

GS2AC EMERGENCY City San Jose Gun Tax Council meeting Jan 25th Agenda item 22-045 1 4.1

John Major <[REDACTED]>

Sun 1/23/2022 7:50 PM

To: City Clerk <[REDACTED]>

[External Email]

You don't often get email from [REDACTED] [Learn why this is important](#)

[External Email]

Dear City Council

I am against a San Jose Gun Tax and Insurance mandate for the following reasons.

- 1.) They are overwhelmingly unconstitutional and mandate that lawful gun owners bear the f financial responsibility for the misdeeds of criminals.
- 2.) The ordinance is a violation of existing court rulings against Jim Crow laws that tax constitutional rights.
- 3.) The proposal implements taxes at the local level, in violation of the California Constitution on special taxes, Article XIII C Section 2(d)

I believe this tax and insurance policy you are trying to implement will only hurt law abiding gun owners.

Sincerely

John Major

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

GS2AC EMERGENCY City San Jose Gun Tax Council meeting Jan 25th

gs2ac.com/blogs/2022/01/gs2ac-emergency-city-san-jose-gun-tax-council-meeting-jan-25th/

By Fred Hoot

January 20, 2022

GS2AC EMERGENCY City San Jose Gun Tax Council meeting Jan 25th **Agenda item 22-045 1 4.1**

GUN ORDINANCE RETURNED

After months of dawdling the City of San Jose is now going to hear the revised gun tax / gun insurance proposal from Mayor Liccardo.

If you own a gun in San Jose you WILL be required to PAY A TAX and BUY a LIABILITY INSURANCE POLICY.

And the program will be run by a non profit slush fund ... the city council will have no say on how the fees will be used by the non profit.

EVERYONE MUST make your complaint about this ordinance if we are to have any chance of stopping it.

You can log on to the council meeting via zoom to make your comments known. Or you can submit them via email to the City Clerk. (if you submit it to the clerk it must be read to council)

Attached is a copy of the revised ordinance.

Here are some bullet points:

1. The ordinance is a violation of court rulings against Jim Crow laws that tax constitutional rights.
2. The city has already been placed on notice that if the ordinance is passed it will be sued by numerous organizations. The city will be bogged down in legal actions that will last at least 5 years.
3. The non-profit group set up to manage this ordinance is nothing more than a slush fund. The proposal specifically states the city can not direct how funds are used by the slush fund.
4. Gun owners cant comply with the ordinance. There are no insurance policies in existence that are available for gun owners to buy.
5. The ordinance will do nothing to stop the two overwhelming causes of firearm deaths : suicide and criminal activity. A 2017 PEW research study showed 97% due to suicide and criminal activity.
6. The ordinance is window dressing..... It ignores steps the city could take that are known to be effective at stopping gun violence: Confiscate guns in the hands of KNOWN armed prohibited persons . Target gang members and drug sellers.
7. If passed, this ordinance will be moot after the United States Supreme Court rules on New York State Rifle & Pistol Association v. Keith Corlett, No. 20-843 later this year .
8. The proposal implements taxes at the local level, in violation of the California Constitution on special taxes, Article XIII C Section 2(d)

The San José City Council meets Tuesday Jan 25th at 1:30 p.m.

REF: Agenda item

22-045 1 4.1 Public Safety Gun Harm Reduction Ordinance.

If you can not attend the meeting PLEASE SUBMIT an email to the city clerk BEFORE 10AM 1/25:

- 1) **Use the eComment tab located on the City Council Agenda page.** eComments are also directly sent to the ilegislate application used by City Council and staff.
- 2) **By email to [REDACTED] by 10:00 a.m. the day of the meeting**

How to submit written Public Comment during the City Council Meeting:

1) **Email during the meeting to [REDACTED]** identifying the Agenda Item Number in the email subject line. Comments received will be included as a part of the meeting record but will not be read aloud during the meeting.

How to provide spoken Public Comment during the City Council Meeting:

1) By Phone: (888) 475 4499. Webinar ID is 993 4684 3938. Click *9 to raise a hand to speak. Click *6 to unmute when called.

Alternative phone numbers are: US: +1 (213) 338-8477 or +1 (408) 638-0968 or (877) 853-5257 (Toll Free)

2) Online at: <https://sanjoseca.zoom.us/j/99346843938>

- a. Use a current, up-to-date browser: Chrome 30+, Firefox 27+, Microsoft Edge 12+, Safari 7+. Certain functionality may be disabled in older browsers including Internet Explorer. Mute all other audio before speaking. Using multiple devices can cause an audio feedback.
- b. Enter an email address and name. The name will be visible online and will be used to notify you that it is your turn to speak.
- c. When the Mayor calls for the item on which you wish to speak, click on “raise hand.” Speakers will be notified shortly before they are called to speak.
- d. When called, please limit your remarks to the time limit allotted.

T-887.014\1888492_2 Council item 4.1 for 1/25/22

[REDACTED] <[REDACTED]>
Sun 1/23/2022 10:19 PM

To: City Clerk <[REDACTED]>

[External Email]

You don't often get email from [REDACTED] [Learn why this is important](#)

[External Email]

To: San Jose City Council
Re: Gun Harm Reduction Ordinance
T-887.014\1888492_2
Council Agenda 1-25-2022
Item # 4.1

Dear Council,

I would like to voice my opposition to the proposed referenced ordinance (copy attached to this e mail) for a verity of reasons. The obvious of which are as follows:

- 1.) They are overwhelmingly unconstitutional and mandate that lawful gunowners bear the financial responsibility for the misdeeds of criminals.
- 2.) The ordinance is a violation of existing court rulings against Jim Crow laws that tax constitutional rights.
- 3.) Insurance companies do not issue policies for firearm liability which means gun owners would not be able to comply with the law.
- 4.) The proposal implements taxes at the local level, in violation of the California Constitution on special taxes, Article XIII C Section 2(d)

There are approximately 42% of households in California with at least one firearm in them. San Jose has a population of 1,009,340. Assuming an average of 3 individuals per household, that works out to approximately 366,446. 42% of that number is 141,307 homes in San Jose with at least one firearm.

Per the numbers in your Ordinance there is a total of 74 gun related deaths on average per year in Santa Clara Valley (not just San Jose). 28 of which are criminal in nature. (assault/ homicides). Criminals don't buy insurance or pay fees (tax).

So, you are proposing that 141,307 legal gun owners foot the bill for the 28 criminal activities that could be prevented by either keeping these "news worthy" people in jail instead of cutting them plea deals or early releases or addressing the real issue. Mental Health and crime.

Granted, you can twist any numbers to reverse engineer most any argument into a favorable light. Most of the data you use in your arguments are published by Anti Gun groups or just state increased risk (not acts). With the tremendous growth in gun ownership in California in the last two years there is

not a corresponding increase in gun related incidents per your numbers. Sort of "blows" a hole in your argument.

I am a registered Democrat, Vietnam veteran who is a pro 2A supporter. The Second Amendment shall not be infringed. What you propose, in my opinion is nothing but a money grab. There is nothing in this proposal that will reduce violence, it is not the tool one used to commit a criminal offence, it's the person.

I could go on and on but I'm sure you get my drift. Please consider funding Mental Health programs to prevent the suicides and improve your legal system to address the issues at hand instead of "taxing" law abiding citizens.

Thank you for your attention on this matter.

Sincerely,

Gary M. Foydl



This message is from outside the City email system. Do not open links or attachments from untrusted sources.

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF SAN JOSE ADDING PART 6 TO CHAPTER 10.32 OF TITLE 10 OF THE SAN JOSE MUNICIPAL CODE TO REDUCE GUN HARM BY REQUIRING GUN OWNERS TO OBTAIN AND MAINTAIN LIABILITY INSURANCE AND ESTABLISHMENT OF ANNUAL GUN HARM REDUCTION FEE

WHEREAS, the Constitution of the United States of America affords certain protections to the ownership of firearms; and

WHEREAS, the United States Supreme Court has recognized that the Constitutional protections related to firearms ownership are not unlimited, and can be subject to certain types of governmental regulations; and

WHEREAS, a city's police power includes the power to regulate firearms and many courts throughout the nation have upheld local regulations related to the ownership or possession of firearms; and

WHEREAS, firearm injuries have a significant adverse public health and safety impact nationally, in the State of California, and locally; and

WHEREAS, each year more than 23,000 United States residents die by firearm suicide, 14,000 die by firearm homicide, and nearly 500 die from unintentional firearm injuries; and

WHEREAS, in California, between 2005 and 2015, nearly 4,000 children and teenagers were killed or injured with firearms, and 533 children and teenagers committed suicide with firearms, according to data from the Center for Disease Control and Prevention; and

WHEREAS, the Santa Clara County Public Health Department issued a report on firearm injuries in April 2018. In 2016, 11% of injury deaths were due to firearms injuries. During the period 2007-2016, there were an average of 46 deaths per year due to self-inflicted/suicide from firearms injuries, and an average of 28 deaths per year due to assault/homicide from firearms injuries. Self-inflicted/suicide accounted for the highest percentage of deaths (59%) from firearms injuries, with assault/homicide accounting for 36% of deaths from firearm injuries; and

WHEREAS, the April 2018 Santa Clara County Public Health Department report on firearm injuries reported that during the period from 2010-2014, there were an annual average of 28 emergency department visits and 12 hospitalizations due to unintentional firearms injuries. During 2010-2014, 31% of emergency department visits and 16% of hospitalizations from firearms injuries were due to unintentional shootings; and

WHEREAS, research published in the American Journal of Epidemiology in 2004 found that regardless of storage practice, type of gun, or number of firearms in the home, having a gun in the home was associated with an increased risk of firearm homicide and firearm suicide in the home; and

WHEREAS, a 2014 review in the Annals of Internal Medicine suggests that access to firearms within the home doubles the risk that family members will become a victim of homicide, and triples the risk of suicide; and

WHEREAS, a study in the New England Journal of Medicine in 2020 found that handgun ownership is associated with eight times greater likelihood for firearm suicide among men, and 35 times greater likelihood of firearm suicide among women; and

