



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Lee Wilcox
Angel Rios

SUBJECT: SEE BELOW

DATE: April 28, 2022

Approved

Date

4/29/2022

**SUBJECT: REPORT OF THE REIMAGINING PUBLIC SAFETY COMMUNITY
ADVISORY COMMITTEE AND CHARTER REVIEW COMMISSION
PUBLIC SAFETY RECOMMENDATIONS**

RECOMMENDATION

- (a) Refer the recommendations contained in the Report of the Reimagining Public Safety Community Advisory Committee, with the exception of recommendations 21, 22, and 23, to the City Manager and City Attorney for analysis of operational and implementation considerations, budget and workload impact, legal considerations, and other relevant considerations, and return to the Public Safety, Finance and Strategic Support Committee in fall 2022 along with a comprehensive review of all outstanding recommendations for reform and operational improvement being tracked by the Police Department.
- (b) Refer the recommendations of the Charter Review Commission with respect to creation of a Police Commission, an Independent Investigation Department, and an Office of the Inspector General, along with recommendations 21, 22 and 23 from the Report of the Reimagining Public Safety Community Advisory Committee, to the Citywide Roadmap prioritization process.

OUTCOME

The City Council will provide direction to the City Manager and City Attorney about next steps for recommendations contained in the report of the Reimagining Public Safety Community Advisory Committee and for the recommendations of the Charter Review Commission pertaining to public safety.

BACKGROUND

At the June 22, 2021, City Council meeting, the City Council established the Reimagining Public Safety Community Advisory Committee (“Committee” hereafter). The structure of the Committee was based on a proposal from a coalition of community leaders who sought to establish a community-led process to bring forward recommendations on the reimagining of policing in San José. Their proposal was based on desire to revise the initial Reimagining Community Safety process initiated by the City in spring 2021, with the goal of establishing a body that was led by the community instead of by the City and which had the scope to make recommendations on the full range of policing topics of interest to community members.

The City Council designated a list of organizations that would appoint seats on the Committee, as proposed by the community coalition. The City Council further provided that six members of the body must live within Mayor’s Gang Prevention Task Force areas or Project Hope neighborhoods, with the understanding that members appointed by the designated organizations could count towards that total, and that any additional members needed to round out the full six would be nominated by the City Manager’s Office and seated by the Committee. The City Council also added a seat to the Committee to be appointed by the Billy DeFrank Center.

The reconstituted Committee began meeting in August 2021; staff reported on the Committee’s progress at the Public Safety, Finance and Strategic Support Committee in September and November of 2021. The City Council’s direction to include six members from Mayor’s Gang Prevention Task Force areas or Project Hope neighborhoods was satisfied by inclusion of members from the Washington/Alma, 10th and Williams Street, Julian Street, Cadillac/Winchester, Santee/Phelan, and Valley Palms/San Jose Apartments neighborhoods. A representative from the Billy DeFrank Center was also included on the Committee. The final Committee roster is included as Attachment A.

The Committee met biweekly through April 2022. It adopted its final report on April 20, 2022. That report is included as Attachment B.

This item also includes the recommendations of the Charter Review Commission pertaining to public safety. The City Council accepted the Final Report of the Charter Review Commission at its January 11, 2022, meeting, and subsequently provided staff direction on next steps related to the Charter Review Commission’s recommendations at its April 11, 2022, meeting. The Charter Review Commission’s report is included as Attachment C. The Charter Review Commission’s recommendations pertaining to public safety were not included in the April 11, 2022, action; they are instead being brought forward along with the Reimagining Committee’s recommendations due to the overlapping subject matter.

ANALYSIS

Reimagining Public Safety Community Advisory Committee Recommendations

The Committee functioned as a community-lead body as was envisioned when the reconstituted Committee was established in June 2022. City staff provided logistical assistance, such as with agenda posting or provision of meeting translators, but the Committee set its own agendas, organized its own work, and developed its own recommendations independent of staff. The Committee established four subcommittees, as follows:

- **Steering Subcommittee:** The purpose of this subcommittee was to organize meetings of the full Committee, perform administrative tasks, and coordinate with City staff.
- **Promotion and Prevention Subcommittee:** The purpose of this subcommittee was to develop recommendations that address the root causes of violence in the community and promote models of public safety that focus on creating just social and economic conditions.
- **Alternatives to Policing Subcommittee:** The purpose of this subcommittee was to develop recommendations for alternative service models to address issues that currently intersect with policing.
- **Reform, Accountability and Oversight Subcommittee:** The purpose of this subcommittee was to develop recommendations for reforms within the Police Department, such as on training and hiring, as well as reforms to accountability and oversight practices.

The Committee's recommendations were primarily developed by the Promotion and Prevention, Alternatives to Policing, and Reform, Accountability and Oversight Subcommittees. The Administration assisted with information requests from these subcommittees, but did not staff them or participate in the development of their recommendations. As the Committee was considering a set of draft recommendations in early March, the City Manager's Office and the Police Department indicated willingness to present feedback on these recommendations to the Committee at one of its meetings. The Steering Subcommittee clarified that a presentation from the City Manager's Office and Police Department was not needed, but did request a written analysis of which of the draft recommendations may require an amendment to the Police Department's Duty Manual. Staff provided the requested information.

In honor of the community leadership of this process, and in light of staff's limited involvement in development and review of these recommendations, staff has not brought forward an analysis of the recommendations as part of this report. Instead, staff recommends that the City Council refer these recommendations to the City Manager and City Attorney for analysis of operational

and implementation considerations, budget and workload impact, legal considerations, and other relevant considerations.

As part of its consideration of the Use of Force Assessment and 21st Century Policing Reports at the March 1, 2022, City Council meeting, the City Council directed staff to return to the Public Safety, Finance and Strategic Support Committee in fall of 2022 with a comprehensive review of all recommendations for reform and operational improvement being tracked by the Police Department (e.g., recommendations that come from audits, Independent Police Auditor yearly reports, Use of Force Report, 21st Century Policing Report, internal and independent after action reports for the 2020 protests, and similar sources). Bringing back a comprehensive review of these recommendations will facilitate development of a prioritized implementation plan that will guide this work in the future. Staff will bring back analysis of the Committee's recommendations as part of this effort, so that they can be considered for implementation along with the other pending recommendations.

Recommendations 21, 22 and 23 in the Commission's report pertain to the establishment of an Office of Independent Investigation, a Public Safety Oversight Commission, and an Office of the Inspector General, respectively. These recommendations concur with and are consistent with the recommendations of the Charter Review Commission, discussed in the next section.

Consequently, staff recommends that these recommendations travel with the Charter Review Commission recommendations, as described below.

Charter Review Commission Public Safety Recommendations

As part of its final report, the Charter Review Commission recommended the creation of a Police Commission, Independent Investigations Department, and an Office of the Inspector General. These recommendations are described on page 61 of the report, as follows:

A. Create and add a Police Commission to the Charter that conducts regular (e.g. monthly) public hearings on San Jose Police Department policies, rules, practices, customs, and General Orders, as well as address the public's concerns regarding problems with the Office of the Independent Investigations Department, the Office of the Inspector General, and the San Jose Police Department. The Police Commission shall have subpoena authority and full unfettered and unredacted access to the documents contained by any City department or any employee relating to SJPd;

B. Convert the Independent Police Auditor's Office to the Independent Investigations Department, with subpoena authority and full unfettered and unredacted access to the documents contained by any City department or any employee relating to SJPd;

C. Create an Office of the Inspector General, with subpoena authority and full unfettered and unredacted access to the documents contained by any City department or any employee relating to SJPd, to assist the Police Oversight Commission in conducting reviews of patterns, practice, trends, systems, and policies at the Police Department.

Implementation of these recommendations would require a ballot measure(s) to amend the City Charter. As explained in the memorandum from the City Manager, City Attorney, City Clerk, City Auditor and Independent Police Auditor issued under item B.6 at the February 23, 2022 Rules and Open Government Committee meeting, the November 2024 election is the earliest these recommendations could practically be brought before the voters.

Staff recommends that these public safety recommendations be referred to the City Roadmap Prioritization Process on May 16, 2022. At its April 11, 2022, meeting, the City Council referred comparable recommendations from the Charter Review Commission to the City Roadmap process. Referring the public safety recommendations to the same venue would allow them to be considered alongside other potential ballot measures under consideration. As noted above, recommendations 21, 22 and 23 from the report of the Reimagining Commission concur with the Charter Review Commission public safety recommendations. Consequently, staff recommends that these recommendations be referred together with the Charter Review Commission recommendations.

CONCLUSION

The Administration thanks the members of the Reimagining Public Safety Community Advisory Committee and the Charter Review Commission for their tireless service to our City. The City Manager's Office and the Police Department look forward to continuing to partner with the community to advance this important work.

EVALUATION AND FOLLOW-UP

Staff will return with an analysis of the recommendations contained in the Reimagining Public Safety Community Advisory Committee report to a fall 2022 Public Safety, Finance and Strategic Support Committee meeting, along with a comprehensive review of all outstanding recommendations for reform and operational improvement being tracked by the Police Department.

HONORABLE MAYOR AND CITY COUNCIL

April 28, 2022

Subject: Report of the Reimagining Public Safety Community Advisory Committee and Charter Review Commission Public Safety Recommendations

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CLIMATE SMART SAN JOSE

The recommendation in this memorandum has no effect on Climate Smart San José energy, water, or mobility goals.

COORDINATION

This memorandum has been coordinated with the City Attorney's Office and the City Manager's Budget Office.

COMMISSION RECOMMENDATION/INPUT

The recommendations under consideration as part of this item were generated by the Reimagining Public Safety Community Advisory Committee and the Charter Review Commission.

CEQA

Not a Project, File No. PP17-008, General Procedure and Policy Making resulting in no changes to the physical environment.



LEE WILCOX
Assistant City Manager



ANGEL RIOS
Deputy City Manager

For questions, please contact Lee Wilcox, Assistant City Manager, at leland.wilcox@sanjoseca.gov or (408) 674-1704.

Attachments:

Attachment A: Reimagining Public Safety Community Advisory Committee Roster
Attachment B: Report of the Reimagining Public Safety Community Advisory Committee
Attachment C: Final Report of the San Jose Charter Review Commission

Attachment A

Reimagining Public Safety Community Advisory Committee Roster

Voting Members

	Appointing Organization	Appointed Member
1	African American Community Services Agency	Kiana Wood Munoz
2	Amigos de Guadalupe Center for Justice & Empowerment	Cesar Bautista
3	Asian Law Alliance	Gabriela Garzon Gupta
4	Behavioral Health Contractor's Association (BHCA)	Tarab Ansari
5	Bill Wilson Center	Sparky Harlan
6	Billy DeFrank LGBTQ+ Community Center	Gabrielle Antolovich
7	Black Leadership Kitchen Cabinet	Jahmal Williams
8	Destination: Home	Chad Bojorquez
9	HERO Tent	Jesi Lynn Faust (Alternate: Kiana Simmons)
10	Indian Health Center of Santa Clara Valley	Vernon Medicine Cloud
11	La Raza Roundtable	Mica Estremera
12	Latinos United for a New America	Mayra Pelagio
13	LEAD Filipino	Gel Cortez
14	The LGBTQ Youth Space	Diego Gonzalez
15	NAACP SJ/SV	Pastor Kaloma Smith
16	National Compadres Network	Hector Sanchez-Flores
17	Next Door Solutions for Domestic Violence	Darcie Green
18	PACT	Pastor Sammie Evans (Alternate: Iheoma Umez-Eronini)
19	Parents Helping Parents	Sandra Asher
20	Race Equity & Community Safety Committee	Tomara Hall (Alternate: Marco Antonio Aguila)
21	Sacred Heart Community Service	Poncho Guevara
22	Silicon Valley De-Bug	Rosie Chavez
23	Silicon Valley De-Bug	Laurie Valdez
24	Silicon Valley Faith Leaders Collaborative	Rev George Oliver
25	SJ Neighborhoods Commission	Jim Carter
26	SJ Neighborhoods Commission	Jewel Buchanan
27	Somos Mayfair	Rocio "Event" Soloreoi
28	Vietnamese American Roundtable	Philip Nguyen
29	Cadillac/Winchester Representative	Rita Birrueta
30	Santee/Phelan Representative	Ma. Ines Ortega Barrera
31	Valley Palms/San José Apartments Representative	Rosa Cordova

Non-Voting Members

	Organization	Representative
1	San Jose State University Human Rights Institute	William Armaline
2	County of Santa Clara Office of LGBTQ Affairs	Sera Fernando
3	County of Santa Clara Public Defenders Office	David Epps
4	County of Santa Clara Probation Department	Michael Simms
5	County of Santa Clara District Attorney's Office	Chris Arriola
6	County of Santa Clara Department of Family & Children's Services	Michelle Findley
7	City of San Jose Police Department	Anthony Mata
8	City of San Jose Independent Police Auditor	Shivaun Nurre
9	City of San Jose Parks, Recreation and Neighborhood Services Department	Andrea Flores Shelton

REIMAGINING PUBLIC SAFETY COMMUNITY ADVISORY COMMITTEE . SAN JOSÉ



REPORT TO CITY COUNCIL : APRIL 2022



introduction

In May 2020, the conversation about racial injustice erupted into the streets as millions of people worldwide reacted to the brutal killing of George Floyd at the hands of Minneapolis Police Officer Derek Chauvin.

