



COUNCIL AGENDA: 3/15/2022
FILE: 22-310
ITEM: 3.3

Memorandum

TO: CITY COUNCIL

FROM: Councilmember Sylvia Arenas
Councilmember Maya Esparza
Councilmember Magdalena Carrasco

SUBJECT: SEE BELOW

DATE: 3/11/2022

Approved

Date 3/11/2022

SUBJECT: APPROVAL OF THE FISCAL YEAR 2022-2023 MAYOR'S MARCH BUDGET MESSAGE

RECOMMENDATION

1. Accept the Fiscal Year 2022-2023 Mayor's March Message.
2. Direct the City Manager to produce a Manager's Budget Addendum to:
 - a. Add sufficient sworn officer positions necessary to establish and maintain permanent foot patrols across every police division citywide, utilizing a data-driven approach to prioritize walking beats for high-crime areas to maximize impact.
 - b. Review challenges and presenting strategies to alleviate staffing vacancies, including both potential investments in the Human Resources Department as well as strategies to enable Departments to more effectively recruit, hire, and retain workers. Include information regarding updates to minimum qualifications and reducing steps in the hiring process.
 - c. Develop plans to:
 - i. Restart the backlogged Council Policy Priority #16: Wage Theft Prevention Policy, including a funding option that doesn't require removing an existing item off the City's roadmap.
 - ii. Report on the current staffing levels in the Office of Equality Assurance, and the additional staff that would be necessary to adequately implement current and upcoming Project Labor Agreements and enforce OEA wage theft enforcement responsibilities.
 - iii. Develop a pilot program between the Office of Equality Assurance and the County's Office of Labor Standards Enforcement to provide outreach, education, and support to workers and businesses in an industry segment critically impacted by wage theft.

- d. Propose technical changes to align PRNS's recreation services' budget policies with Budget Balancing Strategy Guideline #2's and citywide equity policy goals, while de-emphasizing strict cost recovery policies for child care, afterschool care, and aquatics programs. Align these changes with ongoing policy work, as presented to the Neighborhood Services and Education Committee, as well as the Child and Youth Master Plan.
- e. Provide costs associated with plans to invest in Capital Improvements of facilities located in underserved communities.

BACKGROUND

Foot Patrol

We appreciate the Mayor's recognition of the importance of bolstering our incredibly thinly staffed Police Department, and dedicating a portion of those new staff to foot or bike patrols in Downtown and other high needs areas. And we fully recognize the unique challenges in Downtown, and support creation of a permanent Downtown foot patrol. However, we are very concerned with the stipulation in the Mayor's proposal that would limit the remainder of the City's neighborhoods to a rotating walking patrol. We don't believe this best serves the needs of residents in a majority of our neighborhoods across San José.

What we need is not an "either/or" approach but a "yes/and" approach which better serves the needs of all of our City's neighborhoods and communities. A more impactful and equitable strategy requires us to allocate sufficient staffing resources for walking beats across all of our Police divisions citywide, utilizing a data-driven approach to determine areas as candidates for additional permanent walking patrols within each division.

Walking patrols form a crucial backbone of our community policing efforts, building trust between officers and residents and business owners, especially in our communities of color and immigrant communities where that trust may be lacking. Unfortunately, as the Mayor identifies in his budget message, efforts to fund this work have been challenging given our reliance on overtime staffing. Overtime funding covers a wide array of purposes, and we have faced challenges with planned city-wide walking beat funding being repurposed for other needs. As part of the 2020 budget process, Council approved overtime foot patrols for highly impacted areas including Little Saigon, Seven Trees, and West Evergreen. These patrols have proven widely popular with the community, and have been a crucial bridge between law enforcement and our residents and small businesses. For our businesses in often-targeted areas, maintaining an accessible police presence is essential for continued economic vitality. We appreciate the many officers who have volunteered for these overtime assignments out of their commitment to the community, however, it is clear that the time has come to make these a standard assignment, and to expand these patrols to communities throughout the City that will benefit from community policing.

Rotating walking patrols simply do not provide our neighborhoods and business districts with an equitable level of support and service. They need a permanent, community-facing police presence. That is why we recommend the Police Department examine available calls for service

and other relevant crime data in order to apply an equity lens to determine candidate areas for permanent walking patrols in every police division, in every part of our City.

This is not a Downtown versus the rest of our neighborhoods issue, this is a city-wide issue, with city-wide need. We urge the Mayor and our colleagues on the Council to support this equitable, data-driven approach to making these critical investments in community policing across San José, investments that will build bridges with our residents and businesses, engaging them while earning their confidence and trust, and making our communities safer for everyone.

Staffing

Our city programs are only as effective as the staff that implement them. As we move forward our budget proposals its vital that we have a clear window into the status of staff vacancies and an opportunity to align our budget with solving this critical issue.