WHEREAS, according to the American Academy of Pediatrics, in homes with guns, suicide rates in children and adolescents and the likelihood of accidental death by shooting are each four times higher than in homes without guns; and

WHEREAS, in the past decade, 40% of the suicides committed by children and teens involved guns, and 90% of these suicides were with guns that the victims accessed at their own homes or from a relative's home; and

WHEREAS, 58% of shooting deaths in children and teens are homicides, and the risk of homicide is three times higher when there are guns in the home; and

WHEREAS, a June 2014 report published by Everytown for Gun Safety and Moms Demand Action which analyzed publicly reported gun deaths nation-wide over a one-year period from December 15, 2012 to December 12, 2013, showed that at least 100 children were killed in unintentional shootings, amounting to nearly two each week; and

WHEREAS, according to research published in Social Science and Medicine in 2007 based on data over a three-year study period from 2001 to 2003, states with higher rates of household firearm ownership had higher rates of firearm homicide but not of non-firearm homicide, and this relationship held across gender, age, income and multiple other variables; and

WHEREAS, a study in the Journal of Urban Health conducted in 2015 estimated there are as many as 4.6 million children in the United States living in homes with loaded unsecured guns; and

WHEREAS, injuries from unintentional shootings, which are generally insurable, comprise more than a third of all gun-related injuries nationally; and

WHEREAS, in some instances, gun owners have been successfully sued for harm resulting from the use of the owner's firearm by themselves or a third party; and

WHEREAS, auto insurers have used risk-adjusted premiums to reward good driving and incentivize use of airbags and other safety features, and by using a comprehensive public health approach to car safety the United States reduced per-mile auto fatalities by nearly 80% from 1967 to 2017; and

WHEREAS, similarly, insurance-based mechanisms can encourage firearm owners to take safety classes, use gun safes, install trigger locks, or utilize chamber-load indicators, and according to 2018 research published in The Actuary there is evidence that some actuaries and insurance companies are recognizing firearm-related risk through their product offerings, pricing and underwriting decisions; and

WHEREAS, pursuant to the provisions and requirements of the California Environmental Quality Act of 1970, together with related State CEQA Guidelines and Title 21 of the San José Municipal Code (collectively, "CEQA"), the Director of Planning, Building and Code Enforcement has determined that the provisions of this Ordinance do not constitute a project, under File No. PP17-008 (General Procedure & Policy Making resulting in no changes to the physical environment); and

WHEREAS, the City Council of the City of San José is the decision-making body for this Ordinance; and

WHEREAS, this Council has reviewed and considered the "not a project" determination under CEQA prior to taking any approval actions on this Ordinance;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SAN JOSE:

SECTION 1. Chapter 10.32 of Title 10 of the San José Municipal Code is hereby amended by adding a Part to be numbered, entitled and to read as follows:

Part 6

REDUCTION OF GUN HARM – LIABILITY INSURANCE REQUIREMENT AND GUN HARM REDUCTION FEE

10.32.200 Purpose and Findings

- A. This Part is passed and adopted in the exercise of the police power of the City, and for the protection of the welfare, peace and comfort of the residents of the City of San José. Specifically, **it is the intent of this Ordinance to reduce gun harm.**
- B. Findings:
1. Firearm injuries have a significant adverse public health and safety impact nationally, in the State of California, and locally; and
 - 2.** Each year more than twenty-three thousand (23,000) United States residents die by firearm suicide, fourteen thousand (14,000) die by firearm homicide, and nearly five hundred (500) die from unintentional firearm injuries; and
 - 3.** In California, between 2005 and 2015, nearly four thousand (4,000) children and teenagers were killed or injured with firearms, and five hundred thirty-three (533) children and teenagers committed suicide with

firearms, according to data from the Center for Disease Control and Prevention; and

4. During 2010-2014 in Santa Clara County, thirty-one percent (31%) of emergency department visits and sixteen percent (16%) of hospitalizations from firearms injuries were due to unintentional shootings; and
5. A 2014 review in the Annals of Internal Medicine suggests that access to firearms within the home doubles the risk that family members will become a victim of homicide, and triples the risk of suicide; and
6. A study in the New England Journal of Medicine in 2020 found that handgun ownership is associated with eight (8) times greater likelihood for firearm suicide among men, and thirty-five (35) times greater likelihood of firearm suicide among women; and
7. Injuries from unintentional shootings, which are generally insurable, comprise more than a third of all gun-related injuries nationally; and
8. Auto insurers have used risk-adjusted premiums to reward good driving and incentivize use of airbags and other safety features, and by using a comprehensive public health approach to car safety the United States reduced per-mile auto fatalities by nearly eighty percent (80%) from 1967 to 2017; and
9. Liability insurance can reduce the number of gun incidents by encouraging safer behavior and it can also provide coverage for losses and damages related to gun incidents; and

10. Programs and services to gun owners and their households can also encourage safer behavior, and provide education and resources to those residents.

10.32.205 Definitions

As used in this Part, the following terms have the following meaning:

- A. "Firearm" means a device, designed to be used as a weapon, from which is expelled through a barrel, a projectile by the force of an explosion or other form of combustion. Firearm does not include antique firearms as defined by 18 U.S.C. Section 921(a).
- B. "Designated Nonprofit Organization" means an entity that qualifies as a nonprofit corporation under the federal internal revenue code and is designated pursuant to the City Manager's authority under Section 10.32.235. No City official or employee shall sit on the board of directors of the Designated Nonprofit Organization.

10.32.210 Liability Insurance Required

- A. Insurance required. A person who resides in the City and owns or possesses a Firearm in the City shall obtain and continuously maintain in full force and effect a homeowner's, renter's or gun liability insurance policy from an admitted insurer or insurer as defined by the California Insurance Code, **specifically covering losses or damages resulting from any negligent or accidental use of the Firearm, including but not limited to death, injury or property damage.**

- B. For purposes of this Section, a person shall be deemed to be the owner of a Firearm if such Firearm is lost or stolen until such loss or theft is reported to the police department or sheriff which has jurisdiction in which such Firearm owner resides.
- C. Any person who owns a Firearm on the effective date of this Section shall obtain the insurance required by this Section within thirty (30) days of the effective date of this Ordinance, or by a later date certain established in the regulations promulgated by City Manager pursuant to Section 10.32.235.

10.32.215 Annual Gun Harm Reduction Fee

A person who resides in the City and owns or possesses a Firearm in the City shall pay an Annual Gun Harm Reduction Fee to the Designated Nonprofit Organization each year. The date by which payment shall be made annually shall be established in the regulations promulgated by City Manager pursuant to Section 10.32.235. The annual fee will be set forth in the schedule of fees and charges established by resolution of the City Council.

10.32.220 Expenditure of Gun Harm Reduction Fee

- A. All monies from the Gun Harm Reduction Fee shall be expended by the Designated Nonprofit Organization on providing services to residents of the City that own or possess a Firearm in the City or to members of their household. Such expenditures may include, but are not necessarily limited to the following:
1. Suicide prevention services or programs;
 2. Violence reduction or domestic violence services or programs;

3. Mental health services related to gun violence; or
 4. Firearms safety education or training.
- B. No portion of the monies from the Gun Harm Reduction Fee shall be used for litigation, political advocacy, or lobbying activities.
- C. The City shall not specifically direct how the monies from the Gun Harm Reduction Fee are expended.

10.32.225 Exceptions

The provisions of this Chapter shall not apply to any of the following:

- A. Those persons designated as peace officers pursuant to Chapter 4.5 of Title 3 of Part 2 of the California Penal Code (§830 et seq.), including sworn peace officers, active reserve peace officers and retired peace officers.
- B. Those persons who have a license to carry a concealed weapon issued pursuant to California Penal Code § 26150 or § 26155.
- C. Those persons eligible to proceed without paying court fees and costs pursuant to California Government Code § 68632 (a) and (b).

10.32.230 Compliance

- A. Insurance requirement. Each person required to obtain and maintain insurance under Section 10.32.210 shall demonstrate compliance with the insurance

requirement by completing and executing a **City-designated attestation form**. Each such person shall state both the name of the insurance company issuing the policy and the number of the insurance policy on the attestation form, sign the form under penalty of perjury and keep the attestation form with the Firearms where they are being stored or transported. There is no requirement to submit the attestation form to the City. However, each person shall complete and sign a new attestation form under penalty of perjury in the event any of the information on the form changes.

- B. Fee provisions. Each person shall affix proof of payment of the annual Gun Harm Reduction Fee to the attestation form and keep it with the Firearm or Firearms where they are being stored or transported.

10.32.235 Authority of the City Manager

- A. The City Manager is authorized to **promulgate all regulations necessary to implement the requirements and fulfill the policies** of this Part relating to the reduction of gun harm, including, but not limited, to the following subjects:
1. Processes and procedures related to the implementation of the liability insurance requirement, and forms necessary thereto.
 2. Designation of the nonprofit organization that will receive the Gun Harm Reduction Fee, any processes and procedures related to the payment of the fee, and any additional guidelines or auditing of the use of the monies from the fee.

3. Designation of any third-party agency and/or organization that will aid in the implementation of the noticing of the requirements of this Part or any other administrative tasks related to the requirements of this Part.
- B. Regulations shall be published on the City's website.
- C. Regulations promulgated by the **City Manager shall have the same force and effect of law**. Unless a later date is specified in a regulation, a regulation shall become effective upon date of publication.

10.32.240 Enforcement

- A. Any violation of this Part shall be punishable by an administrative citation in accordance with the procedures set forth in Chapter 1.15 of Title 1 of this Code relating to the issuance of administrative citations, imposing of administrative fines, right to appeal, and the right to an administrative hearing.
- B.** The amounts of the fines for violations imposed pursuant to this Part shall be set forth in the schedule of fines established by resolution of the City Council.
- C. A violation of this Part is also enforceable through all other civil and administrative remedies available to the City.

10.32.245 Impoundment

To the extent allowed by law, the Firearm or Firearms of a person that is not in compliance with this Part may be impounded subject to **a due process hearing**.

