



Memorandum

TO: Honorable Mayor &
City Council

FROM: Dennis Hawkins, CMC
City Clerk

SUBJECT: The Public Record
August 31 – September 6, 2012

DATE: September 7, 2012

ITEMS TRANSMITTED TO THE ADMINISTRATION

ITEMS FILED FOR THE PUBLIC RECORD

- (a) Letter to Mayor Reed and the City Council from the Chair of the Board of the Administration, Federated Employees' Retirement Plan and the Chair of the Board of Administration, Police and Fire Department Pension Plan dated September 6, 2012 regarding Proposed Ordinance re Executive Personnel, Department of Retirement Services.
- (b) Notice of Application to Mayor Reed and the City Council from North Bay Shuttle and/or Marin Airport Transportation dated August 31, 2012 seeking a passenger stage corporation certificate.
- (c) Notice of Application to Mayor Reed and the City Council from Daniel W. Baker dated September 3, 2012 seeking a passenger stage corporation certificate.
- (d) Letter to Mayor Reed and the City Council from David Wall dated September 6, 2012 regarding "City Pay Plan Amendments favor WPCP electricians. "Measure B sh*t-heads" cough up cash.
- (e) Letter to Mayor Reed and the City Council from David Wall dated September 6, 2012 regarding "Deferral of WPCP staffing report to December? Any Councilmember who allows this...is a moron."
- (f) Letter to Mayor Reed and the City Council from David Wall dated September 6, 2012 regarding "Mechanical Dewatering of WPCP Sludge raises poignant issue – will landfills accept 'wet sludge'?"
- (g) Letter to Mayor Reed and the City Council from David Wall dated September 6, 2012 regarding "Did 'Acting Director ESD' notify S.J. Fire Department to the 'flaring of methane gas to atmosphere'?"
- (h) Letter to Mayor Reed and the City Council from David Wall dated September 6, 2012 regarding "Are Vagrant and Criminal Element encampment cleanups staying within Proposition 218 guidelines?"
- (i) Letter to Mayor Reed and the City Council from David Wall dated September 6, 2012 regarding "Violating the 'peace and sanctity' of Public Official's neighborhood and property should be a felony."
- (j) Letter to Mayor Reed and the City Council from David Wall dated September 6, 2012 regarding "Who is in control of the City of San Jose? The City Manager is; 'NOT' Mayor Reed and Council."
- (k) Letter to Mayor Reed and the City Council from David Wall dated September 6, 2012 regarding "'Do Not' permit modification of Pawnbroker Ordinance. We do not have enough Police."

Honorable Mayor and City Council Members
September 12, 2012
Subject: The Public Record: August 31 – September 6, 2012
Page 2 of 2


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



Memorandum

TO: San José City Council

FROM: Chair of the Board of Administration, Federated Employees' Retirement Plan

Chair of the Board of Administration, Police and Fire Dept. Pension Plan

SUBJECT: Proposed Ordinance re Executive Personnel, Department of Retirement Services

DATE: September 6, 2012

To the Honorable Members of the San José City Council:

Pursuant to Municipal Code §§ 3.28.275 and 3.36.485, you have provided to the undersigned Boards of Administration of the Federated Employees Retirement Plan and the Police and Fire Department Retirement Plan the text of a proposed Ordinance respecting the executive personnel in the Department of Retirement Services. This letter sets forth our comments and recommendations regarding the proposed Ordinance.

The individuals who serve as trustees on the Boards are solemn fiduciaries. This is mandated by the state Constitution (Art. XVI, § 17) and the City Municipal Code (Muni Code §§ 3.28.350, 3.36.540.) Fundamental to the exercise of fiduciary responsibility is the obligation to prudently delegate to, and then effectively direct and monitor, the people who help carry out the fiduciary's obligations. This is especially true in the context of multi-billion dollar public pension trusts, which invest in complex, global financial markets over long periods of time in order to fund the promised benefits and relieve the taxpayers of having to shoulder the entire cost.