As of January, more than 12% of staff positions were officially vacant – and while this number doesn't account for temporary employees, rehired retirees, and some other interim strategies, these vacancies are having a notable impact on services for our community and on our staff. It's particularly acute in some departments – with 5 departments having vacancy rates over 20%.

An MBA will provide the Council with information about the steps that the City Manager is taking to solve this problem, as well as create an opportunity for the Council to dedicate resources to supporting this effort.

Worker Protections

The Office of Equality Assurance (OEA) is charged with ensuring compliance with numerous worker protections, including the City's minimum wage, prevailing wage, living wage, and more. Ensuring adequate staffing for all of these responsibilities has been an ongoing challenge. For example, OEA currently has only one FTE dedicated to City minimum wage compliance – responsible for protecting an estimated 115,000 minimum wage workers in San José (UC Berkeley estimate).

It is critical for our city's goals of both equity and economic prosperity that we ensure worker protections are equally available to all, including workers from underserved communities who may not be aware of their rights in San José. The COVID-19 pandemic has exposed the extreme vulnerability of many of these worker populations to illegal treatment.

Wage theft in local construction is an alarmingly widespread crime. The Wage Theft Coalition's recent report found 12,376 Santa Clara County construction workers have been victims of wage theft, robbed of over \$46 million dollars – and that includes only documented cases. We also know that this crime is disproportionately directed against vulnerable Latino and Asian workers. Additionally, Latino construction workers in San José bring home 38% less pay than white construction workers.

Even when workers speak up and go through an intimidating process to report wage theft, most workers who win their cases still don't get paid. In California, 83% of workers who win a favorable wage theft judgment from the State Division of Labor Standards Enforcement never get a penny.

In March 2019, the Council approved and prioritized Council Policy Priority #16: Wage Theft Prevention Policy to prevent wage theft in construction and in February 2020, the Council voted to direct staff to bring back a Wage Theft Prevention Ordinance for the private construction sector. However, due to the immediate impacts of the COVID-19 pandemic, the requested ordinance was never brought back for a vote.

In 2019, the County of Santa Clara created an Office of Labor Standards Enforcement. While San Jose's enforcement of minimum labor standards is primarily complaint-based, OLSE has focused more on outreach and education. OLSE's approach is complementary to OEA's and has the potential to greatly increase OEA's reach and impact.

To that end, we propose funding a pilot collaboration with OLSE to provide outreach and education to workers and businesses in one or more industry or occupational segments, as well as referrals and support for workers with potential complaints to file them with OEA or with the appropriate State agency. The targeted segments should be among the industries or occupations in San José that pay relatively low wages or where workers of color and immigrant workers are over-represented, and may be identified based on need, OLSE's capacity, and potential impact. The pilot should incorporate clear metrics and deliverables, including a final report on processes developed, lessons learned, and recommendations for future collaboration.

In addition to pro-active outreach and education, the pilot should include establishing a process for OLSE and partners to screen potential violations of San Jose's minimum wage or other local worker protections, and, if warranted, refer those cases to OEA. OLSE has previously established similar procedures for screening potential violations of State labor laws.

Equity in Cost Recovery

San Jose Parks, Recreation, and Neighborhood Services recreation programs offer vital services for our families. Yet, since the recession these services have been overwhelmingly skewed towards the wealthiest communities, where most families can afford to pay without scholarships.

The current PRNS Cost Recovery Policy requires that a primary question that Parks must ask when considering creating a new afterschool program is "will the families at this school be wealthy enough to afford to pay for this program?" We know first-hand that this is the last thing our PRNS staff want to use to make this decision, but it is up to the Council to update these policies.

A report on this challenge can be found in this report to NSE:

<https://sanjose.legistar.com/View.ashx?M=F&ID=8958394&GUID=BD79E063-AD14-429A-A85E-A6974B974FEF>

Strict adherence to this policy is in direct violation of the equity principles that our Council has adopted and the City Manager embraced. We ask for a Manager's Budget Addendum reviewing options for balancing equity and cost recovery.

City Facilities in Underserved Communities

During the Pandemic our city facilities were a lifeline for our families, especially those who live in overcrowded conditions and don't have the luxury of a front yard or a backyard. Open spaces

and city-run facilities are critical to their physical and mental health. We have heard repeatedly from PRNS staff and from our residents that our parks and community centers serve as a refuge for our most impacted families. As a city, we should honor and respect these places and the communities they serve by investing in them and continuing to offer them as safe places for our families. That is why we ask the City Manager to return with an MBA providing costs associated with Capital Improvements at facilities serving high needs communities, including-but not limited to- PAL, Rancho Del Pueblo Golf, Mexican Heritage Plaza Theatre, Plata Arroyo and Mayfair Skate Parks, Emma Prusch Regional Park and Petting Zoo, Alum Rock Youth Center, Meadowfair, Brigadoon, and Welch Park and Neighborhood Center.

BROWN ACT

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