Thousands of San José residents rose up in solidarity with the Black Lives Matter Movement.

The calls for justice did not simply decry the vicious act of one rogue law enforcement officer, they cried out for a reckoning with the chasm between the living conditions, economic security, and safety of whites and blacks in this country.

They did not simply demand accountability for another life tragically lost, they cried out for a recognition that deep fissures of racialized inequities are perpetrated and exacerbated by public institutions, most prominently and tragically by law enforcement.

They cried out in frustration over the failures of traditional police reform.

They cried out for change.

They cried out for something new, a re-imagining of how we keep our communities safe.

Initially, the local protests were met with a disorganized, inconsistent, and heavy-handed response from local law enforcement, further diminishing trust in police and illustrating how far we have to go.

Dating back to the 1960s, community movements against police brutality and misconduct have sought to make police more accountable for their conduct and reduce disparities in the treatment of Black and Brown San José residents. These efforts have met with varying degrees of success and resistance.

Recent data shows that Black adults are 6.6 times more likely and Latinx adults are 2.2 times more likely to be given a local infraction by SJPd than white adults.

From 2015-2020, San José has had the highest number of fatal encounters with police in the Bay Area, 15 of 19 of whom were people of color.

Nearly half of those killed by police suffered from mental illness or were experiencing a mental health crisis.

No police have been prosecuted for any of these deaths.

Source: Mercury News Sept. 2, 2020

In June of 2020, community leaders echoed the voices in the streets and asked the San José City Council to initiate an effort to imagine a different future.

“Develop a process to redirect resources away from policing toward other community-based solutions. This effort needs to incorporate and center the voices of individuals traditionally left out of our decision making, in partnership with diverse community-based organizations that have long served and represented the voices of those community members harmed by systemic racism.”

*-June 15, 2020, letter to the Mayor Liccardo and City Council entitled, **This Budget Fails to Measure up to this Moment**, signed by over 75 community-based organizations.*

This call to action was not a reflexive condemnation of law enforcement, but rather an acknowledgment that our society asks too much of police. The public demands that someone respond to societal challenges: mental health, homelessness, domestic abuse, poverty. Given that over \$490 million annually are directed toward the police department, nearly half of the City’s general fund, do we have the courage to ask this question:

“Are there more effective, efficient, and equitable strategies that can be deployed to address emergent crises and promote better social conditions that can make our community safer?”

After initial challenges with a City-initiated Advisory Group in Spring of 2021, the City Council supported the establishment of a community-led Reimagining Public Safety Community Advisory Committee (RiPS).

Beginning in August 2021 RiPS began an exploration of alternatives to police response in our community and meaningful recommendations for reform.

RiPS members were designees of 28 community-based organizations with deep relationships and expertise in diverse communities. The Re-imagining Process consisted of public learning sessions featuring the lived experiences of individuals impacted by law enforcement, and presentations on the experiences of several constituencies such as Black, Latinx, Asian/Pacific Islander, LGBTQ+, youth, individuals with disabilities, the unhoused, mental health consumers, and survivors of gender-based violence. Once the City appointed additional representatives to serve on RiPS in October 2021, ad-hoc subcommittees were formed to develop recommendations and collect community input on those ideas.

To read more about the process, see page 14.

MEMBERS

African American Community Service Agency	NAACP San Jose/Silicon Valley
Amigos de Guadalupe Center for Justice & Empowerment	National Compadres Network
Asian Law Alliance	Next Door Solutions to Domestic Violence
Behavioral Health Contractors' Association	People Acting in Community Together
Bill Wilson Center	Parents Helping Parents
Billy DeFrank LGBTQ+ Community Center	Race Equity & Community Safety Committee
Black Leadership Kitchen Cabinet	Sacred Heart Community Service
Destination: Home	Silicon Valley De-Bug (2)
HERO Tent	Silicon Valley Faith Leaders Collaborative
Indian Health Center of Santa Clara Valley	SJ Neighborhoods Commission (2)
La Raza Roundtable	SOMOS Mayfair
Latinos United for New America	Vietnamese American Roundtable
LEAD Filipino	Neighborhood Representatives (3)
The LGBTQ Youth Space	

ADVISORY MEMBERS [non-voting]

San José State University Human Rights Institute
 Office of LGBTQ Affairs, County of Santa Clara
 Public Defender Office, County of Santa Clara
 Probation Department, County of Santa Clara
 District Attorney's Office, County of Santa Clara
 San Jose Police Department
 Independent Police Auditor, City of San José
 Dept. of Family & Children's Services, City of San José
 Parks Recreation & Neighborhood Services, City of San José



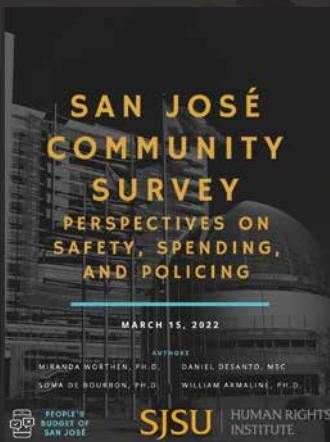
One unique feature of the process was the establishment of the RiPS Youth Council, an autonomous committee of youth representatives. Designing this Council was an acknowledgment of the dual challenges of curating spaces where youth voices are not overshadowed by adult leaders, and the disproportionate impact of law enforcement on young people in our community. The RiPS Youth Council was formed with youth designees from 8 community-based organizations and a representative from the City's Youth Commission. Their report was accepted by the RiPS on March 30th, 2022 and is included as appendix 2 of this report. [p16]

African American Community Service Agency
 Asian Pacific American Leadership Institute
 Bill Wilson Center
 Fresh Lifelines for Youth
 HERO Tent
 LEAD Filipino
 LGBTQ Youth Space
 NAACP San Jose/Silicon Valley
 San José Youth Commission

The Reimagining Public Safety Community Advisory Committee Report presents summary recommendations in seven categories:

Alternative Safety Responses	p4
Support for Impacted Families	p6
Community Conditions	p7
Civilian Oversight & Accountability	p8
Police Conduct	p9
Personnel Practices	p10
Enforcement Priorities	p11

To view links to the full recommendations, visit: tinyurl.com/5dkwdp5j



people's budget san josé

Several RiPS member organizations partnered with San José State University's Human Rights Institute in the design and dissemination of the People's Budget of San José (PBSJ) Survey to gauge community feedback on public safety priorities and relationships with law enforcement which helped inform RiPS proposals.

Over 1,500 people took the survey. The PBSJ Report presents data on:

1. Perspectives on San José City Spending
2. Opinions about Policing and Law Enforcement Policy,
3. Experiences of Policing
4. Perspectives on Alternatives to Policing.

SUMMARY OF FINDINGS

1. In several areas, a clear majority of San José residents supported increased funding: **Community safety resources** (73%), **Helping residents meet basic needs** (67%), and **Public resources like parks, libraries & transportation** (63%). The area with the most support for decreased funding was police (47%).

2. The vast majority of people think **policing in San José has problems** (77%), with a majority (52%) agreeing there are "serious problems" needing major reforms.

3. **Residents' experiences with police varied widely based on their demographic groups.** Across a range of questions, sexual and gender minorities, younger people, African American/Black, Native American, Chicanx/Latinx/Hispanic respondents, and people with lower household incomes had generally more negative experiences with and attitudes towards policing compared to those who identify as men, heterosexual, older, White or Asian, or had higher household incomes.

4. Across demographic categories, **respondents overwhelmingly support San José adopting alternatives to policing** with between 72% - 82% supporting non-police approaches to managing mental health crises, traffic safety, school safety, and the needs of the city's unhoused population.

ALTERNATIVE SAFETY RESPONSES RECOMMENDATIONS

We ask too much of police. Police officers are expected to respond to scenarios stemming from the vast array of societal challenges we face as a community. Not every emergent scenario requires an armed enforcement response. Furthermore, police are expected to interact equitably and professionally with a diverse cross section of community members experiencing moments of crisis or trauma. Law enforcement agencies have long grappled with the need for deeper training, partnerships, and personnel structures to effectively respond to the diverse array of calls for service they receive. Despite considerable investment in training and oversight, inappropriate incidents still occur.

RiPS is proposing that the City of San José invest in and develop new tools and systems to respond to specific circumstances to create better outcomes for community members and better utilize police resources.

Expanding and developing mobile community response teams for individuals experiencing mental health crises, addiction, homelessness or domestic abuse may be more effective at linking individuals to the services they need, may be more equitable by ensuring that professionals deeply trained in working with specific populations are giving appropriate responses, and may be more cost efficient than sending law enforcement personnel.

The City must also look for more creative ways to make our streets safer by design, and utilize civilian personnel and technology for traffic enforcement and event management. San José must design policies to ensure surveillance technology does not impinge upon privacy and civil rights and focus enforcement on reckless traffic behaviors, while eliminating the need for pretextual stops which disproportionately impact communities of color.

RiPS also proposes that the City invest in efforts to train residents, community organizations and neighborhood groups on how to address and de-escalate crisis situations themselves. We can invest in community building approaches to resolve more emergency scenarios, make connections to community services, and alternative safety responses.

By expanding the use of Community Service Officers to respond to lower levels of calls for service, we can also reduce reliance on law enforcement to handle non-violent, non-emergency calls for service.

Mental Health Response

1 [AS2] The City of San José will invest in mobile response teams that can respond to incidents involving individuals experiencing a mental health crisis. These teams will consist of service providers from community-based organizations rather than law enforcement to de-escalate crisis situations and provide connections to resources and support. Locally, the County of Santa Clara has resourced a pilot program known as TRUST, and the City should expand this program capacity City-wide.

2 [AS1] The City Council should develop a plan to collaborate in the implementation of the national 988 behavioral crisis response system for the purposes of identifying and diverting 911 calls to appropriate response systems.

Homelessness Response

3 [PP5] The City of San José will invest in mobile response teams that can respond to calls for assistance for the unhoused. Multi-disciplinary teams of professionals can offer solutions to address their needs in a crisis, from mental health, behavioral health, medical attention, social services, peer support, and more as needed.

4 [PP5] The City of San José will provide encampment maintenance services, distribution of basic necessities, and connection to case management services and problem-solving support, funded by the City and Santa Clara County.