In San José, the trustees of the employees' pension trusts are charged exclusively with the management, administration and control of the retirement system and fund (Muni. Code §§ 3.28.100, 3.28.310, 3.36.300, 3.36.510) - but the staff to whom the trustees are expected to delegate important fiduciary responsibilities are hired, promoted, evaluated, disciplined and discharged only by the City Manager. Charter § 701. Under the Charter, the City Manager exclusively "directs and supervises" the executive staff of the Department of Retirement Services. There is nothing in the Charter or Municipal Code that attempts to reconcile the mutual responsibilities of the pension trustees and the City Manager. As a consequence, the Retirement Boards' fundamental fiduciary responsibilities cannot be effectively discharged, because the Boards have no legal say in Retirement Department personnel decisions.

The City Charter and Municipal Code are integral parts of the formal "plan document" of the pension trusts under federal tax laws. Compliance with those laws is what affords the trusts' tax qualified status and allows contributions into the trust and investment earnings on the trust assets to be exempt from federal taxation. To maintain that status, however, the plan sponsor (here, the City) is not permitted to exercise administrative control over the trusts. Trust administration of a tax qualified plan must be performed by the plan trustees, or those under their direction and control. The current structure jeopardizes the tax exempt status of the City's pension trusts, exposing the City and its employees to significant tax liabilities.

Our Fiduciary Counsel has advised us that unless our Boards effectively participate in the hiring, promotion, direction, evaluation, discipline and discharge of the key executive personnel of the Department of Retirement Services, in his opinion we may not lawfully delegate any of our fiduciary responsibilities to those individuals. Further, that if we do so we are exposing ourselves to claims of breaching our fiduciary duty and potential liability. In order to be able to properly delegate our duties, our Boards need to participate in these key personnel decisions and to have the ability to do so in confidence, in compliance with the "personnel exception" to the Brown Act, Govt. Code § 54957, which allows a governing body to confer over personnel decisions in closed session.

The administration of the Department of Retirement Services is now in suspense, with the recent resignations of the Director and the Assistant Director/Chief Investment Officer. During their tenure, however, the inability of the Retirement Boards to effectively delegate, direct and monitor these individuals materially contributed to financial losses to the system and exposed the systems to costly litigation.

We have jointly proposed to the City Manager that going forward she agree to follow a policy of seeking the advice and consent of the Retirement Boards in personnel matters involving the senior executive positions of the Department of Retirement Services. The City Manager has expressed the belief that she may not do so without a formal amendment to the Municipal Code. Accordingly, the City Manager and Mayor have proposed a new Ordinance, the text of which you have before you. By its terms, the Ordinance recognizes the key role of the Retirement Boards in personnel decisions and would bind the City Manager to seeking the advice and consent of the boards before making those decisions. (Note, however, while the first sentence in the operative provisions accomplishes this goal, the second sentence appears to negate the first, contrary to the parties' intent.)

At the City Council meeting on August 25, 2012, when the Ordinance was first presented to the Council, the City Manager and Mayor noted publicly that they would support a Charter amendment being placed on an upcoming public ballot that would bring the Department of Retirement Services under the exclusive management, administration and control of the Boards of Retirement and no longer be a department of the City under the authority and supervision of the City Manager, and that the proposed Ordinance was just an interim step in the continuing reform of the administration of the City's employee pension funds. We appreciate their recognition of the importance of this fundamental governance reform. The proposed

Ordinance is but a small first step towards the primary goal of properly aligning the administration of the City's pension trusts.

We have been advised informally by the City Attorney that the language of the proposed Ordinance would be sufficient as a matter of law to permit the Boards to go into closed session to discuss personnel matters, in compliance with the "personnel exception" to the Brown Act and the City's "sunshine ordinance." The City Attorney has committed to delivering his written opinion confirming that view in a timely manner in connection with the City Council's consideration of the proposed Ordinance.

We also note that Section 1506 of the Charter provides that "Notwithstanding any other provision of this Article, the City Council may, by ordinance...provide for the conformance of any retirement plan or plans established and maintained by the City of San José to... applicable provisions of the laws of the United States or the State of California."

