



# Memorandum

**TO:** HONORABLE MAYOR AND  
CITY COUNCIL

**FROM:** Councilmember Carrasco  
Councilmember Esparza

**SUBJECT:** SEE BELOW

**DATE:** 06/26/2020

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Approved

Date: 6/26/2020

*Magdalena Carrasco Maya Esparza*

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**SUBJECT: POTENTIAL BALLOT MEASURE TO AMEND THE CITY CHARTER**

## **RECOMMENDATION**

That the proposed ballot measure consists of the following:

1. Campaign Finance & Conflict of Interest Reforms
  - A. Adopt and apply to the Mayor and City Council the provisions laid out in California Government Code Section 84308 that governs members to the VTA and other regional boards, members, requiring recusal where a matter involves a person or entity that has made a contribution in the prior 12 months, and prohibiting such contributions for three months following a decision on that matter.
  - B. Mayor, Councilmembers, and Senior City management may not receive gifts of any value from any registered lobbyist, City contractor, nor any direct beneficiary of a City contract.
  - C. Lobbyists and City contractors shall not serve on City boards or commissions within two years of any work involving the City. This provision will apply prospectively from the date of passage to any City board or commission.
  - D. Prohibit individuals who are registered City lobbyists from making campaign contributions to the Mayor and City Councilmembers.
  
2. Amend the City Charter to move the next mayoral election, and all City Council District elections, to the November 2024 general election, and provide a one-time term extension of the current mayor and respective Councilmembers to December 31, 2024.

3. Contingent upon passage of this ballot measure, convene a Charter Revision Commission that includes a diverse cross-section of stakeholders and residents from throughout the city to publicly study and consider what expansions to mayoral authority may best address the needs of the city, and what this new government structure would look like.

## **BACKGROUND**

### *Campaign Finance and Conflict of Interest Reforms*

Our residents' trust in their government is the beating heart of a healthy democracy, which is why we support aligning our own campaign finance and conflict of interest laws with the stricter laws that the state government applies to regional boards such as VTA, as well as additional common sense reforms to ensure that no city official is surreptitiously influenced by lobbyists or other special interests. Our residents must have confidence that those they elect are accountable and responsible to those they represent. That is why we fully support the campaign finance and lobbyist reforms put forward by our colleagues.

### *Shifting Mayoral and Council District Elections*

Since the proposal to align the mayoral election with the presidential election was first brought forward for Council consideration in October 2018, the underlying principle guiding this effort has always been increasing inclusivity and community engagement in our government and democratic processes.

The Kinder Institute for Urban Research's Center for Local Elections in American Politics' study on direct elections of California mayors states, "cities that voluntarily switched election dates that coincided with midterm elections to presidential elections saw turnout improve by an average of nearly 15 percentage points." Because presidential elections are so high-profile, voters are more aware that an election is happening.

Moving the election is a proven way to increase voter turnout. Last year during a very contentious debate on this issue, Mayor Liccardo argued against moving the mayoral election last year stating, "shifting elections would...decrease voter turnout for odd-numbered districts years in tandem with the mayor." Hence moving the elections of odd districts and the Mayor will make sure that our local issues will be the focal point during the election.

This is designed to remedy electoral injustices at the ballot box. It ensures and creates new avenues of political power for people of color and other underserved communities. In contrast, San José had a dismal record of voter turnout in mayoral/council offices during Gubernatorial midterm elections, averaging around 21.5%, about eight percentage points below the statewide average. In the 2014 midterm election Santa Clara County reported a 50% turnout but in the 2016 presidential election, it reported an 83% turnout, the turnout increased by a staggering 33%.

The voter turnout is stark, and there is an absolute correlation between voter turnout and the alignment of election years. In 2018, a non-presidential year, 39,580 voters were registered in District 5, yet only 9,729 voters cast their ballots. In 2014, in a highly competitive race in Council District 3, 8,988 voters cast a ballot out of 45,845 eligible voters. In 2018, in a hotly contested race in Council District 7, 10,518 cast ballots out of 43,681 voters.

By contrast, during the presidential election of 2016 Council District 2 had 32,070 cast ballots out of 51,164 eligible voters. In 2016, Council District 6, 37,810 voters cast ballots out of 56,103 voters. In District 8 in 2016, well over 34,419 cast ballots out of 56,503 voters.