Traffic Safety

- 5** [PP2] The City of San José will invest in self-enforcing streets by expanding the Department of Transportation Traffic Safety role to effectively manage street safety, with an equity lens, through street design, traffic calming measures, and increased community engagement, thereby reducing speeding and reckless driving, and the need for enforcement in the first place.
- 6** [PP2] The City of San José will develop a strategy to move traffic and parking enforcement personnel and responsibilities into the Department of Transportation Traffic Safety Division to the extent allowable by state law.
 - 6a** [PP2] The City of San José will pass a resolution to encourage state legislators to give municipalities flexibility in developing alternative traffic enforcement strategies.
 - 6b** [PP2] The City of San José will transition community event permitting and safety coordination to another City Department.
- 7** [PP2] The City of San José will focus SJPD traffic enforcement efforts on extremely high risk violations, such as reckless driving and extreme speeding. SJPD will eliminate pretextual traffic stops in San Jose, ensuring that SJPD officers have specific, crime-related justifications for stopping someone if their intent is to investigate a crime.
- 8** [PP2] The City of San Jose will develop with community stakeholders a surveillance ordinance to ensure privacy and civil rights protections to guide policy making for potential future adoption of automated speed enforcement measures.

Gender-based violence

- 9** [AS3] The City of San José will develop alternative community-based response programs for gender-based violence that provide an alternative to law enforcement involvement. Programs may involve community teams designed to safely intervene in incidents of domestic violence, and survivor-led restorative practices for low-level gender-based violent crimes.

We Keep Us Safe Campaign

- 10** [PP8] The City of San José will develop a program to educate and train the public, community and neighborhood organizations on how to de-escalate crisis situations, support neighbors in distress, utilize alternative responses, and reduce reliance on police response.

Community Service Officer

- 11** [AS5] The City of San José will expand the capacity of the Community Service Officer (CSO) program which responds to lower-level calls for service, such as non-criminal calls, nonviolent crimes, and other investigations. The City will analyze calls for service to determine if CSOs can respond to additional calls and develop protocols for call diversion to CSOs wherever possible.



SUPPORT FOR IMPACTED FAMILIES

RECOMMENDATIONS

A key component of promoting safer communities is addressing the underlying needs of those most impacted by trauma—in all of its forms—in order to **stop the cycle of violence**. In listening sessions and in RiPS meetings, community members shared their stories of how violence has touched their lives, their struggle to heal and make their communities safer. Mothers and partners of individuals who lost their lives at the hands of police have explained how that trauma continues to impact them.

For survivors of domestic violence, and those whose loved one has been incarcerated, the need for stability and healing is impaired without meaningful social supports. The barriers for individuals leaving incarceration to reintegrate into society are nearly insurmountable if they are released into homelessness. RiPS members offer recommendations to expand the pools of resources targeted at those who have been impacted by violence and carceral systems, starting with the development of a Trauma Relief Fund not connected to the criminal justice system.



Trauma Relief Fund

- 12** [PP12] The City of San José shall establish a Trauma Relief Fund for wrap-around mental health treatment and social support services for survivors of violence, including victims of police violence. The fund should be detached from the criminal justice system and should be developed with input from survivors of violence.

Guaranteed Basic Income: Survivors of Gender-Based Violence

- 13** [PP1] The City of San José will establish a pilot program to provide financial assistance to survivors of domestic violence and other forms of gender-based violence to support them on their path to safety and self-sufficiency.

Reparations Pilot: System Impacted Families

- 14** [PP7] The City of San José will develop a program providing reparations in the form of basic income targeting women of color who have been impacted by the incarceration of a loved one.

Prevent Exits to Homelessness

- 15** [PP 9] The City of San José and other agencies will develop housing and supportive services to ensure individuals leaving jail and prison are not released into homelessness.

The roots of racialized disparities in community safety and stability can be found in the core conditions facing different neighborhoods for generations. The legacy of racialized land use policies, poor infrastructure investment, minimal social supports, and weak renter protections have created conditions ripe for a predatory and unaffordable housing market. The lack of comprehensive policies and accountability systems for worker protections and equitable taxation have exacerbated economic disparities that weaken economic stability for households. The stress of high housing costs and poor wages directly impacts the safety of community members who live in overcrowded conditions, and have to work unsustainable hours to the extent that cannot contribute to the fabric of their neighborhoods.

IMPROVE COMMUNITY CONDITIONS

RECOMMENDATIONS

The City has the opportunity, authority and responsibility to take meaningful action to address key issues of housing affordability and wages, while also generating additional funding to invest in correcting inequities to make our communities safer. RiPS further recommends that the City engage in a community visioning process to develop approaches to safety and stability that do not rely upon law enforcement.

Affordable Housing

- 16** [PP3] The City of San José will advance policies and funding that stabilize renters, preserve and increase the supply of affordable housing, such as rental subsidies and income supports, the Community Opportunity to Purchase Act, Commercial Linkage fee program, and SB9 implementation.

Living Wage/Wage Theft

- 17** [PP10] The City of San Jose will increase the minimum wage in alignment with the levels of nearby municipalities and strengthen capacity for enforcement.
- 18** [PP10] The City of San José will strengthen efforts to fight wage theft by revoking permits, contracts, licenses and other City agreements with businesses with unpaid wage theft judgements, including a Responsible Contracting Ordinance.

Resources

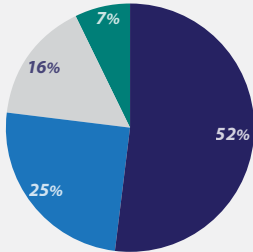
- 19** [PP4] The San José City Council will place on the ballot an initiative to modernize the business tax, by levying a tax on the income of large businesses in San José, rather than a calculation based on the number of employees. Proceeds from the tax would be used to support initiatives to make vulnerable communities safer.

Campaign Zero

- 20** [PP11] The City of San José will initiate a visioning process to identify strategies to ensure our communities are safer by addressing root causes of inequities, violence, and trauma, including benchmarks of success driven by community voices.

CIVILIAN OVERSIGHT AND ACCOUNTABILITY RECOMMENDATIONS

Sense of Policing San José People's Budget Survey



Policing in San José has some serious problems, requiring major reform and shifting some resources to other approaches to creating public safety.

Policing has some problems, but they are the caused by individual bad actors, so major reforms are not necessary.

Don't know.

Policing in San José is working well and does not need reform.

77% of respondents to the People's Budget Survey believe San José has problems with policing, with a majority believing it's bad enough to require major reform.

The City of San José has an opportunity to strengthen civilian oversight of policing and transparency in disciplinary processes.

Despite some concerns of additional costs associated with several proposals for civilian oversight, RiPS members researched models of civilian oversight and accountability and largely concurred with recommendations made by the Charter Review Commission for an Independent Office of Investigation, a Public Safety Oversight Commission and an Office of Inspector General. Such systems can place San José within the mainstream of larger municipalities in the United States.

Other key concerns involve the lack of transparency in disciplinary policies involving law enforcement. The current system of binding arbitration presents enormous challenges for City and SJPD leadership to effectively and expediently address misconduct. In the absence of such reform, more public transparency is necessary such as full and immediate implementation of state reforms meant to shine a light on the history of incidents, complaints, investigations and disciplinary records of law enforcement.

Furthermore, RiPS echoes sentiments shared in Pillar 1 of the 21st Century Policing report calling for better measurement, data collection, and access to information on calls for service, uses of force, and complaints. Overall, these proposals are important steps to ensure San José is a leader in achieving highest standards for transparency and gives community and civilian oversight the tools for accountability.

Civilian Oversight

- 21** [ACC10] The San José City Council will place on the ballot an initiative to establish an Independent Office of Investigation external to the Police Department charged with fully investigating incidents of police misconduct and police shootings.
- 22** [ACC10] The San José City Council will place on the ballot an initiative to establish a Public Safety Oversight Commission to oversee policing policies, practices, training, and investigations of police misconduct.
- 23** [ACC10] The San José City Council will place on the ballot an initiative to establish an Office of Inspector General to review policing systems, patterns, practices, policies, and training.

Transparency

- 24** [ACC2] The City of San José will end binding arbitration in the disciplinary and termination process for police officers.
- 24a** [ACC2] As the City works to end binding arbitration through negotiation and state legislation, the City will improve the disciplinary and termination process by making decisions by an arbitrator free and open to the public, improve the arbitrator selection process, limit the scope of the arbitrator's review, and allow the City the right to appeal to a state court.
- 25** [ACC6] The City of San José will fully implement SB 1421 and prioritize release of disciplinary records of all officers involved in critical use of force incidents.
- 26** [ACC17] The City of San José will modernize information technology, data collection and reporting practices. SJPD will prioritize data management practices and staffing infrastructure to ensure ongoing public access to data on calls for service, use of force incidents, and misconduct complaints.

POLICE CONDUCT RECOMMENDATIONS

RiPS committee members heard testimonies of community members who have been deeply impacted by police conduct, including the tragic loss of civilian life at the hands of police. The effect on loved ones of such trauma cannot be underestimated, and therefore the committee placed great scrutiny on the policies, practices, and consequences placed on law enforcement in drafting recommendations for consideration.

Starting with proposals such as police providing information on individual due process rights before conducting a search, and zero tolerance policies for white supremacy and extremist activity on social media could serve to establish trust with communities that are wary of their interactions with and the biases of law enforcement. Developing trauma-informed protocols and training can improve outcomes in calls for service involving survivors of domestic violence.

There are several recommendations on the treatment of family members of an individual involved in a critical incident and the consequences on police involved such incidents. The experience of community members is that law enforcement has often attempted to shape the public narrative involving such incidents, seeking and sharing limited and denigrating information on individuals, edited footage, and protecting and obfuscating the history and conduct of police involved. These recommendations along with several on body worn camera footage are offered to ensure that fair and impartial treatment of all parties is centered in even the most tragic of circumstances. Furthermore, when police fail to utilize body worn cameras, the preponderance of guilt should be shifted to them in critical incidents.

Search

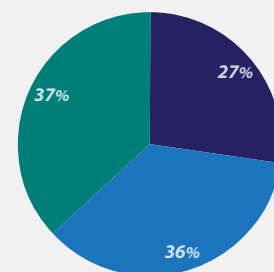
- 27** [ACC9] The City of San José will change its policy to require all SJPD officers to provide their name, badge number, and a card with instructions for filing a complaint to the civilian oversight structure before conducting a search.

Critical Incidents

- 28** [ACC7] The City of San José will change its policies following critical incidents involving the treatment of family members and public information on those involved in such incidents. Families will not be interrogated in the first 24 hours after an incident. No public or private discussions will be held with press or community about those involved, such as sharing mugshots, previous history of involvement in the criminal justice system, or edited footage seeking to shape the public narrative. The City will release unedited body cam footage to the public without captions, audio commentary, or copyrighted music.
- 29** [ACC7] The City of San José will release the disciplinary records of all officers involved in critical incidents.
- 30** [ACC5] The City of San José will change its policy to place police officers on leave without pay after a first critical incident triggering an investigation.
- 31** [ACC5] The City of San José will change its policy to immediately remove officers who have committed multiple critical incidents.
- 32** [ACC5] The City of San José will change its policy to initiate mandatory drug testing of officers involved in critical use of use force cases.
- 33** [ACC5] The City of San José will change its policy to require officers to carry their own personal excessive force insurance.