Accordingly, our respective Boards are prepared to support the proposed Ordinance, provided the following actions occur:

- The second sentence in each of the proposed sections 3.28.115 and 3.36.325 (beginning, "Notwithstanding the foregoing...") should be stricken. That sentence completely negates the first sentence and renders it meaningless.
- The word "Chapter" in each of the proposed sections 3.28.115 and 3.36.325 should be changed to "Section." Only these sections are being adopted; no other changes are being made elsewhere in the Chapters of the Municipal Code relating to the retirement systems.
- Simultaneously with adoption of the Ordinance, the City Attorney shall issue an opinion that the Ordinance authorizes the respective Boards to go into closed session under § 54957 of the Brown Act (personnel exception) and the City's "sunshine ordinance" to consider the positions and individuals who may serve as the Director and Assistant Director/Chief Investment Officer of the Department of Retirement Services, under the standards established by applicable law. The opinion must be unconditional and not require the presence of the City Manager or designee in any closed session meetings. (The working relationship between the City Manager and the Boards in the hiring process can be handled through informal protocols between the parties.)

If these actions do not occur at or before the final vote on the proposed Ordinance, however, the Boards would strongly recommend that the City Council not adopt the proposed Ordinance. Standing alone in its present form, the proposed Ordinance could be read as a further erosion of the constitutional and statutory authority of the Boards to manage, administer and control the retirement systems and funds. Worse, it could perpetuate the jeopardy in which the funds are presently being administered, threatening considerable loss of public funds and trust.

Memorandum
September 6, 2012
Page 4

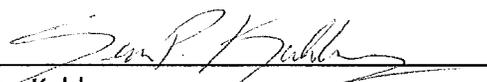
The Boards have worked long and hard with the City Manager's Office to achieve even this small step towards prudent administration of the retirement systems. We urge the City Council's endorsement of the Ordinance, as modified and augmented by the actions we set forth above.

Thank you for considering our comments and recommendations.

Respectfully submitted,



Matt Loesch
Chair of the Board of Administration
Federated Employees Retirement Plan



Sean Kaldor
Chair of the Board of Administration
Police and Fire Department Retirement Plan

cc: Mayor Chuck Reed
Debra Figone, City Manager
Alex Gurza, Deputy City Manager
Richard Doyle, City Attorney

NOTICE

On August 31, 2012, the Application of Emil Tsvetkov and Anton Tonev, doing business as North Bay Shuttle was filed with the California Public Utilities Commission, seeking a passenger stage corporation certificate to perform an on-call, door-to-door service on a 24-hours per day, seven days per week basis between points in Sonoma, Marin, San Francisco and Alameda Counties, on the one hand, and the San Francisco, Oakland and San Jose International Airports, on the other hand. The service will be performed utilizing 7 to 9-passenger shuttle vans over the most convenient routes between the airports and points of origin and destinations within the proposed service area. The proposed fares to be assessed the public for this service range from \$35.00 to \$230.00, depending on distance to and from the airport, and are set forth in Exhibit "C" of the Application. A copy of the Application and related exhibits will be furnished by applicant(s) upon receipt of a written request for such documents.

Please direct requests to:

Emil Tsvetkov,
D.b.a. North Bay Shuttle and/or Marin Airport Transportation
215 Bayview, #209
San Rafael, CA 94903
Telephone number: 415-755-7244.

(This Notice is issued pursuant to Rule 21(k) of the Commission's Rules of Practice and Procedure.)

NOTICE

On September 3, 2012 the Application of was filed with the California Public Utilities Commission, seeking a passenger stage corporation certificate to perform an on-call, door-to-door service on a 24-hours per day, seven days per week basis between points in Napa, Marin, Santa Clara, San Francisco, Contra Costa, Alameda, San Mateo, San Joaquin, Sonoma, Solano and Sacramento Counties, on the one hand, and the San Francisco, Oakland and Sacramento International Airports, on the other hand. The service will be performed over the most convenient routes between the airports and points of origins and destinations within the proposed service area and will be provided with airport-type shuttle vans. The proposed fares to be assessed the public for this service are set forth in Exhibit "C" of the Application. A copy of the Application and related exhibits will be furnished by applicant upon receipt of a written request for such documents. Please direct the request to Daniel W. Baker, 3643 Baker Lane, Lafayette, CA 94549.