10.32.250 Fees and Charges

The City Manager is hereby authorized to charge and collect any and all cost recovery fees associated with fulfilling the policies of this Part relating to the reduction of gun harm, including any associated third-party costs. All fees shall be as set forth in the schedule of **fees and charges established by resolution** of the City Council.

SECTION 2. This Ordinance shall become effective at the expiration of one hundred eighty (180) days after its adoption.

SECTION 3. Consistent with Section 1.04.160 of the San José Municipal Code, should any provision of this Ordinance or its application to any person or circumstance be determined by a court of competent jurisdiction to be unlawful, unenforceable or otherwise void, that determination shall have no effect on any other provision of this Ordinance or the application of this Ordinance to any other person or circumstance and, to that end, the provisions hereof are severable.

NVF:TLC:KML
1/14/2022

PASSED FOR PUBLICATION of title this _____ day of _____, 2022, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

SAM LICCARDO
Mayor

ATTEST:

TONI J. TABER, CMC
City Clerk

For the Public Record - VOTE NO - Item 4.1, File # 22-045, 1/25/2022: Gun Harm Reduction Ordinance

Board of the Silicon Valley Public Accountability Foundation <[REDACTED]>

Mon 1/24/2022 12:43 AM

To: Agendadesk <[REDACTED]> Jones, Chappie <[REDACTED]> Jimenez, Sergio <[REDACTED]>
 <[REDACTED]> Peralez, Raul <[REDACTED]> Cohen, David <[REDACTED]>
 Carrasco, Magdalena <[REDACTED]> Davis, Dev <[REDACTED]> Esparza, Maya <[REDACTED]>
 <[REDACTED]> Arenas, Sylvia <[REDACTED]> Foley, Pam <[REDACTED]>
 Mahan, Matt <[REDACTED]> Liccardo, Sam <[REDACTED]> City Clerk <[REDACTED]>
 <[REDACTED]> District1 <[REDACTED]> District2 <[REDACTED]> District3 <[REDACTED]>
 <[REDACTED]> District4 <[REDACTED]> District5 <[REDACTED]> District 6 <[REDACTED]>
 <[REDACTED]> District7 <[REDACTED]>
 Cc: Kirk Vartan <[REDACTED]> <[REDACTED]> Sonia Chang <[REDACTED]>

You don't often get email from [REDACTED] [Learn why this is important](#)

[External Email]

[External Email]

City Clerk,
Please include the attached PDF (32 pages) in the public record for the 1/25/2022 City Council Meeting, Agenda Item 4.1.

Councilmembers,
We are writing to inform you of our **OBJECTION** to the proposed changes to Chapter 10 of the San José Municipal Code as defined in the Gun Harm Reduction Ordinance Memorandum dated January 14, 2022, scheduled to be heard on January 25, 2022 as Item 4.1. **We urge you to VOTE NO on this item.**

Please review page 16 for programs proven to be effective against firearms violence.

Thank you,
The Board of the Silicon Valley Public Accountability Foundation
www.SVPAF.org

NOTICE: This email is confidential and is legally privileged to the original recipients only. If you have received it in error or are not the original recipient, you are on notice of its status, please notify the Silicon Valley Public Accountability Foundation immediately via e-mail ([REDACTED]) and then delete this message from your system. Do not copy, print, share, screenshot, forward, fax, discuss, or use it for any purposes, or disclose its contents to any other person as this could be a violation of local, state, and/or Federal laws. Thank you.

This message is from outside the City email system. Do not open links or attachments from untrusted sources.

This message is from outside the City email system. Do not open links or attachments from untrusted sources.



FOR THE PUBLIC RECORD

January 23, 2022

From:

The Board of the Silicon Valley Public Accountability Foundation

Jonathan Fleming, Executive Director

Kirk Vartan, Vice President

Sonia Chang, Treasurer

5669 Snell Ave #104, San Jose, CA 95123

To:

The City of San Jose, CA

[REDACTED]

SUBJECT: VOTE NO - Item 4.1, File # 22-045, 1/25/2022: Gun Harm Reduction Ordinance

Dear San Jose City Council Member,

We are writing to inform you of our **OBJECTION** to the proposed changes to Chapter 10 of the San José Municipal Code as defined in the Gun Harm Reduction Ordinance Memorandum dated January 14, 2022, scheduled to be heard on January 25, 2022 as Item 4.1. **We urge you to VOTE NO on this item.**

Item 4.1 proposes unlawful and unenforceable changes to the Municipal Code which will not stop gun violence in San José. Legal owners of firearms will be unduly punished because, by definition, they are the only people who will be impacted by these proposals. Taxing and isolating a group of people purely based on their decision to embrace an enumerated constitutional right is discriminatory.

Using the comparison of CA car insurance requirements for the privilege of driving a car to justify taxing a constitutional right shows a misunderstanding of the law and is non-applicable. A privilege is something which may be given and taken away at any time and is only available to certain individuals. Rights are inherent and they belong to every one of us equally by virtue of the fact that we are all human. Our Constitution does not grant us our rights, it protects them because we were born with them. Only by a judgment of the court, after due process of the law can a right be taken from someone.

Legal gun owners are not criminals and should not be treated as such. Mitigating gun violence in our community only works if its underlying causes are addressed. Unfortunately, even the mayor has agreed criminals won't obey insurance or fee mandates.¹

We want the entire contents of this PDF to be added to the Public Record for 1/25/2022 Item 4.1, including:

1. This letter
2. Executive Summary
3. 12/14/2021 Record of Constructive Notice Public Record Act Request (which went unanswered by the City)

San Jose Has Not Honored the Public Records Act and has Unreasonably Delayed Document Viewing

The Office of the California Attorney General states:

*“When a copy of a record is requested, the agency shall determine **within ten days** whether to comply with the request, and shall promptly inform the requester of its decision and the reasons therefor. Where necessary, because either the records or the personnel that need to be consulted regarding the records are not readily available, **the initial ten-day period to make a determination may be extended for up to fourteen days.**”³² If possible, records deemed subject to disclosure should be provided at the time the determination is made. If immediate disclosure is not possible, the agency must provide the records **within a reasonable period of time**, along with an estimate of the date that the records will be available. **The Public Records Act does not permit an agency to delay or obstruct the inspection or copying of public records.** Finally, when a written request is denied, it must be denied in writing.”*

https://oag.ca.gov/sites/all/files/agweb/pdfs/publications/summary_public_records_act.pdf

SVPAF has submitted multiple PRA requests to the City of San Jose and all are incomplete or unanswered. We believe this is to delay and obstruct the inspection of these important records and that this is a direct violation of the law as written.

1. 9/17/2021 (Incomplete) – all records related to or pertaining to the "Reducing Gun Harm, and the Public Burdens of Gun Violence" memorandums and proposals (<https://sanjose.legistar.com/LegislationDetail.aspx?ID=4988550&GUID=F74CF741-B937-451C-864C-85A0A98E77B2>)
2. 12/4/2021 (incomplete) – search for records regarding our organization
3. 12/14/2021 Record of Constructive Notice and PRA (Unanswered) – This item was emailed and submitted via certified mail to the City of San Jose. It has not been answered, and we have not received any written notification via mail as required by law.
4. 12/17/2021 (unanswered) – multiple requests were made for the persons and organizations listed by Mayor Liccardo's Office as outreach participants in this ordinance.

Creation of a Nonprofit Company with the Power to Collect Revenue from Taxpayers

On January 3, 2022, the Mayor's Office held a meeting for the incorporation and formation of a new nonprofit that would be setup to receive taxes from firearm owners, be able to receive taxpayer grants, and not have to pay taxes. The meeting was called, "[Gun Harm Reduction in San Jose - Nonprofits & Partners Convening Agenda](#)" and started at 11am.

¹ <https://www.latimes.com/opinion/story/2022-01-19/op-ed-new-gun-control-laws-help-congress>

The proposal stated that current city employees may not sit on the board, but it allows former employees that benefit, such as anyone terming out of office, or working for someone terming out of office at the end of the year.

How nice is it to be in a position of power, where you can form a new business and legislate an annual revenue stream to fund it? This ordinance does just that. If approved, the city council would be requiring a select minority group of people to pay for the Mayor's special interest corporation, and if they do not comply would charge them with a crime. This accounts for an estimated \$1.25 – 1.375 Million annually, not including additional fees and insurance costs.

This is discriminatory and corrupt. It appears the city council only cares about minority rights, but only if it serves their special interests.

Proposed Change: 10.32.210 Liability Insurance Required

“Specifically covering losses or damages resulting from any negligent or accidental use of the Firearm, including but not limited to death, injury or property damage.”

- Negligent use of a firearm is defined in CA Penal Code 246.3 as someone who willfully discharges a firearm (pulls the trigger intentionally) which could result in injury or death to a person.
- The City Council is requiring firearm owners to purchase insurance for intentionally pulling the trigger of a firearm to harm life and/or property, which is already defined as a serious violent crime.
- **This type of insurance does not exist and if it did, would be so cost prohibitive that it would place an unconstitutional barrier to the free exercise of the Second Amendment.**
- Lawmakers are allowed to approve this ordinance without defining the insurance coverage type and limits, having up to six months after the vote to define it.
- **Murdock v. Pennsylvania, 319 U.S. 105 (1943) established that** the government “may not impose a charge for the enjoyment of a right protected by the federal constitution.”

Proposed Change: 10.32.215 Annual Gun Harm Reduction Fee

“A person who resides in the City and owns or possesses a Firearm in the City shall pay an Annual Gun Harm Reduction Fee to the Designated Nonprofit Organization each year.”

- San José is taxing gun-owning, law abiding residents and visitors for the illegal actions of criminals.
- The City is creating a law which forces gun owners to financially support a non-profit corporation with a mission they may oppose.
- The City Council is opening the floodgate for corruption, allowing former City employees to sit on the board of this nonprofit to be paid using additional monies from taxpayer dollars in the form of City grants. No former city employee should ever be allowed to sit on this board.
- The fee appears to have the ability to increase over time.
- **Murdock v. Pennsylvania, 319 U.S. 105 (1943)** the Supreme Court ruled that “since the privilege in question is guaranteed by the Federal Constitution, and exists independently of state [or municipal] authority, the inquiry as to whether the State [or Municipality] has given something for which it can ask for a return is irrelevant.”

