Request to postpone the John Mise upgrade topic at the City Council

Mr Mayor :

My name is Ranjan Mathew and I am a resident and a taxpayer on Park Meadow Drive , West San Jose, which is next to John Mise Park.

Two weeks ago on March 7, the Parks and Recreation Commission by a majority vote of 5- 2 rejected the proposal by the Parks, Recreation and Neighborhood Services, the PRNS, to upgrade John Mise Park in West San Jose.

It also gave the PRNS two action items :

- a) study why other sites were not chosen first and return with a detailed spreadsheet analysis of why Mise should even be a candidate.
- b) complete the Mise upgrade proposal factoring in the neighbor's needs/requirements (e.g no fence, no turf , etc) .

Since Mar 7, we have learned that the PRNS staff intends to ignore or not disposition the recommendations of the Parks Commission and proceed to submit the proposal directly to the City Council , effectively bypassing any of these advisory commissions and a public preview of what the City Council is to hear.

We also learned that the City Council can choose to ignore the Parks Commission or the Planning Commission recommendations, and any other commission , since all these commissions are only advisory bodies .

In the eyes of the neighborhood there is considerable opposition to the John Mise upgrade proposal and we have more than 800 petition signatures . Within the city of San Jose, Lynbrook High School similarly proposed to upgrade their sport field to artificial grass, and a formal EIR was commissioned which included a traffic safety report, noise assessment, and lighting impact.

John Mise should receive no less a purview than the Lynbrook matter, through its own Full EIR .

Some of us have formally petitioned both the Planning Commission as well as the Planning Department Director to grant the Mise proposal a full EIR review and we await their formal response, now that it has been presented in a public forum.

If the PRNS Staff and the City Council chooses to ignore the Parks commission outcome and the formal request by a resident to the Planning Commission and Director , for a formal Environmental Impact Report , and ignores the more than 800 petitioners and knowingly proceeds with the Mise proposal vote nonetheless, then this fits the definition of tyranny.

None of the checks and balances offered by the presence of these commissions and the petitions of the residents to desist would seem to matter , if the City Council should be so arrogant as to proceed with the vote..

We urge the Rules Committee not to be a party to this farce by advancing the John Mise upgrade as an agenda item at the upcoming City Council meeting until the public has fully and transparently heard the PRNS response to both the Parks commission recommendations as well as the Planning Department and Commission direction on granting the proposal a full EIR .

Therefore, I request the Rules Committee postpone the review of the John Mise proposal and remove it from the upcoming City Council agenda.

SENIOR CITIZENS COMMISSION

City of San Jose
Community Services
1694 Adrian Way
San Jose, Ca 95122

March 21, 2012

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

Dear Honorable Mayor Reed and City Council:

At its March 8, 2012 meeting, the Senior Commission passed the following motion:

That the redemption value on the current Adult Activity Cards be extended until the end of December 31, 2012 (currently set to expire March 31, 2012).

This will allow those Seniors who have purchased these cards to use at the City's Senior/Community Centers to have more time to do so. Many Seniors have health and transportation issues. Extending the period of time that they can use the redemption value, for which they have already paid, is a much needed accommodation.

Sincerely,



Martha O'Connell,
Chair, Senior Citizens Commission

/LB

David S. Wall

RECEIVED
in Jose City Clerk

March 19, 2012

2012 MAR 20 A 1:53

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

Re: Demand for REFUND of portion of Sewer Service & Use (& other damages) as applied to SBWR.

South Bay Water Recycling Program exceeds restrictions on Sewer Service & Use Charge.

Cupertino Sanitary District refuses to "subsidize" SBWR.

I have never wanted to "subsidize SBWR" either.

Quoted below is a portion of a letter from the Cupertino Sanitary District [(March 9, 2012); *"Resolution No. 1230 Establishing a Policy Concerning Assumption of Obligations Pertaining to the South Bay Water Recycling Program,"* by: The Cupertino Sanitary District Board of Directors].

"NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Cupertino Sanitary District as follows:

1. *Based upon written and verbal communications from San Jose, the District Board finds and determines that:*

(a) *The existing recycle operations have reduced the current outflow to the Bay well below the 120 mgd limit required by the RWQCB. The Plant is therefore in full compliance with RWQCB Order No. 97-111 and is likely to remain in compliance for the foreseeable future. Consequently, the SBWR Program is not required in order to maintain any continued regulatory compliance.*

(b) *Implementation of the SBWR Program represents a fundamental shift in the operation of the Plant from being a waste treatment facility to a wholesale supplier of recycled water."*

For years, I have given public testimony at the Treatment Plant Advisory Committee (TPAC), a "whole host" of City of San José "Council Committee meetings" and City Council meetings that the SBWR exceeded many regulatory issues; some referenced by incorporation of the aforementioned letter from the Cupertino Sanitary District; to the tenants of Proposition 218 and others such as the "reformulation of parcel taxes" so everyone could pay "their fair share."