This Notice is issued pursuant to Rule 21(k) of the Commission's Rules of Practice and Procedure.)

David S. Wall

RECEIVED
San Jose City Clerk

2012 SEP -6 PM 4: 26

September 06, 2012

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

Re: City Pay Plan Amendments favor WPCP electricians. "Measure B sh*t-heads" cough up cash.

In afterglow of Mayor Reed's bungled austerity program, Council raises WPCP Electrician Pay.

Why don't YOU "bite the bullet" and raise everyone at WPCP's pay and benefits?

Then raise the remainder of all other City employees pay and benefits.

And then...resign YOUR offices and get the hell out and stay the hell out of City employee's sights!

Dateline: City Desk [Thursday, (09.06.12)]. *I warned YOU not to reduce pay & benefits of WPCP personnel.*

At the Rules and Open Government Committee meeting [Wednesday, (09.05.12); Item 2.9, City Council Agenda for {Tuesday, (09.11.12)} "**City Pay Plan Amendment**"] was discussed.

Here is part of Item 2.9 as it appears on the aforementioned Agenda (Consent Calendar);

"Amend the City of San José Pay Plan effective September 11, 2012, to create the following classifications:

- a. Industrial Electrician (3661)**
- b. Senior Industrial Electrician (3662)**
- c. Industrial Electrician Supervisor (3663)."**

You should all read Deputy City Manager Gurza's thirteen (13) page manifesto on the aforementioned issue. It reads like a book containing many chapters on the topic, "I told YOU so."

A few weeks ago, the Acting Director of ESD put forth a budgetary request for over \$2 Million dollars to fund three (3) Industrial Electricians and (6) Instrument Technicians for just shy of one (1) year of service via "Telstar" an outside contract firm.

Now, we see this "City Pay Plan Amendment." Earlier this year we saw another "City Pay plan Amendment" pertaining to San José / Santa Clara Water Pollution Control Plant (WPCP) "Plant Operator positions."

Question: How does the tunic of abject stupidity fit? "Snuggly" or is there some extra room for all YOU Measure B folks to "grow into?"

Respectfully submitted,

Cc: City Attorney / City Auditor / City Manager
Members: Treatment Plant Advisory Committee (TPAC)

David S. Wall
09.06.12

David S. Wall

RECEIVED
San Jose City Clerk

2012 SEP -6 PM 4:28

September 06, 2012

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

Re: Deferral of WPCP staffing report to December? Any Councilmember who allows this...is a moron.

Deferral of WPCP staffing report to December 2012 by ESD's Acting Director is a sham.

Shouldn't WPCP be adequately staffed now? Are YOU going to tempt "heavy wet weather flows?"

WPCP staffing issues are a significant embarrassment to Council and very costly to taxpayers.

"OCM and Acting Director ESD are not performing the jobs to wit they were hired to perform."

When the OCM and ESD's Acting Director cannot staff WPCP, they are to be removed from city service.

Dateline: City Desk [Thursday, (09.06.12)]. *Go ahead; tempt Mother Nature by not staffing WPCP.*

Scheduled for the Transportation & Environment Committee meeting [Monday, (09.10.12); Item (b) (3), "**Deferral of September T&E Committee Water Pollution Control Plant Staffing Report**"] is yet another plea from a failed administration to defer the inevitable, Council's realization that the Office of the City manager (OCM) and the Acting Director of ESD should be removed from city service with dispatch.

However there exists a significant and severe problem nested within the T&E Committee.

Councilmember Liccardo and Councilmember Herrera, "Chair and Vice-Chair of the T&E Committee" are, in my opinion, incompetent in WPCP issues and practicing members of the "dullards of the doyen class" with reference to their shameless, public brown-nosing to the Acting Director of ESD during the City Auditor's Report discussion entitled, "Environmental Services: A Department At A Critical Juncture" during a recent City Council meeting. The aforementioned Councilmembers support the substandard and or incompetent administrative performance represented in the aforementioned Auditor's report.