Proposed Change: 10.32.245 Impoundment

“The Firearm or Firearms of a person that is not in compliance with this Part may be impounded subject to a due process hearing.”

- Violation of the proposed changes will most likely result in an infraction.

- State law only allows for the impoundment of a firearm for a felony or one of 20 defined violent misdemeanors. Infractions do not reach the state threshold requirement to legally confiscate and/or impound property.
- The ordinance improperly compares the Second Amendment right to the privilege of owning a car for justification of these changes:
 - California state law does not grant peace officers the authority to impound a vehicle on site for lack of insurance and requires a minimum of six months registration expiration before they can impound a vehicle [CVC 16028(a-c) and CVC22651(o)].

SVPAF Meeting with Council Offices and City Attorney

Our organization met with the city attorney, mayor and nine out of ten councilmember's offices. The only councilmember to not hold a meeting with us after multiple requests was Sylvia Arenas's office (District 8).

Our meeting with the mayor's office left us with more questions than answers, which we documented in our [12/03/2021 email](#) to Paul Pereira and Christina Guimera. Some of the highlights of this meeting included:

1. The mayor's office stated the \$442 million number was not correct, but then backtracked in a later email.
2. The mayor's office confirmed their research only focused on gun harm and did not focus on gun benefits.
3. We asked the mayor's office to separate legal law enforcement shootings from the criminal activities of homicide and assault; their report combined them.
 - a. Placing SJP, SCCSO, and other law enforcement in that category wrongly insinuates their actions as illegal and is unacceptable.
4. Keeping SVPAF and all community members informed of related public meeting dates and times, changes to the proposals, and actively engaging all transparently.
5. The meeting ended with a promise to share their draft document we reviewed and to meet again to work together to develop solutions to keep residents of San Jose safer by reducing violence in the city. (This did not happen)

Please Focus on Real Solutions to Stopping Gun Violence

Our elected officials need to address the criminals who commit violence in our city and the solution to this problem should not be to punish the innocent law-abiding residents of San José.

According to the California Department of Justice, there are almost 24,000 people on the Armed and Prohibited Persons Systems list statewide. Statistically, that includes at least 800 people in the City of San Jose on that list. These are people known to have violent tendencies, yet the city council has done nothing to remove firearms from these people.

There are programs developed by the federal government that have proven successful at reducing gun violence which the City of San Jose has not implemented. For example, the National Institute of Justice has researched strategies designed to contain gun violence. These include focused deterrence and targeting of drug dealers. There is no indication the City of San Jose currently utilizes these strategies even though they have been used successfully in several cities nationwide.

The city has failed to take advantage of free programs designed to enhance firearm safety. For example, Project Child Safe provides several free services, including gun safety locks.

Please look into adopting the following policies to stop gun violence:

1. Have the city council write and approve an amicus curia resolution to send to the California Assembly and Senate to repeal Propositions 47, 57, and AB109
2. Establish the Gun Harm Reduction Commission (GHRC) pilot program with balanced community representation
3. Enforce and prosecute existing gun laws
4. Support recommendations 1 through 5 of the 9/16/2021 Rules and Open Government Committee memorandum entitled, "Community Violence Prevention & Response"
5. Fund attorneys who will prosecute gun crimes in the county
6. Hire more police officers
7. Build mental health hospitals and fund sobriety programs

Yours sincerely,

Jonathan Fleming
Executive Director

Kirk Vartan
Vice President

Sonia Chang
Treasurer

Executive Summary



**SILICON VALLEY
PUBLIC ACCOUNTABILITY
FOUNDATION**

**KEY QUESTIONS AND ISSUES REGARDING
1/25/2022
ITEM 4.1, FILE # 22-045:
“GUN HARM REDUCTION ORDINANCE”**

SVPAF.org

EXECUTIVE SUMMARY

The Silicon Valley Public Accountability Foundation (SVPAF) recommends the San Jose City Council reject Item 4.1 File # 22-045 (referred to as “THE ORDINANCE”), scheduled to be presented to the mayor and city council for vote on January 25, 2022. This ordinance proposal states:

“AN ORDINANCE OF THE CITY OF SAN JOSE ADDING PART 6 TO CHAPTER 10.32 OF TITLE 10 OF THE SAN JOSE MUNICIPAL CODE TO REDUCE GUN HARM BY REQUIRING GUN OWNERS TO OBTAIN AND MAINTAIN LIABILITY INSURANCE AND ESTABLISHMENT OF ANNUAL GUN HARM REDUCTION FEE”

Alternatively, the Council should refer this SVPAF document proposal to a new committee, with balanced community representation, for research, review, and amendment.

Item 4.1 is ill-conceived, irresponsible, and ineffective. It ignores empirical evidence, invites years of legal challenges, and further threatens the financial stability of our city. The residents of San Jose deserve effective programs to reduce firearms-related violence. They expect their elected officials to use empirical data, not emotions, to create legislation. This is especially critical as the city faces severe budget shortfalls and rising crime.

KEY QUESTIONS AND ISSUES REGARDING THE ORDINANCE

1. Creates a tax at the local level, in violation of the California Constitution.
2. Unconstitutional to tax a constitutional right (echoes Jim Crow laws).
3. The mayor expects numerous legal challenges which will take years to address. Furthermore, a pending Supreme Court ruling will likely render THE ORDINANCE moot.
4. Gun liability insurance for intentionally causing harm to life or property does not exist and would be cost prohibitive if it did, blocking the free exercise of a right.
5. The mayor admits criminals will not obey THE ORDINANCE. It will not reduce gun violence, as it affects only law-abiding residents.
6. Does not reduce or prevent suicides or homicides.
7. Based on questionable factoring of costs to the City of San Jose.
8. Omits programs proven to be effective against firearms violence.
9. Failure to inform and include input from a broad base of the public.

1. THE ORDINANCE is in direct violation of the California Constitution regarding taxes implemented at the local level. The courts have consistently ruled that fees are taxes in this context.²

Article XIII C Section 2(d) of the California Constitution specifically prohibits cities from implementing special taxes like those mandated in THE ORDINANCE.

It reads, “(d) No local government may impose, extend, or increase any special tax unless and until that tax is submitted to the electorate and approved by two thirds vote.”

THE ORDINANCE proposes the city impose a special tax based only on the vote of the city council.

THE ORDINANCE would create a nonprofit to control money collected from law-abiding gun owners. If city council members vote for this ordinance, they will open the floodgates for corruption. Former city employees sitting on the board of this nonprofit would be paid with money collected from taxpayers. No former city employee should ever be allowed to profit thus.

THE ORDINANCE does not define the Annual Gun Harm Reduction Fee and, incredibly, gives lawmakers up to six months after the vote to define it.

² M. Harlan. Harper v. Virginia State Board of Elections (1966)

2. THE ORDINANCE mimics Jim Crow-type laws in taxing a Constitutional right and runs the risk of violating recent rulings regarding warrantless searches.

The 24th Amendment to the Constitution states:

The right of citizens of the United States to vote in any primary or other election for President or Vice President, for electors for President or Vice President, or for Senator or Representative in Congress, shall not be denied or abridged by the United States or any State by reason of failure to pay any poll tax or other tax.

Justice William O. Douglas, writing for the Court, explained: “[A] state violates the Equal Protection Clause...whenever it makes the affluence of the voter or payment of any fee an electoral standard. Voter qualifications have no relation to wealth nor to paying or not paying this or any other tax.”³

Since then, the courts have ruled that governmental agencies may not assign a fee or tax to any right guaranteed by the Constitution.

THE ORDINANCE places a financial burden on any person who wishes to exercise the constitutional right guaranteed by the Second Amendment. THE ORDINANCE makes the affluence of the gun owner an issue when exercising the right to keep and bear arms in the city of San Jose.⁴

The Supreme Court struck down a local ordinance that required solicitors to obtain a license and pay a fee, finding it infringed on the First Amendment right of free speech.⁵

In *Caniglia v. Strom*, the Supreme Court ruled strongly against warrantless searches and seizures in someone’s home by the police.⁶⁴ It remains to be seen how the city will try to enforce compliance with this law without resorting to such searches and seizures.

The Fourteenth Amendment incorporates the Second Amendment so as to protect this right from municipal infringement.

³ M. Harlan. *Harper v. Virginia State Board of Elections* (1966).

⁴ *NY State Rifle and Pistol Assn v Bruel*. Amicus brief by the National African American Gun Owners Assn. Inc.

⁵ *Murdock v. Pennsylvania* (1943)

⁶ *Caniglia v Strom* SCOTUS 953F3D.112

3. The mayor expects numerous legal challenges which will take years to address. Furthermore, a pending Supreme Court ruling will likely render THE ORDINANCE moot.

The city has already received notice from civil rights organizations of their intention to challenge the ordinance if it is passed.⁷ ⁸This includes Gun Owners of California, Firearms Policy Council, Second Amendment Foundation, California Rifle and Pistol Association, and NRA, to name a few. The last time the City of San Jose was embroiled in this kind of legal scandal, it was bogged down for more than five years in court. The city will be forced to use resources that could be applied to other needs such as Covid-19 vaccinations, housing for the homeless, and emergency services.

On Nov. 3, 2021, the Supreme Court of the United States heard arguments in the case New York State Rifle & Pistol Association v. Keith Corlett, No. 20-843. NYPPA v Corlett hinges on whether laws regarding the Second Amendment are subject to strict scrutiny.

According to The New York Times, "The Supreme Court appears likely to rule against a New York law that imposes strict limits on who can carry guns in public, which could radically reshape the nation's relationship with guns." The New York Times went on to note this would likely undo most California gun restrictions.⁹

⁷ <https://www.sfgate.com/news/bayarea/article/National-Gun-Rights-Group-Threatens-To-Sue-City-16315602.php>

⁸ <https://www.lawenforcementtoday.com/san-jose-mayor-proposes-constitutionally-questionable-gun-control-effort>

⁹ <https://www.nytimes.com/2021/11/10/us/supreme-court-gun-case-california.html>

4. Gun liability insurance for intentionally causing harm to life or property does not exist and would be cost prohibitive if it did, blocking the free exercise of a right.