Now, a duly represented public entity, the **Cupertino Sanitary District** is refusing to pay to "subsidize" or to participate in funding in any way, with the exception of Phase I of SBWR "to the extent such a program is required to comply with limitations on the Plant's outflow to the Bay,..."

You should read the Rules and Open Government Committee, [Wednesday, (03.21.12); THE PUBLIC RECORD; Item (b)]. There are "other items" on THE PUBLIC RECORD which are germane.

You should inquire whether a Director of ESD intentionally withheld pertinent data to a State Agency which will further validate Cupertino Sanitary District's assertions.

Cc: City Attorney / City Auditor / Manager... **Respectfully submitted,**
Cupertino Sanitary District / TPAC

David S. Wall
03.19.12

David S Wall

RECEIVED
San Jose City Clerk

2012 MAR 20 P 12: 31

March 20, 2012

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

Re: All Tributary Agencies and hundreds of thousands of citizens ready for SBWR refunds/damages.

The lie of destruction of habitat of Federally protected species to justify SBWR is just that...a lie.

SBWR has exceeded restrictions on Sewer Funds! Prop 218 is "knocking on Mayor Reed's door."

SBWR requires abandonment until a "new funding source is authorized by the voters!"

Dateline: City Desk [Tuesday, (03.20.12)]. *Cupertino Sanitary District attacks funding at "Fort SBWR."*

The "shot heard around the South Bay" is the Cupertino Sanitary District (CSD) [(March 9, 2012); "*Resolution No. 1230 Establishing a Policy Concerning Assumption of Obligations Pertaining to the South Bay Water Recycling Program*," by: The Cupertino Sanitary District Board of Directors].

The CSD made several attempts at the Treatment Plant Advisory Committee (TPAC) over many years for a reasonable political settlement and accommodation to address their concerns that South Bay Water Recycling (SBWR) exceeded the sewage treatment operations as defined by the "Master Agreement." But, Mayor Reed, steadfastly and stoically refused to heed the advice given to him by the CSD and a lone citizen who attends the Treatment Plant Advisory Committee (TPAC) meetings.

SBWR was an excuse to protect endangered habitats and species by diverting treated final effluent from the bay. Later, it was found that the aforementioned "endangered habitat argument" was false. But, SBWR began to spend hundreds of millions of taxpayer's money anyway.

Also false, was flow data to the bay from the San José / Santa Clara Water Pollution Control plant (WPCP). "Flow data" reported to the Regional Water quality Control Board (RWQCB) was inaccurate due to malfunctioning "flow meters" in the WPCP's outfall. No one knew for certain how much treated effluent was going into the Bay. Still, no one cared to look seriously into the matter save SBWR. SBWR used the inaccurate "Flow numbers" to justify expanding the program.

What the CSD letter did not address, was the effects on WPCP operations that flowed from ongoing corruption occurring at the Environmental Services Department (ESD). The door of cronyism was thrown wide open, allowing incompetent and deceitful senior administrators and the Office of the City Manager to shape SBWR to Mayor Reed's despotic "Green Vision" for personal and professional enrichment.

Yet, all during this process there is but one lone citizen, who keeps the vigil of warning the San José City Council and Members of TPAC that SBWR was ill conceived and violates Proposition 218.

Cc: City Attorney / City Auditor / Manager... *Respectfully submitted,*
Cupertino Sanitary District / TPAC

David S. Wall
03.20.12

David S. Wall

RECEIVED
San Jose City Clerk

2012 MAR 20 P 12:31

March 20, 2012

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

Re: ESD employee gives 6-week notice to quit job but, gets to travel to a conference, on the city's dime?

ESD's Deputy Director of Plant Planning and Development truly has a sweet gig!

Previous European travel with Principal Engineer (who supervises "no-one") to look at Biosolids?

Travel to South Carolina for a "conference" to benefit the Deputy Director's next employer?

The ESD tail wags the Dawg...the dawg being the Office of the City Manager.