With the San José / Santa Clara Water Pollution Control Plant's (WPCP) notable failures in equipment and staffing levels, there should be "monthly reports" without exception.

"Deferrals of any kind and for any reason" on WPCP staffing should not be permitted by T&E.

The Transportation & Environmental Committee should "hold the Acting Director of ESD's feet to the fires of accountability" as a matter of "routine business."

Failure to do so only perils the future electability of the responsible Councilmembers on the T&E Committee. Especially, if a raw sewage spill event occurs because WPCP fails.

Respectfully submitted,

Cc: City Attorney / City Auditor / City Manager
Members: Treatment Plant Advisory Committee (TPAC)

David S. Wall
09.06.12



T&E AGENDA: 09-10-12
ITEM: (b) 3

Memorandum

TO: TRANSPORTATION AND
ENVIRONMENT COMMITTEE

FROM: Kerrie Romanow

SUBJECT: SEE BELOW

DATE: August 24, 2012

Approved

Shuichi Senta for ED SHIKADA

Date

8/28/12

SUBJECT: DEFERRAL OF SEPTEMBER T&E COMMITTEE WATER POLLUTION CONTROL PLANT STAFFING REPORT

RECOMMENDATION

Defer the report on Water Pollution Control Plant Staffing report to the November 2012 committee meeting.

BACKGROUND

The purpose of this item is to update council on the status of plant staffing. The ESD audit scheduled to go before Council on August 28, 2012 addresses this item in depth. We would like to return to committee in December 2012 with an updated status report on short-term and long-term strategies to stabilize plant staffing. In addition, we will return to the Committee again in April 2013 with another update.

/s/

KERRIE ROMANOW

Acting Director, Environmental Services

David S. Wall

PUBLIC RECORD f

RECEIVED
San Jose City Clerk

2012 SEP -6 PM 4:27

September 06, 2012

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

Re: Mechanical Dewatering of WPCP Sludge raises poignant issue-will Landfills accept "wet sludge?"

Does Mechanically Dewatered sludge produce a product that is "too wet" for Landfill use?

"Solar Dried Sludge" produces a product readily available for Landfill use.

Has Mayor Reed and Council's reliance on ESD going to make them look foolish, again?

Dateline: City Desk [Thursday, (09.06.12)]. *WPCP's "Master Plan" is nothing but "masturbation in public."*

The San José / Santa Clara Water Pollution Control Plant's (WPCP) "Master Plan" which cost the taxpayers several millions of their hard earned dollars, was really an economic development plan of WPCP's buffer lands and only focused on one aspect of WPCP operations, the Residual Sludge Management program.

The "Master Plan" was in all reality a financial disaster. With all the millions spent, only about \$1 Million a year could be realized to go back to the City of San José's General Fund and that could only be a reality based on "estimates" based on the complete "build out" of WPCP buffer lands. Mayor Reed and Council were seriously snookered by both the Office of Economic Development (OED) and the leadership at the Environmental Services Department where the current Acting Director of ESD played a pivotal role in the aforementioned financial atrocity. "No" apologies to the rate-payers have been tendered to date over this egregious waste of monies.

The solar sludge drying process in the Lagoons were under attack by the "Master Plan" due to "foul odor concerns" chiefly raised by two prominent land developers. Mayor Reed, Vice-Mayor Nguyen, other Members of the Treatment Plant Advisory committee (TPAC) and the Office of the City Manager (OCM) supported the prominent land developers who wanted sludge drying removed to facilitate their land developments.

Whether foul odors emanated from the lagoons or not is really not the issue here, mechanical sludge dewatering is the issue because solar dried sludge is the more economical and practical way to dry sludge.

The energy requirements, the cost to build a structure for the mechanical dewatering operation to monitor "off gassing (foul odors)" and to process the "odors" were not an issue to the politicians, for they just wanted to bask in favor of the prominent land developers for either political, personal or pecuniary gains.