The mayor asserts this program is viable because firearm owners will only have to purchase a liability insurance policy, however he has yet to identify even one insurance carrier that offers firearms liability policies against suicides or homicides. Our independent research with numerous major carriers has yet to reveal even one that will offer the type of liability coverage THE ORDINANCE has proposed.

Lockton Affinity is the industry leader in insurance policies for gun owners; even they do not offer such a policy. Our research indicates merely asking about the availability of such coverage could jeopardize the insured's existing property and casualty coverage.

The challenge with finding such coverage revolves around two issues. First is the problem of "moral hazard."

Liability insurance exists. It is offered to protect the policy holder from acts of negligence or error. These policies do not protect against illegal or intentional acts, nor do they protect a third party.

The kind of policy being proposed is intended to protect a third party based on an intentional or even criminal act. This creates the problem of moral hazard. Moral hazard is the lack of incentive to guard against risk where one is protected from its consequences. In sum, the existence of this kind of insurance subsidizes the person's ability to engage in the hazardous activity. Coverage for a moral hazard creates an incentive to engage in hazardous behavior. Insurance carriers will not offer the kind of policy proposed for this reason.¹⁰

The second problem is that of regulation. Each state regulates what kind of policies are legal in that jurisdiction. Even if a carrier could be found that would be willing to offer liability coverage of this type payable to a third party, that policy would first have to be reviewed and approved by the California Department of Insurance.

Lastly, if the type of liability insurance required was to be found, it would likely be prohibitively expensive. This blocks the ability of the individual to freely exercise their constitutional right.

¹⁰ Kochenburger, Peter, "Liability Insurance and Gun Violence" (2014). *Faculty Articles and Papers*. 226. https://opencommons.uconn.edu/law_papers/226

5. The mayor admits criminals will not obey THE ORDINANCE. It will not reduce gun violence, as it affects only law-abiding residents.

“Critics say that criminals won’t obey insurance or fee mandates – and they are right.”¹¹

- Mayor Sam Liccardo

“I get what they are trying to do, but it really gets back to the fact that if the city, county, and state would actually enforce existing gun laws-there would be a drastic reduction in gun violence and injury.”¹²

- Dave Tindall, former San Jose Acting Chief of Police and Deputy Chief of Police

The report “Gun Violence Prevention Strategy: Focused Deterrence” from the National Institute of Justice states:

...concentrating enforcement on persons who repeatedly commit violent offenses in hot spots of violent crime can be highly effective in reducing gun violence. Researchers call this practice “focused deterrence” ...focusing on drug dealing also reduces gun violence, based on data that appear to show that the two are closely intertwined.¹³

Clearly, the mayor understands the proposed insurance and tax will not stop someone from intentionally engaging in firearms-related violence. THE ORDINANCE is an emotional response to horrific tragedies. It ignores empirical data pointing to the true causes of firearms misuse: criminals breaking the law, mental illness and the criminal drug trade. Remember, the case of the Gilroy Garlic Festival shooter who bought his rifle in Arizona and brought it into California illegally¹⁴.

In spite of these facts, the proponents of THE ORDINANCE are choosing to place the burden of firearms misuse on an innocent third-party, law-abiding gun owners.

¹¹ <https://www.latimes.com/opinion/story/2022-01-19/op-ed-new-gun-control-laws-help-congress>

¹² EMAIL: from David Tindall to Steve Donohue, Paul Joseph and Anthony Mata dated 6/3/21. SUBJ: RE: Gun Harm Reduction Memo and Workload Assessment.

¹³ <https://nij.ojp.gov/topics/articles/gun-violence-prevention-strategy-focused-deterrence>

¹⁴ <https://www.cnn.com/2019/07/29/us/gilroy-california-food-festival-shooting-monday/index.html>

6. Even if insurance such as that mandated in this ordinance existed, it would confer no public safety benefit. The Pew Research Center reported that 97% of firearms related deaths are suicides or homicides.¹⁵

Liability insurance for firearms owners covers the value of the firearm in case of theft. It does not cover costs associated with the intentional misuse of a firearm, whether in a homicide or suicide.

THE ORDINANCE does not require the taxes collected to be spent on services for the prevention and/or reduction of suicide. Instead it states the nonprofit may use tax dollars in certain categories, but are not limited to them.

THE ORDINANCE does not make any reference of any kind to homicide prevention or reduction.

SVPAF recommends the city address root causes of homicides and suicides and implement the items found in Section 8 of this document.

¹⁵ John Gramlich, "What the data says about gun deaths in the U.S." PEW Research Center Aug 16 2019 <https://www.pewresearch.org/fact-tank/2019/08/16/what-the-data-says-about-gun-deaths-in-the-u-s/>

7. The Pacific for Institute Research and Evaluation (PIRE) includes questionable factoring of costs to San Jose.

PIRE claims the cost of firearms-related violence to the city is over \$442 million. This is an exaggeration. The number is based on a draft study attributing 74% of this supposed cost to "loss of quality of life." The study defines "quality of life" as lost wages or lost earnings. Such numbers appear speculative and open to misrepresentation.

The study does not balance "quality of life" against the benefits from the defensive use of firearms. Even based on the lowest estimates of firearms used defensively, the Centers for Disease Control (CDC) determined these numbers balance out. The CDC completed a study in 2013 regarding the defensive use of firearms which was not published after being completed. That study included the following data:

Almost all national survey estimates indicate that defensive gun uses by victims are at least as common as offensive uses by criminals, with estimates of annual uses ranging from about 500,000 to more than 3 million...

Studies that directly assessed the effect of actual defensive uses of guns (i.e., incidents in which a gun was "used" by the crime victim in the sense of attacking or threatening an offender) have found consistently lower injury rates among gun-using crime victims compared with victims who used other self-protective strategies.¹⁶

PIRE lumps justifiable homicides, such as those involving police officers, in with all other firearms-related deaths. This is misleading. This is an insult to the San Jose Police Department, which has been understaffed and undercompensated for years.

The mayor engaged an academic known for gun control advocacy that resulted in flawed and biased statistics which became the basis for THE ORDINANCE. The mayor and proposing council members did not put the research contract out for bid for a balanced look at the real numbers.

¹⁶ Priorities for Research to Reduce the Threat of Firearm-Related Violence pg. 15-16
<http://nap.edu/download/18319>

8. Omits programs proven to be effective against firearms violence.

If the council is truly interested in reducing the prospect of gun violence there are several things they can do right now that are effective and would not encumber law abiding citizens.

For example, the state of California maintains a list of people who are prohibited from owning firearms. That list includes people known to be in possession of firearms, in violation of the law. This needs to be addressed immediately.

The CA Armed and Prohibited Persons Systems (APPS) database cross-references firearms purchasers against other records for individuals who are prohibited from possessing firearms. According to the California Department of Justice, there are almost 24,000 people on the APPS list statewide. Statistically, that includes at least 800 people in the City of San Jose on that list. These are people known to have violent tendencies, yet the city council has done nothing to remove firearms from these people.¹⁷

There are programs developed by the federal government that have proven successful at reducing gun violence which the City of San Jose has not implemented. For example, the National Institute of Justice has researched strategies designed to contain gun violence. These include focused deterrence and targeting of drug dealers. There is no indication the City of San Jose currently utilizes these strategies even though they have been used successfully in several cities nationwide.¹⁸

The city has failed to take advantage of free programs designed to enhance firearm safety. For example, Project Child Safe provides several free services, including gun safety locks.¹⁹

Additionally, the city council should:

1. Write and approve an amicus curia resolution to send to the California Assembly and Senate to repeal Propositions 47, 57, and AB109
2. Establish the Gun Harm Reduction Commission (GHRC) pilot program with balanced community representation
3. Enforce and prosecute existing gun laws
4. Support recommendations 1 through 5 of the 9/16/2021 Rules and Open Government Committee memorandum entitled, "Community Violence Prevention & Response"
5. Fund attorneys that will prosecute gun crimes in the county
6. Hire more police officers
7. Build mental health hospitals and fund sobriety programs

¹⁷

<https://oag.ca.gov/news/press-releases/california-department-justice-releases-2020-armed-and-prohibited-persons-system>

¹⁸ <https://nij.ojp.gov/topics/articles/gun-violence-prevention-strategy-focused-deterrence>

¹⁹ <https://projectchildsafesafe.org/parents-and-gun-owners>

**9. Failure to include input from a broad range of the public outside of council meetings.
This violates the principle of robust open government.**

The City of San Jose has not sought broad public input to THE ORDINANCE outside of city council meetings.

At the June 29, 2021, city council meeting, Council Member Dev Davis commented she was concerned THE ORDINANCE lacked input from any Second Amendment advocacy groups. She named several, including the Second Amendment Foundation, California Rifle and Pistol Association, California Gun Rights Foundation, and Gun Owners of California. Mayor Liccardo asked her to repeat the organization names to ensure the city could be sure to reach out to them.

On August 26, 2021, San Jose Spotlight hosted an expert panel on gun policy.²⁰ The intended members of the panel were Mayor Sam Liccardo, a representative from Moms Demand Action, a family member of a victim of the VTA shooting, and local community activist and Second Amendment supporter Kirk Vartan. While this event was supposed to take place in July 2021, it was delayed in good faith to accommodate the mayor's schedule. A month later, both the mayor and Moms Demand Action declined to participate. Since 2016, Vartan has asked for open and collaborative discussions on gun issues, even directly asking Mayor Liccardo, writing OpEds, and speaking to the entire city council. It was disappointing the mayor didn't want to openly discuss his ideas.^{21 22 23}

Chapter 12.21 of the San Jose Municipal Code deals specifically with Open Government. Section 12.21.010 – A states, "The City is committed to open and honest government and strives to meet the community's expectations consistently by providing excellent services, in a positive and timely manner, and in the full view of the public."²⁴

Despite numerous attempts by SVPAF to meet with the mayor's office, it took over 5 months to establish contact and schedule a meeting.