Dateline: City Desk [Tuesday, (03.20.12)]. *Is the City Manager begging Council to "fire" her?*

In my opinion, no competent administrator on the planet would allow the ongoing corrupt administrative acts and incompetent decisions that have dominated the Environmental Services Department (ESD) for the last several years without a definitive reason or reasons. So, why has the ESD been allowed to deteriorate by means of substandard management degeneracy into a state of perpetual chaos?

The causation of this ongoing inscrutable conundrum has its basis in the obviously nugatory Office of the City Manager and the administratively card carrying members of the Dufi empowered therein.

The organizational structure and administrative coherence of ESD has "officially" collapsed.

The effects of cronyism in the hiring process of senior ESD administrative staff and associative corrupt administrative acts is now bearing the rotted, bad smelling fruit which was foretold by a citizen. The City Manager has lost control over ESD but, even more egregious; loss of control over the San José / Water Pollution Control Plant. Note ongoing rash promotions of personnel, qualified or not, to "Acting positions."

Seeking to appear to assert control over the collapsed leadership at ESD, the City Manager has ordered the "Acting Assistant Director of ESD" back to the Integrated Waste Program and appointed another failure to serve as a "place holder for the current Acting Director of ESD" until a competent Director for ESD can be hired. Failure begets failure. In the meantime, it is business as corrupt and incompetent as usual.

How can the Deputy Director of Plant Planning and Development, the person in charge of the "now found out to be incompetently managed. Capital Improvement Program at WPCP"; be allowed to give a six (6) week notice of separation of service, to accept a new job with the City of Sunnyvale and to travel to a conference at South Carolina on the City of San José's and Tributary Agencies dime?

It seems to me that the City Manager is "begging the San José City Council" to "fire" her from service. By being "fired" the City Manager would collect six (6) month's severance pay and cash buy-out of over \$100,000 dollars in "sick-leave." Is allowing ESD to fail, a good financial strategy of the City Manager?

Cc: City Attorney / City Auditor / Manager... *Respectfully submitted,*
Cupertino Sanitary District / TPAC

David S. Wall
03.20.12

David S. Wall

PUBLIC RECORD h

RECEIVED
San Jose City Clerk

2012 MAR 22 P 4: 11

March 22, 2012

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

Re: (Week #4): City Manager needs to "Thank" City Attorney do to Convention Center screw-ups!

No "Disingenuous Thank-You" will be accepted into the permanent record.

City Attorney should present a fee for this unexpected and unfunded addition to Attorney workplan.

Dateline: City Desk [Thursday, (03.22.12)]. *Still waiting for Convention Center update.*

A the Rules and Open Government Committee, [Wednesday, (02.29.12); Item J: Open Forum] a citizen brought up the brewing scandal involving the Convention Center as it was discussed at the Community and Economic Development (CED) Committee meeting [Monday, (02.27.12); Item D (3): **"Status Report on the Design and Construction Progress of the San José McEnery Convention Center Expansion and Renovation Project"**].

During the CED presentation by Public Works, it was stated that the Convention Center "project" had inadvertently encroached upon the land of the Marriott Corporation and "negotiations" are "underway to resolve the issue. How could this type of "screw-up" of encroachment have occurred in the first place?

Other screw-ups include NO Funding for:

\$3.9 Million is needed for Heating Ventilation and Air Conditioning (HVAC).

\$2 Million for work on the Plaza so tables and chairs won't be on an angle; there is \$600K on hand.

\$7-10 Million for a new kitchen (this was a "wild guess" type estimate like the \$650 Million Pension estimate.)

\$2 Million is needed for Furnishings, Fixtures and Equipment (FF&E).

The aforementioned were just estimates. In the last letter dated (02.29.12) some people were unclear as to the figures stated.

No provision for "Solar power" on the roof of the Convention Center was mentioned by a citizen.

The Downtown Business Association is not happy with the design.

The cost of "maintenance" for this project was discussed after a citizen brought the issue forward. This is a very high maintenance project. The funding for maintenance is to come from a hodgepodge of funding sources based on "economic estimates." The maintenance funding scenario should scare you.

The "Economic Impact" (on page 3) of the report is another "cock and bull story" all into itself.

Will the Community and Economic Development (CED) Committee have the good souls at Public Works give an "update" as to progress with the Convention Center?