Experiences with Police

San José People's Budget Survey



■ Positive
■ Negative
■ Mixed

Body Worn Camera Usage

- 34** [ACC14] The City of San José will adopt new policies on the proper use of body worn cameras to ensure they are fully capturing the actions of all parties for the duration of calls for service and investigative stops.
- 34a** [ACC14] Policies will limit the recording of crime victims or witnesses without consent, and while on the grounds of elementary or secondary schools.
- 34b** [ACC14] Footage shall be retained for at least 6 months after date it was recorded and should be accessible to those who were the subject of the footage, the parent or legal guardian of a subject if they are a minor, family of a deceased subject, or law enforcement officer, their superior officer, or the designated counsel of any of the above.
- 34c** [ACC14] Footage shall be retained for at least 10 years if it captures an interaction of a critical incident, an interaction where a complaint has been filed, or at the request of a subject, guardian of a minor subject, or next of kin of a deceased subject, or any of their legal representatives. For incidents resulting in death, the footage would be held in perpetuity.
- 34d** [ACC14] Whenever doing so is necessary to protect personal privacy, the right to a fair trial, the identity of a confidential source or crime victim, or the life or physical safety of any person appearing in video footage, redaction technology may be used to obscure the face and other personally identifying characteristics of that person. An unedited original version of the video shall be retained.
- 34e** [ACC14] Body camera footage may not be withheld of a law enforcement officer under investigation for their conduct in their official capacity.
- 34f** [ACC14] No footage may employ facial recognition technology.
- 35** [ACC15] The City of San José will change the SJPD Body Worn Camera (BWC) policy to reverse the criminal preponderance of guilt, considering guilty until proven innocent any officers found failing to properly turn on a BWC resulting in a critical incident.



Gender-Based Violence Response

- 36** [ACC24] The City of San José will adopt new trauma-informed practices and training in response to incidents of gender-based violence to ensure accurate documentation of incidents, following through on violations of restraining orders, preventing the arrest of survivors, and revisiting mandatory arrest policies.

Social Media Policy

- 37** [ACC16] The City of San José will adopt a zero tolerance policy of White Supremacy and Extremism. Advocating for such content whether in department public forums or reported personal capacity are grounds for dismissal.

PERSONNEL

RECOMMENDATIONS

San José must create an inclusive, equitable, and diverse workforce that can attract law enforcement personnel that better reflect and respond to the needs and challenges facing San José residents.

According to the July 2019 United States Census population estimates, the ethnic breakdown for the City of San José is: 35% Asian, 32% Hispanic or Latino, 26% White, 3% African American, and 4% other. However, according to the SJPD 2021 Recruitment and Hiring Activity Annual Report, the department is over represented by White officers (39%) and under represented in AAPI (14.5%) and Hispanic/Latinx (23.7%) officers.

During listening sessions with the community, RiPS members were told that many residents feel that SJPD's training in handling crisis intervention and interactions with the disability community is ineffective.

RiPS members surfaced several personnel related recommendations to encourage the development of a more diverse, well-trained, and community oriented police force.

Discriminatory Behavior

- 38** [ACC3] The City of San José will implement a study of SJPD to address discriminatory behavior in the department and make recommendations on potential reorganization and accountability.

Training

- 39** [ACC18] The City of San José will adopt enhanced training to law enforcement provided by members of the community from underserved communities, those impacted by police violence, disability rights organizations, and youth.
- 40** [ACC11] The City of San José will evaluate and revamp CIT training for law enforcement to ensure officers can recognize and practice responses to individuals with multiple, overlapping disabilities, working with local and national organizations. CIT training will be required every 2 years. CIT will also include trauma-informed training on domestic violence and caregiver abuse response.
- 41** [ACC13] The City of San José will enhance training officer qualifications to ensure they have no resident complaints against them, and they are screened for conscious and unconscious bias. Officers must receive training on adult learning theory, history of marginalized communities in San José, and ableism. Training officers will be evaluated on the performance of officers they have trained.

Hiring

- 42** [ACC8] The City of San José will require SJPD to develop and publicly report a strategy and timeline for their diversity, equity, and inclusion goals in hiring and retention of police officers and leadership to the extent allowable by law.
- 43** [ACC22] The City of San José will concentrate recruitment efforts for police officer hiring in San Jose neighborhoods to better represent the diversity of the city.
- 44** [ACC23] The City of San José will prioritize the hiring of more police officer candidates from San José, through preference points, incentive pay upon hiring, and potentially additional monetary compensation for housing. Candidates should have a letter of support from a community group or organization.
- 45** [ACC20] The City of San José will involve qualified residents of San José in the police officer hiring process to assist with interviewing and evaluating potential candidates to select those who exhibit the character and qualities the residents want in a police officer.

Community Engagement

- 46** [ACC19] The City of San José will prioritize community engagement on the part of police officers by establishing more engagement expectations, requiring completion of 60 hours of community engagement per year, providing community sensitivity training developed in concert with community members, and ensuring police officers serve a minimum of 2 years per assignment to a patrol district.

ENFORCEMENT PRIORITIES RECOMMENDATIONS

The role of police as first responders can be crucial determinant to how the criminal justice system disproportionately impacts key populations in our community. If police are the responders to concerns involving people who are unhoused, the cascading consequences of citations, fines, or incarceration may only further exacerbate their destitution and create barriers to long-term stability. Prioritization of drug enforcement for those who need treatment seldom resolves the underlying challenges they face.

For youth and families, the nature of police intervention may have long term social consequences.

Police presence and involvement in schools has been demonstrated to contribute to the school to prison pipeline. The Child Protective Services system has proven to disproportionately target low-income families of color, resulting in family separations that have long term consequences. Each of these populations require specific resources and interventions that law enforcement are not equipped to provide.

Therefore, RiPS members recommend that the City revise enforcement priorities and partnerships with other institutions such as the County of Santa Clara and school districts to devise new protocols and resources available to better address the needs of these impacted constituencies.

Criminalization of Homelessness

- 47** [PP6] The City of San José will end enforcement of laws, citations, and fines that target people who are unhoused and redirect resources to support housing, safe parking locations, and supportive services to them.

School Partnerships

- 48** [PP13] The City of San José will end the School Resource Officer programs with local schools. The City should invest in restorative justice programming and alternative unarmed safety / security responses for schools.

Child Protective Services

- 49** [PP14] The City of San José will identify policies and practices that minimize child separation in investigations of alleged abuse working with the County of Santa Clara.

Harm Reduction in Drug Enforcement

- 50** [PP15] The City of San José will study the enforcement priorities and expand harm reduction strategies for individuals struggling with addiction in partnership with the County of Santa Clara.



REIMAGINING PUBLIC SAFETY COMMUNITY ADVISORY COMMITTEE . SAN JOSÉ

REPORT TO CITY COUNCIL : APRIL 2022

conclusion

The responsibility to make our communities safe falls to all us, not only the police. We must work together to improve the social conditions that leave too many in a state of insecurity.

As the Reimagining Public Safety Community Advisory Committee concludes our work, we believe that the recommendations we present lay a solid foundation to build a long term strategy to make our communities safer. Taken together these recommendations seek to balance the need for traditional reform of policing, while identifying new systems for responding to crisis situations where police may not be necessary, and identifying strategies that can address root causes of violence and instability.

Core to our process of developing recommendations was to center the voices and perspectives of diverse constituencies in San José, many of whom have been disproportionately impacted by our current law enforcement approaches. These testimonies spoke to the urgency for reform, the desire for alternative community centered interventions, and the need to heal trauma from violence in all of its forms.

Several community-based proposals suggest reforms to current day policing to make police more accountable and transparent. However, we believe the City Council should also take immediate and concrete action to develop a community participatory plan to significantly move away from policing as the primary tool for ensuring public safety over the years to come. This plan should have benchmarks, evaluation points, and report outs. This plan should involve at the very least acceptance and implementation of these proposals but should also be intentional about the strategic redirection of police functions to targeted alternative safety responses over time, while larger investments in improving social conditions are made.

We look forward to working with the San José City Council and City administration to develop a long term roadmap for change.

APPENDIX 1: reimagining process

The uprising inspired by the murder of Mr. George Floyd inspired In June of 2020, local leaders called on the City of San José to commit meaningful resources to establish an Office of Racial Equity and to direct that office to establish a community ***“process to redirect resources away from policing toward other community based solutions.”***

The Council agreed to create the Office of Racial Equity and charged the administration with establishing a community process on the “future of policing,” to recommend new ways of addressing social issues, and “a process to review our use of force policies.”

In the Spring of 2021, the City Manager’s office launched a Reimagining Community Safety Advisory Group with a large and diverse group of stakeholders. Members were told they were selected, in part, because of their direct relationships with grassroots constituencies. Many of the participants expressed significant concerns with inadequate representation of youth and system impacted individuals, along with frustration with the pace, scope, and poor facilitation of the process. That process disbanded in May 2021.

A proposal was developed for a community- led process, that included community representatives from 28 community-based organizations with additional neighborhood representation. The purpose of the Reimagining Public Safety Community Advisory Committee (RiPS) was to identify, research, develop, and advance:

- ***Alternatives to policing.*** Make recommendations to the City Council on identification and resourcing of community-based programs and interventions and alternative City service models that will significantly change, reduce, or eliminate the role of law enforcement in addressing social challenges. These may involve both the creation of alternative emergency response systems and preventative approaches.
- ***Transformation of police policies and practices.*** The Committee must develop a detailed understanding of current SJPd policies and institutional context to inform policy recommendations moving forward. The body will explore what police policies
- ***Increased police accountability and transparency to the public.*** Make recommendations to the City Council on increased police accountability, which may include, but are not limited to, oversight and disciplinary practices, and transparency to the public.
- ***Implementation strategies.*** Make recommendations to the City Council on implementation strategies for alternatives to policing, applying necessary policy reforms, and increasing public accountability/ transparency in San José. Implementation recommendations may include, but are not limited to, proposals for publicly tracking implementation of recommendations and identifying resource needs and funding strategies.

In addition the proposal outlined the establishment of a semi-autonomous Youth Council designed to take a parallel track for making recommendations for public safety alternatives and reform.

This process proposal was adopted by the City Council in June 2021. Members were appointed shortly thereafter.

Starting on August 4, 2022 RiPS began meeting every two weeks. The focus of our meetings have been hearing lived experience testimonies along with presentations, perspectives, and policy recommendations from key community constituencies and other leaders.

RiPS MEETING TOPICS/PRESENTERS:		LIVED EXPERIENCE TESTIMONIES
History of Policing & Reform	William Armaline, PhD [San José State University Human Rights Institute]	Rosie Chavez
Individuals Experiencing Mental Health Challenges	Tarab Ansari [Behavioral Health Contractor's Association]	Jackie Germaine
Individuals with Disabilities	Sandra Asher [Parents Helping Parents] Leigh Ann Davis [The Arc]	Darcie Green
Survivors of Gender- Based Violence	Esther Peralez-Dieckmann & Darcie Green [NextDoor Solutions to Domestic Violence]	Corina Griswold
Individuals who are Unhoused	Chad Bojorquez [Destination Home]	Elsa Lopez
The Black Community	Kiana Simmons [HERO Tent], Carmen Brammer [Black Leadership Kitchen Cabinet] & Laverie Foster [African American Community Service Agency]	Andrew Rodriguez
The Latino and Chicano Experience	Laurie Valdez [Silicon Valley DeBug & Justice for Josiah]	Kiana Simmons
Asian American & Pacific Islander Community	Angelica Cortez, PhD [LEAD Filipino], Richard Konda [Asian Law Alliance], Anthony Nguyen [Pivotal], & Mimi Nguyen [Vietnamese American Roundtable]	Amanda Sommers
LGBTQIA Community	Gabrielle Antolovich [Billy DeFrank Center] & Sera Fernando [County Office of LGBTQ Affairs]	Marcelina Taguinod
Youth Council	Youth Council Members: Paula Escobar, Alex Spielmann, Yusuf Labia, Lahari Desireddi, Ezra Feleke, Jaria Jaug, Gabriel Young, L	Laurie Valdez
Traffic Safety	John Ristow [San José Department of Transportation] Shiloh Ballard [Silicon Valley Bicycle Coalition]	Sharon Watkins
Reimagining Public Safety Processes: Lessons	Christopher Logan, Omar Leal, Lizz Finney, Poncho Guevara & Derrick Sanderlin [Sacred Heart Community Service]	
People's Budget Survey Results	Miranda Worthen, PhD & Soma De Bourbon, PhD [San José State University Human Rights Institute]	

RiPS members heard feedback and analysis from San Jose's Independent Police Auditor and City Attorney's Office.