The city's untimely and incomplete responses to SVPAF's Public Records Act requests are unacceptable. We had to independently verify that neither the mayor's office nor city staff contacted all of the organizations Council Member Davis listed on June 29, 2021. Apparently, they also failed to reach out to local gun stores, shooting ranges, or any clubs and organizations in Santa Clara County, such as the Golden State Second Amendment Council (GS2AC).

The proponents of THE ORDINANCE have only solicited input from those lobbying for restrictive gun legislation. They have not made good-faith efforts to consider a broad range of viewpoints in full transparency. An ordinance that would affect residents in all ten San Jose districts should be preceded by extensive community engagement long before it is presented to city council for vote.

²⁰ <https://sanjosespotlight.com/event/common-ground-gun-policy-in-silicon-valley/>

²¹ <https://sanjosespotlight.com/vartan-silicon-valley-needs-a-public-discussion-on-guns/>

²² <https://sanjosespotlight.com/san-jose-mayor-renews-push-for-gun-control-after-mass-shooting/>

²³ <https://sanjosespotlight.com/santa-clara-county-leaders-approve-safe-gun-storage-law/>

²⁴ Open Government Ordinance in San Jose Municipal Code
<https://www.sanjoseca.gov/home/showpublisheddocument/12117/636666010443800000>

Recommendation

THE ORDINANCE is fatally flawed. Its financial justifications are questionable. It would trigger numerous lawsuits. It will not reduce criminal behavior that drives almost all costs related to gun violence. It does not address the drug trade, mental health problems, or drug addiction. THE ORDINANCE assumes the availability of liability insurance that has yet to be found and places restrictions on the free exercise of our rights.

There are steps the city can and should take to tackle problematic behavior around firearms and violence in San Jose. We encourage the mayor and council members to pursue strategies that have already proven successful in other jurisdictions, including those listed in Section 8 of this document. Data-driven solutions produce results, with the least amount of money and in the shortest amount of time.

The San Jose City Council should reject Item 4.1 File #22-045 at the 1/25/2022 council meeting. Failing that, they should refer Item 4.1 to a new group composed of the broadest possible range of stakeholders. A Gun Harm Reduction Commission, formed with balanced community representation, could help the city council to address weaknesses of THE ORDINANCE and arrive at solutions that address the problems it is purported to solve.

12/14/2021
Record of
Constructive Notice



December 14, 2021

From: The Board of the Silicon Valley Public Accountability Foundation

To: San Jose City Attorney Nora Frimann
CC: Jennifer Maguire, Toni Taber, Jessica Lowry

Via email and USPS Certified Mail

Re: Record of Constructive Notice: Gun Harm Reduction Proposals

San Jose City Attorney Frimann,

This document serves as a record of constructive notice. It is in response to the June 16, 2021 memorandum entitled, "Reducing Gun Harm, and the Public Burdens of Gun Violence" and all efforts related to it. Community outreach has been almost nonexistent for law proposals of this magnitude, there have been no public community meetings on these proposals to our knowledge, and collaboration efforts have been one-sided thus far.

We have requested multiple public records and met with the Mayor's staff on December 3, 2021. This meeting shed light on multiple pieces of new information which were withheld from the public records request.

We are concerned that these proposals open the door to fundamentally changing our society from a tax funded community democracy to a pay-as-you-use system of government that is inequitable and treats residents unequally.

There are many unanswered questions pertaining to the proposals, and one of the purposes of this notice is to request the City Attorney's Office to seek those answers, weigh the constitutionality and legality of each one of these proposals, and respond to us and to the public with answers to all the questions in this document because they are necessary and required for the public to understand what is being voted upon and how these proposals will impact all of us.

Our initial email to the Mayor's Office went unanswered for almost three months, allegedly went into spam even though the same email was received and responded to by other councilmember offices.

The Mayor's Office has performed outreach to 30 or more organizations on this topic, yet only a handful were included in the public records.

We contacted some of the groups listed by the Mayor's Office and they said they had zero communication with them.

January 23, 2022



Page **20** of **32**

We want to make our city safer by reducing violence. We want to create an inclusive and collaborative environment which allows for all stakeholders in the community to hear the issues, understand the approach, and be part of the solution. We believe in evidenced-based solutions that tell the entire story, not just a single point of view.

The Ted Miller PhD data is one-sided and was done so intentionally as they were directed to only look at gun harm statistics. It is the consensus of our diverse board that this current course of action is not trying to solve the problems of violence and illegal firearm usage in our city and is instead trying to justify a predetermined political agenda.

The below questions are taken from a letter we submitted to the Mayor's Office on December 12, 2021. This letter was submitted to all members of the City Council on December 13, 2021. They were directed at the Mayor's Office, but for the purpose of this letter please answer them from the point of view of the City of San Jose.

Questions for the Record of Public Notice: Reducing Gun Harm/Violence in San Jose

Through the public records request we made, the proposals themselves, the memorandums from the Mayor, and the meeting we attended, the public should have enough data to understand exactly what you are proposing; however, we do not. There are many unanswered questions and legal points of explanation which need to be addressed. These categories include, but are not limited to:

1. General
2. The Proposed Ordinances
3. Ted Miller PhD Data
4. City Staff Involvement
5. Community Outreach and Involvement
6. Third Party Non-Neighborhood Association Organizations and Involvement
7. Expectation of Legal Costs

General

1. Christina and Paul informed us that only gun harm was looked at and not gun benefits.
 - a. How can a balanced proposal be brought before council if both sides are not equally evaluated?
 - b. Why has the city not looked at the benefits of gun ownership in San Jose?
 - c. When will the city be researching the benefits of gun ownership in San Jose?

The Proposed Ordinances

1. By enacting these ordinances, what are you trying to achieve? You have stated these laws will not reduce mass shootings, especially considering the fact that violations of these proposals (if they become law) would result in infractions, or in the most severe cases, non-violent misdemeanors?
 - a. Please include specific outcomes you are hoping to achieve.
 - b. How much money will these ordinances cost per year?
 - c. What is the total offset through gun owner fees you expect to collect?
 - d. How is success measured by these proposals?

2. If the proposed ordinances do not evince an improvement in gun violence and gun harm reduction, is there a sunset requirement for each one individually or collectively?
 - a. If so, what are the requirements for sunset?
 - b. When would the laws sunset?
3. The Ordinance Proposals:
 - a. REDUCING GUN HARM, AND THE PUBLIC BURDENS OF GUN VIOLENCE
 - i. GUN OWNERS MUST PAY AN ANNUAL FEE (TAX)
 1. When someone pays a fee they are purchasing something. An example may include the ability to cross a bridge. What exactly are gun owners purchasing when they pay the fee?
 2. What is the amount of the fee?
 3. You reference Seattle, WA in your Washington Post article, where they have implemented a gun tax/fee similar to your proposal. It is done at the point of sale (POS), as a one-time fee.
 - a. Is the proposed SJ fee a POS one-time fee, or a yearly recurring fee?
 - b. Is the SJ fee per firearm or per transaction?
 - c. Is this a permit-type system that has to be done with the SJPD directly, or via the gun store?
 4. Is the fee locked in or will it increase yearly?
 5. Is the fee per firearm or per firearm owner?
 6. Will all persons in the household, including but not limited to children, parents, roommates, and housemates of the firearm owner, be required to pay the fee?
 7. Will visitors of firearm owners be required to pay a fee/tax to visit a home where a firearm is present?
 8. Will renters of firearm owners who do not own a firearm be required to pay a fee to rent a room where a firearm is present in the home?
 9. Will owners of homes, landlords and/or property managers that are renting rooms need to inquire and validate if a renter owns a firearm, and if they do, verify their tenant has paid their fee?
 - a. Additionally will the owners of homes, landlords and/or property managers, be required to pay a fee for themselves since they have access to the home?
 - b. If a firearm is present and they do not know, are they now a criminal or required to pay a penalty fee?
 - c. Will the business be required to share fee information with the City?
 - i. If so, how do they protect the sensitive information from becoming a gun registry with a government organization?
 - d. Please answer the same above questions for tenants who sublease.
 10. Will businesses who employ persons with firearms be required to pay a fee?
 - a. If so, is the fee per employee with a firearm?
 - b. Will the business be required to share fee information with the City?

- i. If so, how do they protect the sensitive information from becoming a gun registry with a government organization?
- 11. Some legal firearms do not have serial numbers such as smooth bore black powder rifles, muskets, and antiques. Are they exempt from this requirement?
- 12. What types of firearms must pay a fee?
 - a. What about pellet and BB guns?
- 13. If a resident does not renew their permit, will the city send SJPD to the person's residence to confiscate their firearms, arrest them (and possibly family members), and charge them with misdemeanors and fines?
- 14. Where will the fee revenue be stored?
 - a. If revenues are held in an interim segregated account until legal challenges are complete, where will the funds be placed after?
 - b. What oversight will exist in monitoring the account, how it is spent, and publishing that to the public?
 - i. Who will be providing this oversight?
- 15. Will the fees be eligible for transfer into the general fund?
- 16. Will vendors at firearm events at private or county facilities be required to pay a fee to do business?
 - a. How will this be accomplished?
- 17. Will private or county facilities where firearms are sold be required to pay a fee to do business?
 - a. How will this be accomplished?
- ii. GUN OWNERS MUST PURCHASE GUN INSURANCE FOR CRIMES THEY HAVE NOT AND PROBABLY NEVER WILL COMMIT
 - 1. What type of insurance will be required and what will be the minimum policy coverage amount?
 - a. Mayor Liccardo stated, "insurance coverage for unintentional firearm-related death, injury, or property damage."
 - b. To our knowledge, no insurance company offers this type of coverage.
 - c. What yearly total policy price limit would be deemed acceptable for the firearm owner?
 - d. If the cost of the policy is prohibitively or illegally expensive, will the city subsidize these insurance costs or waive the requirement altogether?
 - 2. **Murdock v. Pennsylvania, 319 U.S. 105(1943) established that** the government may not impose a charge for the enjoyment of a right protected by the federal constitution. The fact that the ordinance was imposed indiscriminately does not save it from being unconstitutional. Additionally, since the privilege in question is guaranteed by the Federal Constitution, and exists independently of state [or municipal] authority, the inquiry as to whether the State has given something for which it can ask for a return is irrelevant.
 - a. **How is this ordinance proposal constitutional?**