However, an ancillary issue has surfaced. Landfills only accept sludge with 50% water by weight. Solar dried sludge has roughly 10% water by weight therefore it can be immediately used by Landfills. So, what is the percentage of water by weight of mechanically dried sludge? Well, if it is greater than the minimum landfill requirement of 50% water by weight the City of San José will have to pay to haul this sludge away to a place that will accept it. In other words, it appears that "mechanically dried sludge" is no longer viable. Snookered again? The WPCP Master Plan is a complete waste of rate-payer monies and what of the "Green Vision?"

The Residual Sludge Management program was supervised by the same ESD Deputy Director (who ran the WPCP Capital Improvement Program into the ground) and was either "appointed or promoted" by the Acting Director of ESD. The aforementioned also are linked to the BLP Engineers Digester rehabilitation scandal.

Cc: City Attorney / City Auditor / City Manager
Members: Treatment Plant Advisory Committee (TPAC)...*Respectfully submitted,*

David S. Wall
09.06.12

David S. Wall
R.O. Box 7001

RECEIVED
San Jose City Clerk

2012 SEP -6 PM 4: 30

September 06, 2012

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

Re: Did "Acting Director ESD" notify S.J. Fire Department to the "flaring of methane gas to atmosphere?"

Did Alviso residents see "flames" reminiscent of Richmond Refinery fires and fear for their safety?

Did Alviso residents call 911 to have the "fire at WPCP" investigated?

Did San José Fire Department respond to WPCP "flaring of methane gas" as a potential "fire" at WPCP?

Does WPCP have any "Outreach to neighbors" concerning "flaring methane gas to atmosphere?"

Did "Acting Director of ESD" inform Mayor and Council to "flaring methane gas to atmosphere?"

...Or...

Is the OCM just sitting around as usual with their administrative heads up their administrative butts, again?

Dateline: City Desk [Thursday, (09.06.12)]. *"Flame on" is now "Flare on" at WPCP!*

Did "Acting Director of ESD" notify the Chief of San José Fire Department as to "flaring operations?"

Was Mayor Reed and Council notified? Was the City Manager notified?

Its' official, the San José / Santa Clara Water Pollution Control Plant (WPCP) now "flares methane gas to the atmosphere 24/7." This seems like a redundant sentence of late but, maybe through repetition, the Pavlov dog-like City Councilmembers might start to "get it" that the Office of the City Manager and the "Acting Director of Environmental Services Department (ESD)" are trying to out-compete themselves as the most incompetent and or substandard examples of administrative non-performance ever witnessed in the history of San José.

The issue of this communiqué is whether or not the "Acting Director of ESD" communicated the need to "flare methane gas to the atmosphere" to the Office of the City Manager but, even more importantly, to the Chief of the San José Fire Department or to Mayor Reed and Council?

Inquiries should be made into; the number of calls to 911 from concerned citizens who feared WPCP was "on fire," the number of "Fire Trucks" and Fire Fighters that had to unnecessarily respond to WPCP.

Further, considering the vast sums of taxpayer monies that have gone into the "outreach machinery" at ESD was there any "outreach" conducted to the residents of Alviso as to "flaring gas to the atmosphere" so as to belay any fears or apprehensions that WPCP was not on "fire?"

Respectfully submitted,

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

David S. Wall
09.06.12

David S. Wall

RECEIVED
San Jose City Clerk

2012 SEP -6 PM 4: 29

September 06, 2012

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

Re: Are Vagrant and Criminal Element encampment cleanups staying within Proposition 218 guidelines?

Use of "Grants" does not justify using city employees whose base funding are "restricted use funds."

Vagrants & Criminal Element who inhabit illegal encampments should be compelled to "clean them up."

Vagrants & Criminal Element are not "entitled" to "free housing at taxpayer expense" they must "leave."

Illegal Aliens found to inhabit illegal encampments should be detained for I.C.E. to facilitate deportation.

Dateline: City Desk [Thursday, (09.06.12)]. *Encampments along creeks does not justify Storm Sewer Fund use.*

Scheduled for the Transportation & Environment Committee meeting [Monday, (09.10.12); Item (b) (4), "*Update on Homeless Encampment Cleanups*"] and this issue requires far more discussion than what is intended by the Environmental Services Department and the Housing Department.