After the City forwarded the nominations of additional neighborhood representatives in October of 2021, RiPS created four ad-hoc subcommittees, a Steering Committee, Youth Council, and three topical committees designed to develop policy recommendations. Each subcommittee held publicly-noticed meetings to receive feedback on their draft recommendations.

- **Alternative Safety Response:** Public Forum on March 9, 2022
- **Accountability & Reform:** Public Forums on February 15, 2022 and February 28, 2022
- **Promotion & Prevention:** Public Forum on February 22, 2022
- **Youth Council:** Public Forum on March 30, 2022

The RiPS Committee adopted the recommendations on April 20, 2022.

Sacred Heart Community Service provided coordination support for the RiPS process.
Anthony Lê provided coordination support for the Youth Council.

APPENDIX 2: RiPS youth council report

The Reimagining Public Safety Community Advisory Committee Youth Council served as an autonomous body of San José residents ages 16-21. The Youth Council developed proposals in four categories: Police Accountability, Police Relations/Outreach, Police Force/Tactics, and Alternative Systems.

Police Accountability

State Law

[YC1] The City of San José will fully implement SB 2 - Police De-certification

[YC2] The City of San José will fully implement AB 490 - Banning knee-to-neck holds

[YC3] The City of San José will direct Office of Administration, Policy, and Intergovernmental Relations to lobby for and sign support letters for AB 1947 (Ting) - Redefine Hate Incidents as Hate Crimes in Local Law Enforcement.

[YC4] The City of San José will direct Office of Administration, Policy, and Intergovernmental Relations to lobby for and sign support letters for AB 988: Creation of Mental Health Response Act.

Federal Law

[YC5] The City of San José will direct Office of Administration, Policy, and Intergovernmental Relations to lobby for and sign support letters for S2103: "Accountability for Federal Law Enforcement Act" which allows individuals to sue federal law enforcement officers & agencies in civil court for violations of their civil and constitutional rights.

Community Accountability

[YC6] The City of San José will establish an independent Community Civilian Audit and Oversight group that incorporates representatives/liaisons from community-based organizations, including residents broadly reflective of the city's diversity to oversee critical incident investigations, to monitor and make recommendations on the SJPd budget.

[YC6a] The City of San José will increase budget transparency, by providing more detail and better descriptions of what is in the budget.

[YC7] The City of San José will establish an independent Youth Audit and Oversight group made up of residents ages 15-25. These paid positions would review and make recommendations on police reports, investigations, and the SJPd budget.

[YC8] The City of San José will establish the Police Chief as an elected position. Certain prerequisites in experience can be set to ensure proper experience and qualifications are met. The elections will occur in alignment with Mayoral races. Candidates can only take money from individuals and businesses that do not have foreign influence. The position can be recalled via public petitions.

Our Values

- **Safety:** We want to build a community where everyone feels safe. Stop violence - physical (murders by police) and also emotional (gaslighting, re-traumatizing, police don't know how to interact with marginalized communities)
- **Access:** Housing, necessities to live, comfort of the home.
- **Solidarity:** Inspire other people in the community. Also focus on strengthening the relationship between community and police department



Police Accountability

How is SJ implementing state laws?
What is the timeline?

- **SB 2 (Bradford)** - Police De-Certification
- **AB 490 (Gipson)** - Ban Knee to Neck Hold

Have City of San Jose (Office of Administration, Policy, and Intergovernmental Relations) to add the following bills to their priority list for support sign letters of support for & lobby

- **AB 1947 (Ting)** - To redefine Hate Incidents as Hate Crimes in Local Law Enforcement
- **AB 988 (Bauer-Kahan)** - Mental Health response Act

Police Accountability

Lobby for S. 2103 "Accountability for Federal Law Enforcement Act"

Allows individuals to use federal law enforcement officers & makes federal law enforcement agencies liable for the conduct of an officer, regardless of whether the officer has a qualified defense



Community Accountability

- Incorporate Community Groups into the auditing process
- Have the police chief position be a elected position made by the people of San Jose
 - Money raised must be from grassroots campaigns.
 - Align with mayoral race
 - Santa Clara already does this
 - Increase accountability of the police chief
 - Must have certain qualifications to run
- Increase budget transparency, detail what is in the budget
 - What are the descriptions of the budget



Auditing

Independent Auditing Office
separate from Police



Youth Auditing Group
• Current RiPS Youth Council serves as base model

*Image: FlatIcon.com.

Police Relations/ Outreach

Youth Outreach

[YC9] The City of San José will create/expand on safe spaces initiative inclusive of all youth while also specifically tailoring to the needs of the community it serves.

[YC10] The City of San José will abolish the Team Kids program and introduce a community-led Public Safety Workshop that teaches students what their rights are, what to do if detained by the police, the history of law enforcement and how it has been used, the criminal justice system, and how youth can get involved.

[YC11] The City of San José will remove School Resource Officers and SJPD from all San Jose Unified School District campuses and events and develop a replacement program of unarmed private security for schools, along with student behavioral resources.

[YC12] The City of San José will create a Career Panel for middle school and high school classrooms/schools on various professions which can make a difference in their community, including, but not limited to, SJPD.

Outreach

[YC13] The City of San Jose will provide focus police training on humanizing the community they see and interact with by framing their interactions in a community-oriented, non-harmful, non-persecuting manner with an intent on strengthening community bonds and helping individuals.

[YC14] The City of San José will remove police from community events and provide unarmed private security to make events inclusive to everyone.

[YC15] The City of San José will expand outreach, advertising, and recruitment to increase turnout to public meetings, so more community members are aware of important decision making.

LGBTQ+ Relations

[YC16] the City of San José will increase funding for creation and/or expansion of LGBTQ+ friendly spaces and resources.

[YC17] the City of San José will expand training of police officers on how to interact with members of the LGBTQ+ community with LGBTQ Youth Space, including face-to-face discussion with members of the LGBTQ+ community to provide personal accountability for officers.

[YC17a] The City of San José will include a graded assessment in the understanding of LGBTQ+ history, biases, and gender identity (implemented during the screening and/or training process)

[YC17b] The City of San José will employ LGBTQ+ supportive organizations to create curriculum.

BIPOC Relations

[YC18] Given the over-representation of white officers on the SJPD, the City of San José will recruit Black, Indigenous, and People of Color to the police force keeping diversity and ethnic clusters in mind.

[YC19] The City of San José will prioritize hiring and maintaining officers who are local to San José.

[YC20] The City of San José will develop a protocol to allocate and dispatch officers from certain areas, respond to calls from that area.

[YC21] The City of San José will establish an Impacted Families Roundtable, to amplify voices of families impacted by carceral systems in SJPD policy decisions. Counseling support will be offered during and shortly after Roundtable meetings.

Current Police Outreach

SJPD is currently involved and responsible for various Community services not just enforcing the law

Police Relations/Outreach

- Crossing guards
- Safety Education
- "TEAM Kids program allows patrol officers to visit elementary schools with 6 weekly visits... The primary goal of the program is to support crime prevention and youth safety with an emphasis on gang prevention education."
- "Crime Prevention Specialists are also involved in a variety of youth and school based programming... presenting violence reduction, drug and gang awareness/prevention"
- SJPD Website Community Services

The Focus on Crime Prevention

- "Gangs function as a socializing institution when other institutions fail"
- Poor family support structure
- "Protection, fun, respect, financial opportunity, influence from a friend, and pop culture"
- Street gangs attract youth because it meets a youth's social needs

Understanding the root causes of gangs (Edvaldo 2021)

NOT Race or Personality Traits

Flipping the Script

Police relations are framed in a way where the burden of compromise and acceptance is placed on the Community

Outreach without conformity!

- Remove police from community events, replace with private security without amritice
- Increase advertising of already public meetings, so more community members are aware of important decision making

Youth Outreach

- We must divest from jails and carceral systems.
 - "If keeping youth out of prison is our priority, then the District Attorney and San Jose Police Department should be removed entirely. From the equation!" (vally 2019)
- Invest in behavioral health services for students
 - Remove SROs and SJPD from all SJUSD campuses and events (private security for events)
 - Educate youth and their families on their rights
 - Public Defender Workshop

LGBTQ+ Community Relations

- SJPD currently has an LGBTQ+ Community Liaison
- Anti-LGBTQ+ discrimination persists during police interactions
- Proposed Solutions:
 - Training police officers on how to interact with members of the LGBTQ+ community with LGBT Youth Center rather than just Billy DeFrank
 - This training must involve face-to-face discussion with members of the LGBTQ+ community to provide personal accountability for officers
- Graded assessment in the understanding of LGBTQ+ history, biases, and gender identity (implemented during the screening and/or training process)
 - Employ LGBTQ+ supportive orgs to create curriculum
 - Increase funding for creation and/or expansion of LGBTQ+ friendly spaces and resources (more on this later)

BIPOC Relations

- Most SJPD officers don't reside in the city of San Jose.
 - There is an overrepresentation of white individuals in the police force.
- Impacted families Roundtable
 - Emphasis on the voices of impacted families by carceral systems
- Re-Allocation of officer identities to identify specific areas keeping diversity and ethnic clusters in mind

Differing Racial Makeups Between the City of San Jose & SJPD:

According to the April 2020 United States Census, the following is the recorded racial breakdown for the City of San Jose: 37.2% Asian, 31% Hispanic or Latino, 25.1% White, 2.9% Black or African American, and 7.9% two or more races

As of July 09, 2021, the overall Department, as well as each rank within the Department, was made up of the following self-reported ethnicities:	Officer	Sgt.	Sr.	Captain	Det.	Chief	Total	%
American Indian or Alaska Native	4	0	0	0	0	0	4	0.04%
Black or African American	12	0	0	0	0	0	12	0.08%
Hispanic or Latino	304	33	10	3	1	1	352	23.1%
White	4	0	0	0	0	0	4	0.03%
Two or more races	304	40	21	4	2	1	412	26.6%
Unidentified	100	0	0	0	0	0	100	6.7%
TOTALS	809	73	31	7	3	2	925	100.0%

Source: Police Personnel List

Police Force/Tactics

Mental Health Response

[YC22] The City of San Jose will develop protocols to have certified mental health professionals deployed to mental health crisis response calls rather than SJPd.

[Support RiPS AS1/2]

[YC23] The City of San Jose will provide deescalation training to Mental Health Rapid Response teams in additional training and resources to police on how to respond to different types of mental health related issues.

Response to the Unhoused

[YC24] The City of San Jose will provide alternative responders to individuals who are unhoused to provide necessary support such as housing and clinical services.

Human Trafficking

[YC25] The City of San José will increase focus on human trafficking, including better training and resources to identify indicators of human trafficking, how to carefully approach the cases without putting victims in danger, providing access to community services to assist in the victims recovery journey, and dispatching appropriate professionals to help victims open up about their experience.

[YC26] The City of San José will increase transparency in the use of funds that SJPd and Human Trafficking Task Force is receiving to improve their activities regarding human trafficking.

Demilitarizing & Decreasing Police Brutality

[YC27] The City of San José will provide stress training on different situations with an emphasis on non-lethal tactics, alternatives to using weapons, and how to avoid physical brutality.

[YC28] The City of San José will require police to intervene to stop officers from using excessive force and reporting to a supervisor, and the use of first aid to provide medical attention to anyone in police custody who is injured or complains of injury. (See police department policies from Seattle, Cleveland, New York City, Las Vegas, Baltimore)

[YC29] The City of San José will revise police use of force policies to ensure use of a minimum amount of force to apprehend a subject, with specific guidelines for the types of force and tools authorized for a given level of resistance, deescalation tactics, and use of less lethal weapons. Policies should ban use of force for talking back or punishment for running away, choke-holds, strangleholds, hog-tying and transporting people face down, or use of prone restraints.