Cc: City Attorney / City Auditor / Manager... *Respectfully submitted,*

David S. Wall
03.22.12

David S. Wall

RECEIVED
San Jose City Clerk

March 22, 2012

2012 MAR 22 P 4: 10

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

Re: (Week #12): Billowing plumes of "Black Smoke" emanate from 17th Floor. (No Apology, yet.)

City Manager has yet to "Apologize" for losing \$440,000 of "Free-Money!"

Is City Manager is cloistered on the 17th Floor a result of "Collapsed Management Syndrome at ESD?"

Citizens stand vigilant, painfully watching for the color of smoke from the 17th Floor.

Will it be "white smoke," the color of, "I'm sorry for losing \$440,000; I apologize and I resign."

...Or...

Will it be "black smoke," the color of, "My apology ain't going to happen due to "CMS" at ESD."

Citizens wait patiently for a contrite act of the penitent (but, they are not holding their breath).

Dateline: City Desk [Thursday, (03.22.12)]. \$440,000 loss of "Free Money" still haunts city hall.

The Applegate Johnston, 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 throwing away of \$440,000 "Free dollars" should force "Regime Change" but, Council doesn't seem to care about the loss.

The City Manager continues to shirk all personal and professional responsibility for the loss of \$440,000 dollars from the Applegate-Johnston scandal. The City Manager still needs to issue an "apology" to the taxpayers. A "genuine apology" is now linked to resignation from city service.

"Collapsed Management Syndrome (CMS)" is an administrative malady in which highly paid and benefited administrators are found to be completely lacking in the abilities for which they were hired. The afflicted can no longer shield their incompetence from the public's or Council's detection. The Office of the City Manager, who permitted the hiring of these Bozos; finds it very, very hard to explain to Council why the administrative problems at ESD are allowed to plague the city and more poignantly, the ongoing questions of justification for keeping the City Manager on the payroll are balanced by conditions set forth in the City Manager's employment contract, a "gift" from the "Gang of Six"

My hero, Mr. Lew Wolff says,

"Performance is relatively simple to measure, and performance is what counts."

"What would Lew do if the City Manager worked for him and lost \$440,000 of his dollars?"

Cc: City Attorney / City Auditor / Manager...*Respectfully submitted,*

David S. Wall
03.22.12

David S. Wall

RECEIVED
Jose City Clerk

March 22, 2012

2012 MAR 22 P 4:12

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

Re: ICMA says, "March is National Ethics Awareness Month-Make Ethics Your Personal Cause."

Was International City/County Municipal Association's article missed by "San José?"

Let's apply "Ethics" to "Municipal Water's" use of FUND 513.

Dateline: City Desk [Thursday, (03.22.12)]. *Cupertino Sanitary District (& others) deserve SBWR refund.*

The following inquiries by the San José City Council should be publically made to the Office of the City Manager and "Acting Director Environmental Services Department." The City Auditor should be directed to comment on this matter.

Is the following true?

"In FY2001-2002 Municipal Water (Muni) "borrows approximately \$5 Million Dollars" from FUND 539 (Sewage Treatment Connection Fee FUND) to pay for design work needed for infrastructure improvements to facilitate Cisco Systems, Inc. (Cisco) move to the Coyote Valley?"

When the Cisco deal did not materialize, did Muni try to "Welch" on repayment obligations only to be ordered by the Attorney's Office to repay the aforementioned "loan" in annual payments over many years?

What is the interest rate and duration of the aforementioned "loan?" Is the interest rate significantly lower than "market rate" at the time the loan commenced to negate a reasonable rate of return to FUND 539?

Shortly thereafter, South Bay Water Recycling (SBWR) was administratively shifted under the Municipal Water organizational span and control where many Muni workers who were previously funded from FUND 515 (Water Utility Fund) are now funded by a percentage of FUND 513 (San José / Santa Clara Treatment Plant Operating Fund). This included engineers, deputy, analyst, etc., etc. who had been previously 100% funded from FUND 515. What is the justification for personnel funding change? Was the change in part to pay down the debt service of FUND 539? It appears a large percentage of the change went to repay the debt service. If so, what is the justification?

Then there is there is more support personnel from City Hall added to the costs of SBWR; i.e. marketing, sustainability, energy programs, etc., etc. and along with it; very little defense for the use of 513 FUND to support all those bodies. What is the justification?

Lastly, (for today's set of interrogatories) was SBWR charged for "office space and overhead costs" beginning on July 2011 even though SBWR did not move to City Hall until January 2012?"