For example, why is San José "cleaning up Santa Clara Valley Water District (District) property? It is the sole responsibility of the District to "clean-up" their property from "discovered trespassers."

The source(s) of "funding" for these "clean-ups" should be made public.

The number of city employees and identity of departments should be identified.

The "base funding" of the aforementioned employees should be identified.

"The housing of the vagrants and criminal element" at taxpayer expense should be thoroughly discussed.

The inclusion of Immigration Customs Enforcement (ICE) should be discussed.

NOTICE IS HEREBY GIVEN that if the aforementioned issues are not thoroughly and truthfully discussed, a "Public Record Request for Information" will be initiated in conjunction with corresponding legal remedies.

Respectfully submitted,

David S. Wall
09.06.12

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Cc: City Attorney / City Auditor / City Manager



T&E AGENDA: 09-10-12
ITEM: (b) (4)

Memorandum

TO: TRANSPORTATION AND
ENVIRONMENT COMMITTEE

FROM: Kerrie Romanow
Leslye Corsiglia

SUBJECT: SEE BELOW

DATE: August 31, 2012

Approved

Date

Jim Hade for Ed Shikada *8/31/12*

SUBJECT: UPDATE ON HOMELESS ENCAMPMENT CLEANUPS

RECOMMENDATION

Committee approval of staff request to drop the Update on Homeless Encampment Cleanups report on the September 10, 2012 Committee agenda.

BACKGROUND

The City embarked on a Phase 1 Encampment Cleanup Effort earlier this summer. Initial results for the first five cleanups have been compiled, and a discussion of the successes and the challenges has been prepared and will be distributed shortly to the City Council. Staff is currently working with the County, the Water District, the Valley Transportation Authority, and others to develop a more comprehensive response. This response, with alternatives and identified funding options, will be discussed in more detail with the Council at a Study Session in late October. For questions, please feel free to call Leslye Corsiglia at x53851.

/s/

/s/

KERRIE ROMANOW
Acting Director, Environmental Services

LESLYE CORSIGLIA
Director of Housing

David S. Wall

PUBLIC RECORD 1

RECEIVED
San Jose City Clerk

2012 SEP -6 PM 4: 30

September 06, 2012

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

Re: Violating the “peace and sanctity” of Public Official’s neighborhood and property should be a felony.

City Manager’s property and the “peace and sanctity” of her neighborhood was violated.

Legislation is needed to elevate these cowardly acts to “Hate Crimes” to protect Public Officials.

Punishment should be physically and economically “very painful.”

Dateline: City Desk [Thursday, (09.06.12)]. *“Protesters” should first be severely beaten then arrested.*

I reviewed pictures of the arrogant cowardly criminals who “protested their cause” in front of and upon the property of our City Manager. Mayor Reed has also suffered from this form of terrorism.

I am personally outraged that this conduct occurred and that the protesters did not receive a severe physical “beating” prior to being “issued citations.”

I am also outraged that these protesters were “issued citations” and not immediately taken into custody (after the prescribed severe physical beating) and forced to rot for 120 days in the County Jail for their crimes against the peace of our City Manager.

I must insist that the elected officials of San José take the necessary legislative steps to elevate to a “felony” the invasions by protesters into the neighborhoods and upon the property of; government officials, employees and retirees.

It is my opinion that the punishment be swift, physically and economically very painful so as to deter this form of terrorism.

Government officials, et al, have a tough enough job and should not have to be threatened anywhere but especially; in their neighborhoods or their homes, by mob activity and or by the work product of the mob’s sub-human mentalities.

I shall endeavor to check on the progress of the aforementioned requested legislation.

Respectfully submitted,

David S. Wall
09.06.12

Cc: City Attorney / City Auditor / City Manager

David S. Wall

PUBLIC RECORD h

RECEIVED
San Jose City Clerk

2012 SEP -6 PM 4:27

September 06, 2012

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

Re: "Do Not" permit modification of Pawnbroker Ordinance. We do not have enough Police.

One owner per Pawnshop is enough.

"Pawnshops" by their nature are "Predatory Lending Institutions" which can invite "blight."