Mental Health Response

- Mental Health Rapid Response Team
 - Only certified mental health professionals are deployed rather than SJPd
 - Can redirect caller to a mental health team
- Increase resources to help officers respond appropriately if action needs to be taken
 - Should also be a part of training
- Increase outreach to help San Jose residents know about the resources available to them
- Will be talked about further later

Police Force/Tactics



Response to the Unhoused

- Other cities have clinical therapists approach individuals & try to help without violence
 - Example: Long Beach department's response includes service providers, health officers, and park superintendents
- Redirect caller to community partners that can provide housing & necessary support
 - ~20% of unhoused individuals have a severe mental disorder

Police Force/Tactics

Increase Focus on Human Trafficking

- Educate officers about the key indicators of human trafficking
- Provide community services & social welfare agencies to assist the victim's recovery journey
 - Dispatch appropriate professionals to help the victim open up about what they are experiencing
- Increase transparency in the use of funds that SJPd and Human Trafficking Task Force is receiving to improve their activities regarding human trafficking



* Many victims are undocumented immigrants or have other barriers that hinder them from expressing their emotions

*Image: FlatIcon.com

Police Force/Tactics

- 1 Training with an emphasis on alternatives to using weapons and physical brutality

Demilitarizing & Decreasing Police Brutality

- Redistribute the SJPd budget to fund various trainings & screenings
- Intervene to stop other officers who are using excessive force and report them to a supervisor (Ex: Las Vegas Metro PD Policy)
- Have first aid kits and immediately render medical assistance to anyone in police custody who is injured or who complains of an injury (Ex: New Baltimore PD Policy)

Police Force/Tactics

- 2 Intervention & Prevention From Police Officers

Demilitarizing & Decreasing Police Brutality

- Use minimum amount of force to apprehend a subject, with specific guidelines for the types of force and tools authorized for a given level of resistance (Ex: Seattle PD Policy)
- Utilize de-escalation tactics (verbalization; creating distance, time and space; tactical repositioning, etc.) whenever possible instead of using force (Ex: Seattle PD Policy)
- Ban chokeholds, strangleholds (i.e. carotid restraints), hog-tying and transporting people face down in a vehicle (Ex: NYPD Policy)

Police Force/Tactics

[continued]

Body Camera Policies

[YC30] The City of San José will redesign body cameras, and policies governing their usage. Cameras should have wider lenses, collect 360 degree footage, better quality, battery length and reliability of on/off control. Officers should not be permitted to turn cameras off until the end of shift. Cameras should not be covered at any time.

[YC31] The City of San José will ensure body camera footage is accessible to the public.

Hiring/Recruitment

[YC32] The City of San José will conduct mental health screening tests to ensure that officer candidates are not coming in with any chronic mental illnesses that can affect their work.

[YC33] The City of San José will require officers to take ethnic studies and cultural awareness courses with grade standards to assure they have the competent cultural awareness skills to do their jobs. Training should cover the cultures of residents they will assist in the community to ensure community members feel more comfortable.

[YC34] The City of San José will establish associate or bachelor's degree requirements to serve on the police force.

[YC35] The City of San José will screen and monitor police officers to assure they have no record of supporting racist, homophobic, transphobic causes, or any record of violent behaviors toward gender minorities.

<p>3</p> <p>Redesigning body Cameras</p> 	<p>Police Force/Tactics</p> <h3>Demilitarizing & Decreasing Police Brutality</h3> <p>How can we redesign body cameras to capture the perspectives of the officer and civilian?</p> <ul style="list-style-type: none"> Police not have access to footage (in auditing area) Wider lens 360 body camera footage Improving quality - battery length, reliability of on & off button (officers cannot turn off body cameras until end of shift) <p>How can we protect people from being falsely incriminated with body cam footage?</p> <ul style="list-style-type: none"> Camera should not be covered at any time Allow access to body camera footage to the general public
<p>4</p> <p>An in-depth screening of the officers and conduct mental health screening tests</p>	<p>Police Force/Tactics</p> <h3>Hiring/Recruitment</h3> <p>Plain View Project</p> <ul style="list-style-type: none"> Launched by Philadelphia lawyer Emily Baker-White, Examined the accounts of about 2,900 officers from eight departments across the country and an additional 600 retired officers from those same departments. <ul style="list-style-type: none"> "1 in 5 of the current officers, and 2 in 5 of the retired officers, made public posts or comments that met that threshold – typically by displaying bias, applauding violence, scoffing at due process, or using dehumanizing language." Conduct mental health screening tests to assure that upcoming officers are not coming in with any chronic mental illnesses that can affect their work
<p>5</p> <p>Reform the Diversity & Inclusion Training</p> <p>Ethnic studies, college degrees, mental health</p>	<p>Police Force/Tactics</p> <h3>Hiring/Recruitment</h3> <ul style="list-style-type: none"> Require graded Ethnic Studies & Cultural Awareness <ul style="list-style-type: none"> Ensures officers have competent cultural awareness Teach about the culture they will be assisting in the city <ul style="list-style-type: none"> Helps those they are interacting with feel more comfortable Police paid for associates degree & bachelor's degree to get on the force (reallocate money and resources towards initiating programs like these) Screen officers for records of racism; homophobia; transphobia; violence against gender minorities & monitor their personal opinions as well so another facebook group doesn't occur

Alternative Systems

Mental Health Response

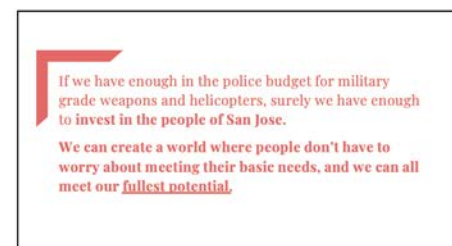
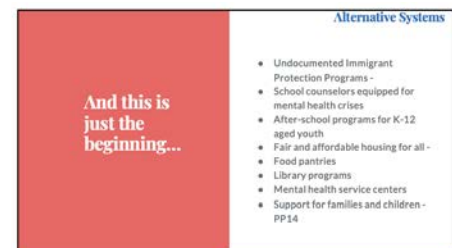
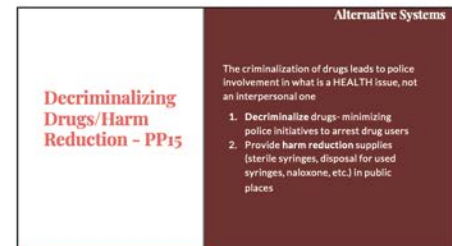
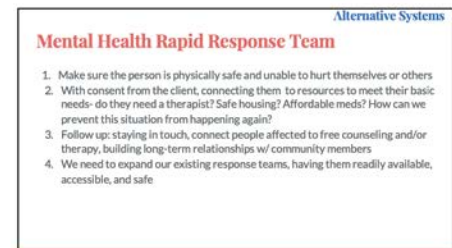
[YC36] The City of San José will expand the community driven mobile crisis response team [RiPS AS2], call center access to 988 [RiPS AS1], and develop outreach strategies to communities that could benefit, such as unhoused residents.

Drug Enforcement/Harm Reduction

[YC37] The City of San José will study the enforcement priorities and expand harm reduction strategies for individuals struggling with addiction. [RiPS PP15].

Basic Needs

[YC38] The City of San José will reallocate police department funding to expand resources that protect undocumented immigrants, school counselors equipped for mental health crises, after-school programs for K-12 aged youth, fair and affordable housing for all, food pantries, library programs, mental health service centers, support for families and children - [RiPS PP14]



Final Report

of the

San José Charter Review Commission

Friday, December 3rd, 2021



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Letter from the Chair

Councilmembers,

I am grateful for the opportunity to have served as the chair of the 2021 San José Charter Review Commission. The Commission not only represented each Council district but also represented diverse lived experiences, a variety of professional expertise, as well as coming from different cultures and communities.

What all Commissioners held in common was their incredible dedication to this process, as witnessed by their attending 29 meetings of over 100 hours of meeting time, as well as numerous ad hoc subcommittee sessions and 5 public hearings. Their diligent study of the issues, hours of volunteer time and absolute resolve to be of maximum service to the benefit of the City of San José is commendable at the highest level. I have been honored to serve with them.

From the beginning of this process, the Commission has challenged itself to examine every possible way in which we could dedicate our deliberations to the values of equity, racial and gender justice. This included asking me to go back to the Rules Committee and then to Council for additional resources to compensate community partners to elicit feedback for the Commission from hard to reach and highly affected communities. We examined the issues sent to us from the Council's memorandum establishing the Commission on the questions of governance structure and timing of elections. In addition, we also examined the greater equity, transparency, accountability at City Hall directive from the memo.

The design we followed was multipart: Commission study sessions of the issue, subcommittees drafted recommendations to present to the Commission and revise the recommendations from Commissioner's and public feedback, hold preliminary vote to move the recommendation forward, send those recommendations to a public hearing and make any additional edits then presented the Commission the final recommendation for a vote. In our deliberations we recognized that there were some important issues that did not or should not rise to a charter revision so the Commission is also submitting a few policy only recommendations.

Since this is the first Charter Review Commission in 35 years, I felt that it was of utmost importance to thoroughly document the proceedings and so our report is very detailed in

Therefore, on behalf of the 2021 San José Charter Review Commission, I submit this report for your thoughtful consideration.

Sincerely,

Frederick J. Ferrer

Frederick J. Ferrer (Dec 3, 2021 10:14 PST)

FREDERICK J. FERRER Chair

Lan Diep

Lan Diep, Citywide

Sammy Robledo

Sammy Robledo (Dec 2, 2021 16:49 PST)

Sammy Robledo, District One

Christina Johnson

Christina Johnson (Dec 2, 2021 16:43 PST)

Christina Johnson, Vice Chair, District Two

Elly Matsumura

Elly Matsumura (Dec 2, 2021 18:18 PST)

Elly Matsumura, District Three

Huy Tran

Huy Tran (Dec 2, 2021 16:35 PST)

Huy Tran, District Four

Veronica Amador

Veronica Amador (Dec 3, 2021 13:27 PST)

Veronica Amador, District Five

Elizabeth Monley

Elizabeth Monley (Dec 3, 2021 15:16 PST)

Elizabeth Monley, District Six

Rick Callender

Rick Callender, District Seven

Jeremy Barousse

Jeremy Barousse (Dec 2, 2021 18:47 PST)

Jeremy Barousse, District Eight

Linda J. LeZotte

Linda J. LeZotte (Dec 2, 2021 16:50 PST)

Linda LeZotte, District Nine

Tobin Gilman

Tobin Gilman (Dec 2, 2021 17:03 PST)

Tobin Gilman, District Ten

Barbara J Marshman

Barbara J Marshman (Dec 3, 2021 20:17 PST)

Barbara Marshman, Citywide

Yong Zhao

Yong Zhao (Dec 2, 2021 20:08 PST)

Yong Zhao, District One

Sherry Segura

Sherry Segura (Dec 2, 2021 19:23 PST)

Sherry Segura, District Two

José Posadas

José Posadas, District Three

Thi Tran

Thi Tran, District Four

Louis A. Barocio

Louis A. Barocio (Dec 3, 2021 16:40 PST)

Louis Barocio, District Five

Magnolia Segol

Magnolia Segol (Dec 3, 2021 23:13 PST)

Magnolia Segol, District Six

George Sanchez, District Seven

Maria Fuentes

Maria Fuentes (Dec 2, 2021 16:58 PST)

Maria Fuentes, District Eight

Garrick Percival

Garrick Percival (Dec 3, 2021 13:23 PST)

Garrick Percival, District Nine

Frank Maitski

Frank Maitski (Dec 2, 2021 19:28 PST)

Frank Maitski, District Ten

Summary of Recommended Changes

The San José Charter Commission approved the following recommendations by a majority vote.