3. Mayor Liccardo wrote in the Washington Post, *“Of course, “the crooks” won’t pay a fee or buy insurance; only law-abiding gun owners would.”*
 - a. If the Mayor knows criminals will not follow this ordinance, then he is intentionally targeting law abiding residents. Why?
4. Insurance companies demand all property is registered with them to qualify for protection. Mayor Liccardo likens this requirement to car insurance, although comparing a right to a privilege is incorrect, for the sake of this discussion, we will also incorrectly use a car insurance example: One driver owns three cars and the insurance company requires the VIN number for all three cars on the policy to provide coverage.
 - a. Is it constitutional and/or lawful to require gun owners to register and declare every firearm they own with the insurance company, especially when that data is to be shared with the city?
 - b. Will declaring every firearm owned by a resident be a requirement the city is enforcing?
 - i. If so, how is this different from firearm registration?
5. Will all persons in the household, including but not limited to children, parents, roommates, and housemates of the firearm owner, be required to purchase insurance or be named on the insurance policy (policies)?
6. Will visitors of firearm owners be required to purchase insurance and/or be listed on an insurance policy to visit a home where a firearm is present?
7. Will renters of firearm owners who do not own a firearm be required to purchase insurance and/or be listed on an insurance policy to rent a room where a firearm is present in the home?
8. Will owners of homes, landlords and/or property managers that are renting rooms need to inquire and validate if a renter owns a firearm, and if they do, verify their tenant has insurance?
 - a. Additionally will the owners of homes, landlords and/or property managers, be required to pay for insurance for themselves since they have access to the home?
 - b. If a firearm is present and they do not know, are they now a criminal or required to pay a penalty fee?
 - c. Will the business be required to share insurance information with the City?
 - i. If so, how do they protect the sensitive information from becoming a gun registry with a government organization?
 - d. Please answer the same above questions for tenants who sublease.
9. Will businesses who employ persons with firearms be required to purchase firearm insurance?
 - a. If so, is the insurance policy per employee with a firearm?
 - b. Will the business be required to share this policy information with the City?

- i. If so, how do they protect the sensitive information from becoming a gun registry with a government organization?
 - 10. Will persons lawfully transporting firearms through San Jose be required to purchase insurance and/or pay the fee?
 - 11. Will vendors at firearm events at private or county facilities be required to obtain this new insurance and/or pay a fee?
 - 12. Will private or county facilities where firearms are sold be required to pay a fee to do business?
 - a. How will this be accomplished?
 - 13. There are too many scenarios to ask about where the insurance money will go and how it will be administered. Maybe that is a separate discussion. Having the government involved in insurance payouts and money management opens the door for corruption and abuse.
 - 14. What types of firearms must be covered?
 - 15. Do other deadly weapons need to have insurance as well?
 - a. Examples include but are not limited to knives, bows, slingshots, potato launchers, cars, etc.
 - 16. Some legal firearms do not have serial numbers such as smooth bore black powder rifles, muskets, and antiques. Are they exempt from this requirement?
 - 17. If a resident does not renew this specific insurance policy, will the city send SJPd to the person's residence to confiscate their firearms, arrest them (and possibly family members), and charge them with misdemeanors and fines?
- iii. GUN SEIZURE FOR NON COMPLIANCE WITH FEE TAX AND INSURANCE MANDATE (1.1 & 1.2)
 - 1. This is unconstitutional, illegal under California law, and unenforceable because noncompliance is a municipal infraction and/or at worst a non-violent misdemeanor.
 - 2. A gun cannot be taken away from a legal CA gun owner unless:
 - a. They have been convicted of a felony
 - b. There is a court order by a judge or court commissioner
 - c. They have been convicted of, or have a current warrant for, one of 40 very [specific misdemeanors](#) in violation of Penal Code 29805 PC.
 - 3. How is this ordinance proposal legal?
 - iv. GHOST GUN DEFINITION CHANGE
 - 1. Ghost guns are already illegal in the state of California.
 - 2. The proposed ordinance reads, "ensure that the definition of "firearm" under the ordinance includes unfinished frames and receivers commonly sold as do-it-yourself guns and/or assembled after downloading and 3D printing."
 - a. An unfinished frame and/or receiver is a piece of metal or plastic. It could be a piece of aluminum billet, or the filament spool of a 3D printer.
 - b. What constitutes an unfinished frame in this new municipal legal definition?

- c. What constitutes an unfinished receiver in this new municipal legal definition?
 - d. The state and federal government already provide legal definitions for frames and receivers.
 - i. What is the city’s new definition of frame?
 - ii. What is the city’s new definition of receiver?
 - iii. How is the city qualified to further alter the above definitions?
 - b. GUN VIOLENCE RESTRAINING ORDER ON-SITE GUN CONFISCATION
 - i. We agree with improving communication about GVRO’s with victims of domestic violence, better outreach about GVRO’s in multiple languages on city properties, enhancing the sanction for violating a GVRO from a misdemeanor to a felony, and updating police training protocols pertaining to new changes to state law pertaining to DVRO’s.
 - ii. We do not believe it is in the best interest of public safety for police officers to file this paperwork on behalf of the victim. The application takes about an hour to fill out and our city cannot afford to take police officers or community service officers off the street for this amount of time while other crimes are occurring. SJPD can already issue a restraining order on site which prevents contact with the victim, giving the victim time to fill out their GVRO and submit it to the court.
 - iii. The District Attorney’s Office should not have the power to file GVRO’s on behalf of anyone but themselves.
 - c. “ASSAULT” WEAPONS BAN
 - i. On June 4, 2021, the U.S. District Court for the Southern District of California ruled the California assault weapons ban (Roberti–Roos Assault Weapons Control Act of 1989 [AWCA]) to be unconstitutional and issued a permanent injunction against enforcing provisions of the law with a 30 day stat.
 - 1. This is ongoing litigation and is currently being appealed in Miller v. Bonta.
 - a. If the appeal by Bonta fails, how is passing this law legal?
 - b. Is it in the best interest of the City, including staff time and taxpayer money, to wait until the appeal is heard and finalized before proceeding?
 - i. During the stay and above appeal, California already has an assault weapons registration system. Creating more laws may interfere with and/or create problems for law enforcement and the public.
 - ii. How much money is the city willing to spend to fight the legal battles that will ensue?
 - d. GHOST GUNS
 - 1. Ghost guns are already illegal in the state of California.
 - 2. CA allows residents who can legally own a gun to build their own firearms as long as they pass a background check, build the gun to the required safety specifications, apply for a serial number prior to manufacture, and permanently place (engrave/stamp) the serial number on their home built gun.
 - a. [You can read the requirements here](#)
 - 3. Does this ordinance proposal change the above CA law?

4. If it does change the above CA law, it turns a constitutionally protected right into something that is illegal. How do you justify this?
 5. Will all parts for firearms be banned from San Jose if they do not contain traceable serial numbers?
 - a. Example: a firearm spring breaks and needs to be replaced. Is the firearm owner allowed to purchase the spring and have it shipped to their home to maintain their property?
 - b. Example 2: a firearm barrel is worn out due to normal use and needs to be replaced. Is the firearm owner allowed to purchase the barrel and have it shipped to their home to maintain their property?
 - c. Example 3: a firearm owner wishes to upgrade their property with new sights, barrel, grips, slide, trigger, bolt carrier group, magazine release, and other parts in compliance with existing CA state laws. Is the firearm owner allowed to purchase these upgrades and have them shipped to their home to upgrade their property?
 6. Trying to create new laws where there are already laws in place creates confusion and problems. Unregistered “ghost guns” are already illegal.
- e. VIDEOTAPING TRANSACTIONS TO PREVENT STRAW PURCHASES AND SUICIDE PREVENTION
- i. An illegal firearm straw purchase is already a federal crime and can bring a felony conviction with a sentence of ten years in prison and a fine of up to \$250,000.
 - ii. If straw purchases are already illegal, why are we duplicating this law and levying excessive and expensive requirements and fees on firearm businesses in the city?
 1. Causing additional costs for the gun shops makes purchasing a gun more expensive, discriminating against the residents in our community that are financially strained.
 2. Does the city believe the crime problems in our city stem from individuals that are legally purchasing firearms at stores at retail pricing?
 - a. If so, please provide proof of this data that shows this via serial number tracing and/or all other methods.
- f. AMMUNITION RESTRICTIONS: PERMITS, FINGERPRINTING, AND MORE
- i. On April 22, 2021 U.S. District Judge Roger Benitez ruled, “California’s [2016] new ammunition background check law misfires and the Second Amendment rights of California citizens have been gravely injured.” The law’s regulations and state database errors made it impossible for hundreds of thousands of law-abiding Californians to purchase ammunition.
 - ii. If the law is deemed unconstitutional by Judge Benitez, why is the city trying to pass an illegal law?
 - iii. How does the city justify this proposal being legal?
 - iv. California already has significant restrictions for ammunition purchases.
 1. Does the city believe the crime problems in our city stem from individuals that are legally purchasing ammunition at stores at retail pricing?