"Empty store fronts" are better than "Pawnshops."

Dateline: City Desk [Thursday, (09.06.12)]. *Police do not have resources to monitor property transfers.*

At the Rules and Open Government Committee meeting [Wednesday, (09.05.12); Item G.2, "**Modification of Pawnbroker Ordinance**"] was a request by Councilmember Liccardo to accommodate a constituent within the Downtown business community.

I applaud Councilmember Liccardo's attempt to accommodate a constituent however, I am compelled to object to the aforementioned request for accommodation through modification of the "Pawnbroker Ordinance."

Pawnshops have a notorious reputation of aiding and abetting criminals through the enabling of the selling of stolen property.

Whereas the Pawnshop referenced in his Honor's memorandum is a legitimate operation and the owners are honest and upright citizens of the community, I fear that modifying the ordinance will permit the possibility of criminal facilitation of a myriad of property based crimes by lesser but included Pawn brokerage operations.

If the Pawnbroker Ordinance is modified to allow an owner of a pawnshop to have multiple stores in different locations, the "owner" could then transport "pawned property" from one store to another. If the Pawnbroker was a shady character and had dealings with the criminal underworld, a modification of the Pawnbroker Ordinance would be a "bonanza" to their criminal enterprise for the San José Police could not keep pace with inspections and or criminal investigations pertaining to stolen property.

With SJPD staffing so low due to YOUR incredibly incompetent and downright stupid decisions to reduce pay and benefits justly conferred upon our Police Officers in order to keep libraries and community centers open, residential burglary rates have increased to about 40%. Murders have become commonplace activities almost elevated to a sport amongst the various criminal gangs in our slum ridden city.

It is therefore unacceptable to address his Honor, Councilmember Liccardo's request for "Modification of Pawnbroker Ordinance" at this or any time in the future.

Please, in a collegial fashion, "Reject and Deny" Councilmember Liccardo's request for Modification of Pawnbroker Ordinance.

Cc: City Attorney / City Auditor / City Manager... *Respectfully submitted,*
Chief San José Police

David S. Wall
09.06.12



Memorandum

**TO: RULES & OPEN GOVERNMENT
COMMITTEE**

FROM: Councilmember Sam Liccardo

**SUBJECT: MODIFICATION OF
PAWNBROKER ORDINANCE**

DATE: August 24, 2012

APPROVED:

3-24-12

RECOMMENDATION:

Agendize the following item for city council consideration:

Make a minor modification to Chapter 6.52 of the San Jose Municipal Code to enable one person to hold more than one pawnbrokers' permit, and/or to operate at multiple locations.

BACKGROUND

Like many small businesses, pawnbrokers provide a unique service to the community. During very difficult times like these, pawnbrokers often provide financing of "last resort" to residents who can leverage assets to make it through a spell of unemployment, or to get off the street by making a "first month's" payment for rent.

By all accounts, the six (6) pawnshops that exist in San Jose have been operating responsibly for a number of years. This is a highly regulated industry, as federal, state, and local laws govern nearly every aspect of pawn transactions, including interest rates, loan duration, redemption methods, record-keeping and transaction reporting requirements. For example, police departments routinely rely on pawnbroker reports to crack down on fencing and burglary operations.

In San José, an antiquated ordinance restricts the number of pawn shops in the city to six, and prohibits the operation of multiple pawnshops by the same person or entity.

Jan and John Schneider have operated R & J Jewelry in the downtown for several decades, and over the years, they've become community leaders who have created a model business. They would like to expand to purchase another pawnshop, whose owner is seeking to retire. The current prohibition in the municipal code prevents them from doing so.

Given the spate of extensive state regulations that exist today, modifying the "one person/one permit/one location" limitations in our code will have no effect on the integrity of the services being provided by R & J Jewelry or any other business. In light of the extensive vacancy we see in ground-level retail in Downtown, allowing them to "keep the lights on" at the other store will preserve street-level activity and vibrancy. Moreover, this action is consistent with our Council's repeatedly-expressed desire to lift regulatory hurdles for small business, particularly given the sclerotic economic impact of many of the antiquated provisions in our code.