Governance Structure

Charter Recommendations

Maintain a “Council-Manager” Government Structure and Allow Council Members to Make Nominations for City Manager Candidates

The Commission finds that keeping the current “Manager-Council” form of governance model maintains accountability, representation and inclusion at San José City Hall. Furthermore, by giving members of the Council the ability to nominate prospective City Managers along with the Mayor, increases equitable representation in the applicant pool for the City Manager appointment process, which will benefit all residents in San José.

Establish Future Charter Review Commissions

Appoint Charter Review Commissions at the second regular meeting of Council in the year 2028, and of each succeeding tenth year thereafter, and at any time council may call for such a commission, to review and recommend amendments to this Charter.

Expand Council to 14 Districts

Expand the number of council districts from 10 to 14 to bring the ratio of residents to representatives more in line with what they were in 1978, when the ten districts were originally established.

Voting & Elections

Charter Recommendations

With Regards to the Timing of District Elections

The Commission finds that transitioning even and odd number districts to the alternative election cycle (e.g., even districts to the gubernatorial cycle and odd districts to the presidential) would knowingly decrease turnout in some districts while increasing it in others. Further, a recommendation to adopt Ranked Choice Voting is intended to increase voter engagement and turnout city-wide. As such, the Commission could not discern any clear benefits to the city as a whole and decided not to make a recommendation that would alter the timing of city council elections.

Move San José Mayoral Elections from Gubernatorial to Presidential Election Years

Change the timing of San José's mayoral elections from the gubernatorial cycle to the presidential cycle beginning in 2024. To initially sequence the city's mayoral elections to the presidential cycle, the candidate elected mayor in 2022 would serve a 2-year term with that term expiring in 2024. All candidates for mayor, including the then incumbent mayor, would be eligible to run for a regular 4-year mayoral term in 2024. The commission urges that the City Council act as expediently as possible on this recommendation.

Implement Ranked Choice Voting

Consolidate Primary and General Elections for candidates and allow voters to rank multiple candidates in San José elections via Ranked Choice Voting, an election system in which voters rank the candidates for office in order of preference, and the ballots are counted in rounds that simulate a series of runoffs until one candidate receives a majority of votes.

Elevate the Board of Fair Campaigns and Political Practices to the City Charter

Elevate the San José Board of Fair Campaign and Political Practices from the Municipal Code to the City Charter.

Policing, Municipal Law, Accountability & Inclusion

Charter Recommendations

Reform Boards and Commissions

- A. Remove citizenship requirement for all applicable Boards and Commissions as permitted by [Senate Bill 225](#), which revised membership requirements to all

California government boards and commissions;

- B. Ensure all Board and Commissions a) receive training in ethics, civics, and diversity, equity and inclusion, b) elect their chairs and vice-chairs democratically, and c) incorporate racial and social equity analysis to promote the use of an “equity lens” for decision-making;
- C. Provide a stipend to all members of Boards and Commissions.

Add a Native Land Acknowledgement to the Charter

Formally include a Native Land Acknowledgement of the Muwekma Ohlone Tribe in San José’s Charter.

Use Gender-Inclusive Language in the Charter and City Documents

Update gendered language in the Charter and official City documents (e.g., ordinances, resolutions, and City policies) to be gender inclusive or gender neutral.

Create a Police Commission, an Independent Investigation Department, and an Office of the Inspector General

- A. Create and add a Police Commission to the Charter that conducts regular (e.g. monthly) public hearings on San Jose Police Department policies, rules, practices, customs, and General Orders, as well as address the public’s concerns regarding problems with the Office of the Independent Investigations Department, the Office of the Inspector General, and the San Jose Police Department. The Police Commission shall have subpoena authority and full unfettered and unredacted access to the documents contained by any City department or any employee relating to SJPD;
- B. Convert the Independent Police Auditor Office to the Independent Investigations Department, with subpoena authority and full unfettered and unredacted access to the documents contained by any City department or any employee relating to SJPD;
- C. Create an Office of the Inspector General, with subpoena authority and full unfettered and unredacted access to the documents contained by any City department or any employee relating to SJPD, to assist the Police Oversight

Commission in conducting reviews of patterns, practice, trends, systems, and policies at the Police Department.

Establish Equity Values, Equity Standards, and Equity Assessments

- A. Add a statement of values to the Charter that defines social equity, inclusion, and racial and social justice as guiding principles for the decisions, policies, budgets, programs, and practices of the City;
- B. Outline objectives intended to advance the aforementioned values through the areas of safety, environmental health, water and sanitation, parks and recreation, mobility and transportation, economic development, housing standards, workforce protection and housing amenities;
- C. Conduct an equity assessment for the annual operating and capital budgets as contained in the Recommended Budgets generated by the City Manager each fiscal year and for major policies and programs to be decided upon by the City Council.

Address Equity and Inclusion in City Programming and Budgeting

The purpose of this recommendation is to guarantee San Jose residents are equitably included in the benefits of City services and have the benefit of equal access to City services. The Mayor, City Council and the City Manager need to promote equity and inclusion among all residents especially in the budget for the City of San Jose. The absence of this requirement in the Charter has and may continue to cause inequities.

Therefore, it is recommended the City Charter be amended with recommended language for Article IV The Council, Article V The Mayor and Article VII City Manager. This recommendation is specific adherences to the Commission recommendation on Equity Values, Equity Standards, Equity Assessments. Article IV the Council would require adherence to the Statement of Values; Article V The Mayor would require specific adherence to Equity Assessment; Article VII City Manager would require specific adherence to Equity Standards.

Establish Regular Department-Level Audits

Ensure that department-wide performance audits are conducted for all city departments, to assess key performance against their mission, goals and objectives in order to ensure

accountability and fiscal responsibility, as well as to identify theft, fraud, embezzlement, campaign finance violations, or other crimes.

Policy Recommendations

Create a Climate Action Commission

Create a “Climate Action Commission” (CAC) in the municipal code, composed of a combination of 17 community members and special eligibility seats to study, create reports, and recommend policy and programs that help to identify, mitigate and prepare for the impacts of climate change and global heating as it may manifest in San José, and to support and give feedback on the Climate Smart San José program.

Explore a Community Opportunity to Purchase Act

Explore policies that will prioritize establishing and continuing to support a Community Opportunity to Purchase Act (COPA) and creating new sources of funding for affordable housing community ownership models and anti-displacement and the continuation of tenant protections.

Promote Home Ownership Opportunities for Low-Income Residents of San José

Explore new policies to support the purchase of affordable housing by low-income San José residents while not impacting existing policies or resources available to support affordable rental housing for its residents.

Strengthen Community Input to the Smart City Advisory and Innovation and Technology Advisory Boards

Alter appointments to San José’s Smart City Advisory Board and the Innovation and Technology Advisory Board with the goal of strengthening community input on the effects and consequences of technological change.

Signature Page

Charter Review Commission Overview

Introduction to the Charter Review Commission

The Charter Review Commission was established by the City Council, pursuant to Resolution No. 79722 (see Appendix 3), as an advisory committee to Council to consider potential changes to the San José City Charter related to the City's governance structure and mayoral election cycle, and additional changes to improve accountability, representation, and inclusion at San José City Hall.

As stated in the Commission's By-Laws (see Appendix 3), the aftermath of the murder of George Floyd led to calls for racial justice and equity, and the members of the Charter Review Commission voted to consider all proposals to amend the Charter of the City of San José through the lens of racial and gender equity and address historic and institutional racism, inequity, and disenfranchisement of the residents of the City.

Charter Review Commission Members

The Charter Review Commission was composed of 23 members, all residents of San José - two residents nominated by each Council Member from their District, and three at-large members residing anywhere in the City nominated by the Mayor. The Mayor nominated one of the at-large members to serve as the Chair to preside over meetings and who may vote only to break a tie. The Vice Chair was elected by the Commission. The composition of the Commission was intended to represent a cross-section of backgrounds and professions, including, but not limited to: labor/union, business and development, academia, legal, and government.

Per Council Direction, the Commission was facilitated by an Independent Consultant and supported by Staff members of City Attorney and Clerk's Offices.

Chair: Frederick Ferrer

Vice-Chair: Christina Johnson

Consultant: Lawrence Grodeska, CivicMakers, LLC

Commission Secretary: Megan Roche (City Staff)

Commission Roster

Sammy Robledo, District 1

Yong Zhao, District 1

Christina Johnson (Vice-Chair), District 2

Sherry Segura, District 2

Elly Matsumura, District 3

José Posadas, District 3

Huy Tran, District 4

Thi Tran, District 4

Louis Barocio, District 5

Veronica Amador, District 5

Elizabeth Monley, District 6

Magnolia Segol, District 6

Enrico Callender, District 7

George Sanchez, District 7

Jeremy Barousse, District 8

María Fuentes, District 8

Garrick Percival, District 9

Linda Lezotte, District 9

Frank Maitski, District 10

Tobin Gilman, District 10

Barbara Marshman, City-wide

Frederick Ferrer (Chair), City-wide

Lan Diep, City-wide

Commission Directives

At the recommendation of the City Clerk, the Charter Review Commission served as an advisory committee without decision-making authority with responsibilities to provide recommendations to the City Council as outlined in the resolution passed on July 28, 2020 by the San José City Council.

The areas for those recommendations were as follows (emphasis added):

1. Examine the current governance structure as well as a **governance structure consistent with the “Mayor-Council” government structure** found in other cities in the United States in which the Mayor has executive authority and the Council has legislative authority;

2. Research and solicit community input on strong mayor and other potential charter reforms to improve and update the City's governance structure, including the direction to **"Align mayoral executive authority with residents' and local business' reasonable expectations for responsive and accountable democratic governance in a major U.S. city"**;
3. **Evaluate whether the Mayor elected in 2022 should serve a two (2)-year or six (6)-year term** to transition the mayoral election to the presidential election in 2024 or 2028, respectively;
4. Evaluate transition of the election cycle for **odd-numbered districts to align with the presidential election cycle and the even-numbered districts with the gubernatorial election cycle**; and
5. Consider **additional measures and potential charter amendments, as needed, that will improve accountability, representation, and inclusion** at San José City Hall.

These responsibilities can be fairly grouped into three areas of focus:

1. Governance structure (Nos. 1 & 2)

- a. Role of mayoral executive authority in residents' and local business' reasonable expectations for responsive and accountable democratic governance

2. Timing of elections (Nos. 3 & 4)

- a. Mayoral election
- b. District elections

3. Additional measures and potential charter amendments that will improve accountability, representation, and inclusion (No. 5)

The Commission was directed to submit recommendations on the above by December 14, 2021. Based on the Commission's recommendations, Council is to determine further revisions of the Charter, if necessary, to be included as a ballot measure(s) in the 2022 primary and/or statewide general election, or other future elections.

Approach

To address these responsibilities and generate recommendations for the Council, the Commission followed the following phased approach.



Recommendations and Ad Hoc Subcommittee Process

To facilitate the development of potential recommendations by the Commission, Commissioners met in ad hoc subcommittees to discuss, research, and vet ideas before bringing potential recommendations to the full Commission for consideration. Per Council guidelines, ad hoc subcommittees were created by the Commission, assigned a narrow task, and completed their work in less than 6 months.

Recommendations Process

Commissioners vetted potential recommendations via ad hoc subcommittees before bringing them forward for consideration by the full Commission in the form of **Recommendation Memos**. Ad hoc subcommittees were assigned topics based on suggestions heard during Commission meetings or public hearings. Suggestions from the public were referred to the appropriate ad hoc subcommittee for review and/or development into Recommendation Memos.

The process for developing Recommendation Memos included considering the following criteria, as outlined in the Recommendation Memo Template:

1. What problem(s) are you trying to address?
2. How has this problem possibly benefited or burdened people, especially BIPOC, low-income, undocumented and immigrant, those experiencing houselessness, etc.?

3. What change are you proposing?
4. Is this change feasible?
5. Who might benefit from or be burdened by this change?
6. What are the arguments against this proposal?
7. Must this be a charter revision?
8. Are there other examples of this change?