We must assure that representation mirrors the diversity of the City of San José and guarantees that our policies reflect the values and are seen through the lens of equity. To ensure equitable representation we have to make sure that the poorest and disenfranchised districts that have been historically redlined and pushed into areas such as Seven Trees, Washington, Mayfair, Poco Way, Monterey, Fair, Santee, and Tropicana that are represented by the odd districts have a higher voter turnout. Civic engagement tools must be designed to encourage voting, particularly for those who have become alienated from the democratic process and do not feel heard or represented by their elected leaders in government.

### *Need for a Charter Review Commission*

Since 1915, our city has had variants of what is known as the council-manager form of government, in which the elected Council and Mayor preside collectively over the City Manager, a professional administrator who oversees the day-to-day operations of the city government. The council-manager form of government dates back to 1908, when it was introduced as a Progressive-Era reform to curb the influence of political bosses and machines, while giving cities the professional administration and management needed to effectively respond to natural disasters and emergencies, in the aftermath of events such as the Galveston Hurricane of 1900 and the 1906 San Francisco Earthquake. It remains the predominant form of city government in California, and on the West Coast more broadly.

In his June 24, 2020 memo to the Rules and Open Government Committee, Councilmember Peralez observes that since the establishment of our council-manager form of government in 1915, major changes to the city's form and structure of government have relied on a robust community engagement process through the Charter Revision Commission, which has preceded placing the changes before the voters. The Charter Revision Commission was involved in the process of drafting our current City Charter that dates to 1965, as well as the transition to district council elections that voters approved in 1978, and the expanded role of the mayor in the City's budget process and supervision of the Public Information Office that voters approved with Measure J in 1986. The Commission reviewed and considered a "strong mayor" form of government as part of this study into the expansion of the mayor's authority, and declined to recommend the change<sup>1</sup>. Frank Fiscalini, who had recently left his position as the long time

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<sup>1</sup> <https://sanjose.legistar.com/View.ashx?M=F&ID=8633914&GUID=86CC1AFA-C5C8-44BB-92A6-2CE2A2028B11>

superintendent of East Side Union High School District, was appointed as the Commission's Chair<sup>2</sup>.

The Charter Review Commission has generally convened a year or more before the proposed changes have been brought to the voters, allowing ample time for public discourse, debate, and community engagement. The Commission chaired by Fiscalini, for example, met twenty-six times over 16 months before delivering their findings in June, 1986.<sup>3</sup> This deliberation allows for a transparent, thoughtful, and inclusive process that gives our residents confidence in the proposals that result. For major structural changes to our government, this is absolutely necessary. That is why we recommend that such a process take place before bringing any major structural changes to our voters.

We have significant concerns regarding the mayor's proposed structural reforms, and whether they will produce the desired outcomes of greater transparency and inclusiveness in our government. Of particular concern is the proposed authority of the mayor to unilaterally appoint, direct, and dismiss the City Manager without any Council input or ability to override through supermajority. As pointed out by Councilmember Khamis during the June 24, 2020 Rules and Open Government Committee discussion on this proposal, "If the Mayor has the sole authority to hire and fire the City Manager without the Council at the table in any way, then the City Manager has no reason to come meet with us every month, to work with us on the priorities that we have for our districts in any way, and we will have no authority otherwise unless we are buddy buddy with the Mayor."<sup>4</sup>

This observation illustrates the need for a thoughtful, public consideration of the benefits and costs of increased mayoral authority here in San José. Only through a thorough vetting process can we determine what specific measures would be most impactful in updating our government structure to ensure an inclusive and accountable City Hall in which our residents can confidently place their trust.

*The signers of this memorandum have not had, and will not have, any private conversation with any other member of the City council, or that member's staff, concerning any action discussed in the memorandum, and that each signer's staff members have not had, and have been instructed not to have, any such conversation with any other member of the City Council or that member's staff.*

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<sup>2</sup> "Panel Ready to Look at City's Government," David Kutzmann. *San Jose Mercury News*. July 23, 1985.

<sup>3</sup> Majority Report of the Charter Review Committee, June 3, 1986. Pg. 1.

<sup>4</sup> <https://www.youtube.com/watch?v=QbhVU2Xb82w> (timestamp: 3:03:43)