2. This will open up legal challenges and unnecessary costs, with no real benefit or return on a law like this.
3. Does the city have evidence that shows ammunition purchased at stores is responsible for crimes in our city?
 - a. If so, please provide proof of this data and how it was obtained.
- v. What is the purpose of fingerprinting a buyer for ammunition purchase?
 1. Where is the fingerprint stored and for how long?
 2. With identity theft prevalent, who is responsible for the security of this fingerprint?
 3. Will the city compensate victims if/when their fingerprint is used to steal their identity?
 - a. If not, who is the responsible party?
- g. "LOOKING OUT FOR ONE ANOTHER"
 - i. A public campaign to encourage the appropriate notification to mental health or law enforcement authorities of threats of violence, planning or preparatory steps to commit violence, or apparent fascination with prior acts of violence, is a step we believe all community members can support. We strongly encourage caution with the implementation of this to prevent neighbors from informing on each other in retaliation for minor civil disputes.
 - ii. What steps will be taken to avoid Gestapo-like "informing?"
- h. MORE FREQUENT GUN "BUY-BACK" PROGRAMS
 - i. Several studies over the years have examined the weapons retrieved during gun "buy-backs" and the level of gun violence in the months after the events. Most reached the same conclusion: The guns collected usually aren't the type used in crimes, and the impact of the buybacks on crime was "not statistically significant." A few researchers believe buybacks may even do some harm: A 1999 article in the Law and Order journal found that some people sold guns to police during buybacks and then used the money to buy new guns.
 - ii. Why waste staff time and money on an effort that does not work?
 - iii. This is another example where the "and" approach is problematic. The city has limited capacity and resources that need to be prioritized.
 1. Please explain how adding solutions with limited to no return is good for this city.
 2. If there is data to show the high value of this approach, please provide it.
- i. LEVERAGING FEDERAL INFORMATION FOR EARLY INTERVENTION
 - i. Enhancing communication between SJPD and other local law enforcement agencies with key Federal agencies, including the Special Agents in Charge (SAC) for local FBI Investigations, Bureau of Alcohol, Tobacco, and Firearms, DEA, DHS, and U.S. Customs and Border Control to improve protocols is desirable. Any actions that will improve local law enforcement access to critical information about high-risk individuals in San José will give first responders the tools they need to do their job safely for both themselves, the public, and the suspect.

We have the following questions regarding the data you presented us:

1. The data is presented in a way to suggest legal gun owners who use their firearms in a lawful manner are responsible for paying criminals who use their firearms to break the law. How is this justified? Criminals are responsible for the emergency response, victim assistance, incident investigation, perpetrator adjudication and sanctioning, as well as tax revenue lost for all incidents of gun violence in San Jose.
 - a. Why are law abiding gun owners being singled out and required to pay for city services everyone uses?
 - b. Why are law abiding gun owners being forced to pay for the crimes of violent criminals?
 - c. Isn't this double dipping with taxes already paid for public safety and other related services?
 - d. Is it the intent of these proposals to have legal gun owners pay double taxes to subsidize the budget for police services in San Jose, with that same amount of funding to be relocated to the general (or any other) fund?
2. The data presents the premise that people lawfully owning and using guns are responsible for paying for the costs of people using guns illegally and in unlawful or accidental ways. This is a very dangerous precedent.
 - a. If the intent is to recover costs of the bad actors and accidents, then the city would do better looking at where the largest and egregious expenses are in our city: drug use and alcohol. Based on this logic, the city would assess a tax/fee and insurance coverage mandate for anyone:
 - i. Purchasing or using any legal prescription drug prescribed to cover all the illegal uses of these drugs, and/or
 - ii. Purchasing or drinking alcohol to cover the damages from DUI accidents, accidents, kidney/liver failure, hospital expenses, insurance costs for life saving measures, etc., and/or
 - iii. Who lives indoors to cover the cost of unhoused issues.
 - b. The data is saying the city should revoke all taxes and make residents pay for what they use, which is a fatally flawed approach.
3. What are all costs related to the lawful use of a firearm vs. the unlawful use of a firearm?
4. Does the data take into account costs if a firearm was not used in the incident?
 - a. Such as lack of de-escalation of a crime
 - b. Home invasion and inability to defend life
 - c. Etc.
5. The data is misleadingly titled, "Annually Firearm Injuries in San Jose Cost \$442 Million"
 - a. There are no definitions included for the terms used, such as direct, lost work, quality of life, total cost, cost to federal state & local government, and more.
 - i. Will you provide definitions and backup data for every category?
 - b. What is the true annual cost to residents in San Jose?
 - c. What is the true annual cost to taxpayers in San Jose?
 - d. In all cases, this title should be abandoned as biased and misleading.
6. What methodology was used to evaluate groups or data, and determine what was relevant or not?
7. Do the total costs take into account taxes and fees paid to the county on firearm purchases?
8. Why weren't gun benefits included in the data?
 - a. According to the Centers for Disease Control and Prevention, **almost every major study on defensive gun use has found that Americans use their firearms defensively between 500,000 and 3 million times each year.**
 - b. <https://www.nap.edu/read/18319/chapter/3#15>

- i. When you look at costs to society, this is a major factor in violence prevention, injury prevention, and avoidance of death.
 - ii. Not including this factor in the calculation is like looking at the value of a car by only measuring the accidents they are involved in, and passing laws based solely on that data. It is not intellectually honest or relevant.
9. Were the impacts of decriminalization and criminal recidivism studied and reflected in this study, especially with respect to Proposition 47, 57, and AB109?
10. Future costs were estimated in the creation of the data. Did the data take into account AB1509 which removes penalties for using a firearm in the commission of certain crimes?
- 11. We request here and/or through the Public Record Act all data provided by PIRE and/or Dr. Ted Miller. Additionally we request all accompanying backup data and/or sources used for said computations.**

City Staff Involvement

1. What has been the Mayor's role in the Gun Harm Reduction proposals and what will his role be going forward?
 - a. How much of his staff's time and budget has been devoted to this effort and what will future allocations be?
2. What other city staff (including other council members and their staff) have been involved in these proposals?
 - a. What is their specific involvement
 - b. How much time has each council office allocated to these proposals?
3. Did the city review who spoke during public comment in the Rules Committee and/or City Council meeting on this subject?
 - a. Were these speakers
 - i. Included in any follow-up?
 - ii. Contacted by city staff?
 - iii. Seen as interested parties?

Community Outreach and Involvement

1. As mentioned on our call, development projects of any size follow policy 6-30 for community engagement, including public noticing, public community meetings, and discussion. Laws that would apply to the entire population should have outreach in all districts. It seems the city wants to rush this forward, as highlighted by Paul in the meeting, when he said you would "move forward without all the data, if necessary."
2. How did you prioritize the outreach?
3. What methods were used for outreach?
4. Is there any email list or group assigned to keep the public informed of current and next steps for these ordinances?
5. Why haven't you planned for or hosted community meetings and socialization of these goals with the public?
 - a. Many members of the public are not aware of these ordinance proposals.
6. How have you reached out to local gun owners?
7. How have you reached out to local gun clubs and organizations?
8. How have you reached out to local gun stores?
- 9. We request here and/or through the Public Record Act all outreach dates, emails, phone logs; meeting dates, times, correspondences, emails, phone logs, key contact persons, results, outcomes; all related emails, phone logs, and/or more.**

Third Party Non-Neighborhood Association Organizations and Involvement

1. We know this data is available through a public records request.
2. How did you prioritize third party, non-neighborhood association outreach?
3. What methods were used for outreach?
4. What insurance companies were contacted (Christina stated, "A dozen different Insurance Agencies), and for each:
 - a. How did you reach out to them?
 - b. Who initiated contact?
 - c. Did they have insurance that met the requirements of the proposals?
 - d. If they had insurance that met the proposal requirements,
 - i. What is the average cost to the firearm owner?
 - ii. Is it a rider or a separate policy?
 - iii. Is there any risk of denial?
 - iv. Will purchasing this type of coverage impact any other policy and/or coverage?
 - v. Will purchasing this insurance impact current policy prices?
 - e. What were the dates and times of these meetings?
5. Other groups
 - a. Christina gave us a list of each group that she remembered outreach with including:
 - i. 2nd amendment foundation
 - ii. CA rifle and pistol association
 - iii. CA gun rights foundation
 - iv. Gun Owners of CA
 - v. Dave Truslow
 - vi. Project Hope
 - vii. Hope and Heal Fund
 - viii. Local NRA Chapter
 - ix. National Rifle Association
 - x. Pink Pistols
 - xi. District Attorney's Office
 - xii. Santa Clara County Department of Public Health
 - xiii. Nextdoor Solutions
 - xiv. Gardner Health Group
 - xv. Brady
 - xvi. Giffords
 - xvii. Everytown
 - xviii. Moms Demand Action
 - b. Please provide all materials pertaining to the meetings, discussions, communications, conversations, and/or outreach with these organizations.
 - i. **We request here and/or through the Public Record Act all outreach dates, emails, phone logs; meeting dates, times, correspondences, emails, phone logs, key contact persons, results, outcomes; all related emails, phone logs, and/or more.**

Expectation of Legal Costs

The referenced June memorandum anticipates legal costs and challenges to the law proposals.

1. What challenges do you expect?

2. How long do you expect the challenges to take in court?
3. What is the projected estimate for legal costs the city will incur if these proposals are passed?
4. How much money has the city already spent related to these proposals?
5. *"The City Attorney shall evaluate the legal feasibility of applying these requirements upon all persons possessing a firearm in the City of San Jose, whether they reside here or not."*
 - a. Does the City Attorney believe these ordinances are legal at this time?
 - b. **Please consider this a Public Records Act request for all records on and/or relating to this effort.**
6. *"The City Attorney shall evaluate the constitutionality of permanent seizure of the firearm as a consequence of noncompliance."*
 - a. How is the city attorney going to justify firearm seizure for an infraction or nonviolent misdemeanor?
 - b. **Please consider this a Public Records Act request for all records on and/or relating to this effort.**

Conclusion

We want a serious reduction in gun violence in our city and we want to ensure the civil and constitutional rights of our residents are upheld and protected.

The proposals are incomplete, have many unanswered important questions, open the city up to expensive and time consuming litigation, and most importantly do nothing to stop illegal gun violence in our city.

We cannot make fundamental changes to our democracy by treating people unequally and making some pay to exercise their natural rights to fulfill a predetermined political agenda.

These questions and more must be answered thoroughly and completely prior to the next public, City Council, and/or Commission meeting where this issue is presented. The public has a right to know how laws will impact them and these 12 pages demonstrate the beginning of that process.

Respectfully,

The Board of the Silicon Valley Public Accountability Foundation

████████████████████