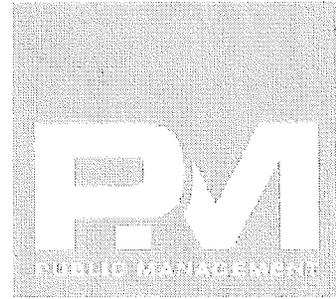
The [March 2010-Volume 92-Number 2] ICMA article entitled, "*March is National Ethics Awareness Month- Make Ethics Your Personal Cause*" is included for your perusal. I hope it is helpful.

Cc: City Attorney / City Auditor / Manager... *Respectfully submitted,*
Cupertino Sanitary District / TPAC

David S. Wall
03.22.12

Ethics

March is National Ethics Awareness Month Make Ethics Your Personal Cause



As we celebrate the 85th anniversary of the ICMA Code of Ethics this year, ICMA members can take pride in our personal commitment to ethical conduct and public service values. But are we equally proud of the ethical climate in the organizations in which we carry out our everyday work? Have we demonstrated real leadership in promoting ethical behaviors and practices in our organizations?

With March designated as National Ethics Awareness month, there is no better time to either craft a thoughtful strategy for strengthening the ethical culture of the organization you lead or assess whether your efforts to date are working. Consider these factors that are critical to building an ethical culture:

1. The standard is set at the top: you can't lead from the rear on this issue.

In the mundane everyday activities as well as in the challenging moments, you set the ethical standard or tone. If you want to inspire your staff to the highest standard of conduct, you must model the conduct you want to see in others. And when errors or missteps happen, you must demonstrate true accountability by taking personal responsibility and correcting the deficiencies.

2. Define your core values and the behaviors that support those values.

ICMA members can look to the ICMA Code of Ethics for values-based guidance on the right course of action. Staff members who belong to other professional associations with a code of ethics get similar assistance. But employees who are not members of a professional association with a code of ethics are left without any guidance if their place of employment fails to define its core values and the behaviors that support those values.

Work to develop organizational values that will reduce ambiguity and provide individuals with some essential guidance on what's expected and what's right. As you develop your group's values, use a process that engages elected officials and staff to achieve greater commitment to the values. If your organization already has a code of ethics, is it still viable and does it influence conduct? Is there still clarity and agreement on the core values that drive critical decisions? Remember that organizations or teams with shared values produce the best results.

3. Assess the organization's culture: wouldn't some baseline information about attitudes and behaviors in the organization be helpful in crafting your strategy?

Does your culture expect staff to report questionable ethical behavior of others? Are staff members clear about where to go for advice about ethical issues? Assess your own conduct: do you think that members of your staff would say that you show appreciation when they bring forward bad news, or do you "shoot the messenger" if they do so? These questions are part of a

short but useful assessment tool developed by ICMA and the California Institute for Local Government.

4. Select the right who.

Recruit the most talented, ethical employees and link good conduct with incentive structures. Warren Buffett once noted, "In looking for people to hire, look for three qualities: integrity, intelligence, and energy. And if they don't have the first, the other two will kill you." Celebrate exemplary conduct, whether it's the ordinary everyday ethical conduct or the single courageous act.

5. Challenge bad behavior.

It's an old but true adage that what we allow, we approve. Don't walk by something that is wrong.

6. Commit to ethics training.

Regular training builds awareness of common ethical issues, provides tools and strategies for effective problem solving, and, yes, can even inspire people to do the right thing when they are faced with a difficult ethical dilemma. Remember that it is a myth that good people always make wise choices.

7. Inoculate against the "e-virus" by providing advice, counseling, and whistle-blowing.

Make sure that staff members have informal and formal opportunities to raise any ethical concerns they may have about conduct or decisions in the organization. Create a safe and responsive environment outside the chain of command for those seeking advice or reporting an issue. Effectively providing for advice and counseling may actually decrease the need for someone to blow the whistle by giving leadership advance warning and the opportunity to address ethically troubling activities.

8. Promote your values.

Publicly and consistently communicate the values that guide you and the organization in your exchanges with the public, media, business, and other stakeholders. It is not about making a cavalier statement that your organization is better than others. It is demonstrating that you do have standards and are willing to be held accountable to them.

As leaders, let's revisit the sage advice of Peter Drucker: "The proof of the sincerity and seriousness of a management is uncompromising emphasis on integrity of character. . . . For it is character through which leadership is exercised; it is character that sets the example and is imitated . . . the spirit of an organization is created from the top. If an organization is great in spirit, it is because the spirit of its top people is great. If it decays, it does so because the top rots."