



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Councilmember Esparza
Councilmember Arenas

SUBJECT: SEE BELOW

DATE: 12/04/2020

Approved

Maya Esparza
Sylvia Arenas

Date: 12/04/2020

SUBJECT: GOVERNMENT ACCOUNTABILITY MEASURES

RECOMMENDATION

1. Accept the staff recommendations on this item in regard to Recommendations 2-4 of Councilmember Diep's memorandum.
2. In regard to Recommendation 1 of Councilmember Diep's memorandum, recommend that staff, including the Office of Racial Equity, review potential amendments to Council Policy 1-18, Section 4 and bring back potential changes as part of our next budget process that ensure that our most urgent community needs are equitably balanced against our longer term fiscal goals.

BACKGROUND

We appreciate Councilmember Diep's efforts to bring greater accountability and transparency to how our City funds are being spent, as well as the thoughtful responses from the Administration as well as our City Auditor. We support the proposed oversight authority provided by the staff recommendation, and the formalization of the Auditor's existing general practices ensuring regular audits of public-facing departments, as well as the continued work of our Intergovernmental Relations team to keep us apprised of state and federal legislation and its potential impacts to our budget.

With regard to staff's response to Recommendation 2, we want to highlight the recommendation's flexibility, designating the Neighborhoods Commission as a default oversight body, but providing Council the flexibility to designate this authority to another body where appropriate. For example, as we have designated the Housing and Community Development Commission with oversight of Measure E, and the Parks Commission with oversight of Measure P, we believe that continued flexibility is important to ensure that specialized bonds or ballot measures can be overseen by the most appropriate commission.

However, we are deeply concerned with the proposed creation of an artificially imposed restriction that constrains our ability to provide funding where it is most critically needed. The

current General Purpose Reserves in Council Policy 1-18, Section 4, were created to respond to the need for greater safety net reserves as identified by a 2015 audit by the City Auditor. The current policy strives to balance the needs of building up our reserves with other critically important needs including unmet and deferred infrastructure and maintenance, as well as other urgent one-time funding needs that impact our communities.

The changes that staff propose would eliminate our discretionary ability to utilize more than 50% of our remaining fund balance for anything other than building our reserves regardless of the circumstances in which we find ourselves. Such an artificial constraint is not only unnecessary, but dangerous, particularly in a time when so many in our highest need communities are hurting so much.

As we enter the worst phase of this crisis so far, the County data continues to make it clear that it is our communities of color, particularly our Latino communities, that are paying the highest price. The ZIP codes hit worst by pandemic in the entire county, including 95122, 95127, and 95116, are predictably the home of many of our Latino communities. Latinos in Santa Clara County continue to contract COVID-19 and die at highly disproportional rates, accounting for 57% of cases and 35% of deaths, despite accounting for only 25.8% of the population countywide.

Even prior to the pandemic, our low income and communities of color faced dire circumstances, with 65% of Black households and 64% of Latino households in our City being low-income, compared to 48% of households overall. 47% of Latino households, and 45% of Black households in San José live in areas experiencing displacement or at high risk of displacement. Between March 16th and July 31st of this year, 200,000 San José residents filed for unemployment insurance, that is one in every five residents. And a study by the Law Foundation indicates that 43,000 households, disproportionately residents of color, are at imminent risk of eviction.

We note that contrary to what some may assume, surplus fund balances are not merely a product of years of plenty. Because the City adopts a conservative budgeting strategy during lean years as well, it means that there is always likely to be some surplus funding left. And during times of crisis, such as our current pandemic and economic crisis, it is absolutely critical that we have the flexibility to respond to the dire needs of our community. The current Council policy allows this necessary flexibility for high priority response and funding restorations as ending fund balances allow. Examples of such expenses from our 2019-2020 surplus include allocations to restore the Sexual Assaults Law Enforcement Training and Supportive Services Reserve to address the alarming increase in sexual assaults in San José over an eight-year period. In addition, the 2018-2019 surplus allocations included funding for the Community Plan to End Homelessness, funding to ensure that our Police could rapidly respond to mass shooting events, and Emergency power generation for city facilities. These are hardly the categories of expenses that we can lightly dismiss.

That is why we call on Staff to conduct additional analysis and bring back recommendations as part of our next annual budget process. We believe this analysis should include input from the Office of Racial Equity, and focus on achieving an equitable balance of our ability to provide baseline levels of service to address urgent community needs, especially in times of crisis, with longer term fiscal goals. Just as previous changes to Policy 1-18 have come as part of the annual budget process, we believe that is the appropriate time for us to consider such changes.

As we slip further into the greatest public health and economic crisis that we have faced in our lifetimes, it is simply unconscionable that we would needlessly constrain our ability to respond to the unprecedented, urgent needs facing so many in our communities, and we implore our

colleagues to join us recognizing that this is a proposal that requires further vetting, and recommend that any potential changes to Council Policy 1-18 be brought back as part of our next annual budget process.

Earlier this year, amidst the worst public health crisis, economic crisis, and social unrest that most of us have ever seen in our City, we as a Council cast an historic, unanimous vote to address these inequities through the creation of our Office of Racial Equity, as well as through our adoption of our Equity Pledge. But these votes are only meaningful if we follow through with the funding and resources to do this work. What we are proposing is a meaningful follow through and next step of this historic work, and we hope that all of our colleagues will join us in this endeavor.

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.