All Recommendation Memos submitted to the Commission by ad hoc subcommittees were considered and discussed during Commission meetings and shared with the public via public hearings. Ad hoc subcommittees tasked with evaluating ideas and developing Recommendation Memos were asked to do so in support of an informed and open discussion by the Commission rather than in the sole pursuit of a specific agenda. Ad hoc subcommittee members were allowed to submit “minority reports” stating their opposition to recommendations contained in a specific Recommendation Memo by using the same Recommendation Memo Template.

Ad Hoc Subcommittee Process

Ad Hoc Subcommittee Structure, Topics & Assignments

Ad hoc subcommittees reflected the three areas the Commission had been tasked with evaluating by Council. Each ad hoc subcommittee was tasked with evaluating a list of related topics. There was one ad hoc subcommittee for each of the following categories:

1. Governance Structure
2. Voting & Elections
3. Policing, Municipal Law, Accountability & Inclusion

Ad hoc subcommittee assignments were based on preferences expressed by Commissioners and in an effort to balance the size of ad hoc subcommittees. In order to avoid Brown Act issues, Commissioners only joined one ad hoc subcommittee and did not attend other ad hoc subcommittee meetings.

Governance Structure	Voting & Elections	Policing, Municipal Law, Accountability & Inclusion
Louis Barocio	Elizabeth Monley	Veronica Amador

Jeremy Barousse	Garrick Percival	Enrico Callender
Lan Diep	José Posadas	María Fuentes (<i>past Oct 25</i>)
María Fuentes (<i>to Oct 25</i>)	Sammy Robledo	Magnolia Segol
Christina Johnson	George Sanchez	Sherry Segura
Linda Lezotte	Huy Tran	Yong Zhao
Frank Maitski	Thi Tran	
Barbara Marshman		
Elly Matsumura		

To ensure ad hoc subcommittee deliberations aligned with the interests of the community, the Commission's first public hearing was used to solicit community input to finalize the topics for each ad hoc subcommittee. Ad hoc subcommittee topics and assignments are outlined in the Ad Hoc Subcommittee Topics and Assignments document.

Ad Hoc Subcommittee Meeting Process

Ad hoc subcommittees met at a time agreed upon by ad hoc subcommittee members. During the first meeting of each ad hoc subcommittee, leads were chosen by ad hoc subcommittee members. Initial meetings were facilitated by the Consultant team.

Each subcommittee, with the facilitation of their respective lead, used the Ad Hoc Subcommittee Work Plan Template (See Appendix 3) to create a work plan. Ad hoc subcommittee work plans were presented to the Commission on the Friday before the June 14th meeting. Ad hoc subcommittees took notes for meetings using the Ad Hoc Subcommittee Meeting Agenda & Notes Template (See Appendix 3) and shared with City staff for posting to the Commission website.

Communications Process

Each ad hoc subcommittee reported back in writing to the full Commission in time for posting on the Friday before the next Commission meeting. Ad hoc subcommittee reports included the following information:

- Agenda and meeting notes, including full list of topics and next meeting topics (using Ad Hoc Subcommittee Meeting Agenda and Notes template)
- FYIs or questions for the full Commission or other ad hoc subcommittees in order to facilitate the necessary exchange of information about related topics being addressed by different ad hoc subcommittees.
- List of attached draft recommendation memos for Commission (if ready)

Beginning with Phase 2, each Commission meeting had an agendized “Subcommittee Reports Discussion” item to allow for discussion of questions brought forth by ad hoc subcommittees, as outlined in ad hoc subcommittee reports, as well as subsequent public comment. This item did not include a verbal report for each ad hoc subcommittee, only discussion of critical items to facilitate information exchange between ad hoc subcommittees during a public meeting (as required by the Brown Act). It was expected that Commissioners, especially ad hoc subcommittee leads, read reports from other ad hoc subcommittees before Commission meetings.

Commissioners were regularly reminded of Brown Act considerations and encouraged to conduct their Commission-related communications accordingly, including the following:

- Commissioners were asked to use (or at the very least CC) their official Commission email addresses for all communications.
- Ad hoc subcommittee email threads included ONLY those Commissioners assigned to that specific ad hoc subcommittee.
- Ad hoc subcommittees avoided communicating with each other to avoid a potential “serial meeting” violation of the Brown Act.

Commissioner Agreements

The Commission desired to operate in a manner that ensured its decision making, discussions, research, and drafting was transparent, accessible, accountable and inclusive of the feedback it received from members of the public. As such, the Commission adopted the following agreements.

We Value Diversity

We believe that bringing together a broad range of ideas, experience and backgrounds will result in the best outcomes for San José. We keep an open mind and seek to learn from others.

We Are Present

We commit to attending every meeting. At each meeting, we minimize external distractions and focus on the meeting.

We Respect Each Other

We listen intently to each other with the intention to understand. We do not attack each other.

We Make Room for Everyone To Speak

We want to hear from every Commissioner. This means we need to share our time together and not let the conversation get monopolized. When speaking, we are mindful about how much air space we are taking up.

We Seek Meaningful Engagement

We actively reach out to members of the public and provide accessible ways for them to be involved. As representatives of the community of San José, we wish to elevate and center the community voice in this process.

We Are Focused and Prepared

We have a clear picture of where we're going. We do our homework and ask for the information we need to make good decisions. We ask good questions to move the conversation forward.

We Follow a Fair, Transparent, and Efficient Process

We use many methods to allow for dialogue so we may best understand the positions within the group, and to make decisions, when necessary. Ultimately, consensus is our goal, but we will not rule out methods like voting if we need to move past a disagreement.

Recommendations

The following recommendations were approved by the Commission by majority vote, and consist of suggested changes to San José's Charter, as well as additional policy recommendations for Council's consideration. This section is organized into the Commission's three areas of focus, and the verbiage for each recommendation is taken directly from the Recommendation Memos developed by each ad hoc subcommittee, and approved by the Commission, with minor editing for clarity, readability and uniformity.

Please note that any new or revised Charter section numbers referenced below are for illustrative purposes only. Additionally, if one or more recommendations are moved forward by the Council, the City Attorney's office will implement these recommendations as directed by Council and reconcile them into the Charter.

Governance Structure

Preface

This area of focus covers the following directives from Council:

1. Examine the current governance structure as well as a governance structure consistent with the "Mayor-Council" government structure found in other cities in the United States in which the Mayor has executive authority and the Council has legislative authority;
2. Research and solicit community input on strong mayor and other potential charter reforms to improve and update the City's governance structure, including the direction to "Align mayoral executive authority with residents' and local business' reasonable expectations for responsive and accountable democratic governance in a major U.S. city";

These directives informed the research and deliberations of the Governance Structure ad hoc subcommittee, as well as the recommendations they put forth for consideration by the full Commission.

Charter Recommendations

Maintain a “Council-Manager” Government Structure and Allow Council Members to Make Nominations for City Manager Candidates

What is the recommendation?

The Commission finds that keeping the current “Manager-Council” form of governance model maintains accountability, representation and inclusion at San José City Hall. Furthermore, by giving members of the Council the ability to nominate prospective City Managers along with the Mayor, increases equitable representation in the applicant pool for the City Manager appointment process, which will benefit all residents in San José.

This recommendation was passed on October 18th, 2021 with 19 aye, 2 nay and 1 absent votes.

What problem(s) does this recommendation address? If mayoral power is expanded in San José, this increased power will impact and potentially limit the current powers of Council Members who are elected to represent their districts in San José. Residents in the council districts will not be able to lean on their Council Member because they will be limited in power to help address their concerns, which will be detrimental to the community overall because council districts are usually the first point of contact for residents when it comes to accessing city services. In addition, giving the mayor more power would further disenfranchise residents who live in historically under-resourced districts.

According to the latest census the race ethnicity breakdown for San José is:

- 39.9 % White
- 3% Black or African American
- 0.6% Native American
- 35.9% Asian
- 0.5% Pacific Island or Native Hawaiian
- 5.3% Two or more races
- 31.6% Hispanic or Latino

This data shows the incredible diversity of San José. However, San José also faces a long-documented wealth gap. According to the income data from the 2010 Census,

high-income households are concentrated in Districts 10, 9, 8, and 4, whereas, low-income households are in Districts 3, 5 and 7 (US Census, 2010: see Appendix 1, Section 2). Election turnout is also higher in the high income council districts versus low-income council districts. This widening income gap also impacts social capital. According to a study published by the International Monetary Fund that examined whether the downward trend in social capital is responding to the increasing gaps in income found that,

“... the increasing income inequality trends in recent decades for many advanced countries may have negatively affected overall trust levels, and thereby, increased social gaps in society in the wake of widening income gaps. Given that trust has been found to be an important determinant of the macro-economic performance of many countries , these findings suggest an important, albeit indirect, way that increasing inequality may be adversely affecting a country’s growth and development over time.”

Moving to a Mayor-Council form of government will dilute the overall power and representation of communities of color, further burdening and widening the gap of inequitable policies through an inequitable practice that siphons the shared collective power to one person, the Mayor. This will also impact social capital because trust in city government will be eroded by districts that will continue to be disenfranchised. San José has historically been known as the Valley of Heart’s delight, where people know who their neighbors are. It is not in San José’s DNA to centralize power into one seat.

Furthermore, if a Mayor has the authority to hire and fire other city officials outside the merit system, it could be perceived due to political connections or favors, instead of hiring qualified or trained professionals as department heads. There is the temptation to make decisions regarding the hiring and firing of key department head positions such as the police chief, public works director, and finance director based on the applicant's political support rather than his or her professional qualifications, which could have an impact on how their department delivers city services, which could unintentionally burden BIPOC (Black, Indigenous, Latinx, and People of Color) residents in San José.

City managers are typically hired based on their educational background, experience, and administrative ability, without regard to their political views, and they have incentive to act, as the name suggests, as managers of the city operations. This argument was also made by former City Manager Norberto Duenas during our study session on April 5th, 2021 (Charter Review Commission meeting, 4/5/2021: see Appendix 1, Section 3).

Studies show that self-interested elected officials are more likely to ‘bureaucratize’ their administrations. The main testable proposition is that, in governments with a higher concentration of powers, politicians will bureaucratize their administrations to overcome time inconsistency problems in their relationships with public employees. This prediction is tested with data drawn from US municipalities, where two main types of local governments co-exist: mayor-council and council -manager. Results show that municipal governments with a higher concentration of powers (i.e. mayor-council) tend to have more bureaucratized administrations.

Why is this particular change being recommended?

Strong political leadership isn’t the only thing needed to build a thriving and equitable community. San José needs intentional and thoughtful Council members who will work hard to understand their constituencies’ needs. An effective mayor will work with council members to establish appropriate policy to benefit the wider community.

“There are two important features of council-manager government that have an impact on mayoral leadership. First, the mayor and council are “constitutionally” checking and balancing each other; they are part of a governing body. Second, the mayor does not execute or directly promote the accomplishments of tasks. Thus the mayor can and should exert a different kind of leadership. The mayor leads by empowering others-in particular, the council and manager - rather than seeking power for himself or herself, and the mayor accomplishes objectives through enhancing the performance of others.”

- (Svara, James “Effective Mayoral Leadership in Council-Manager Cities: Reassessing the Facilitative Model”).

According to Section 702 of San José's Charter, the Council may remove the City Manager from office at any time. The City Manager may also be removed from office by the People of the City pursuant and subject to the provisions of Section 1604 of the Charter according to Section 703. Based on these provisions in the Charter, there are less obstacles involved in removing a City Manager vs a Mayor under any form of governance since a Mayor can only be removed by the voters through a recall election.

We believe that everyone will benefit, including the Mayor, by keeping our governance structure the same, as it maintains equity in the process. In this amendment, however, more power will be shared with Council but at no cost to the Mayor’s pre-existing appointment powers. Additionally, by enabling Council Members to submit their own

nominations, the process will improve efficiency and avoid situations where nominee(s) are rejected, forcing the Mayor to restart the time-sensitive process.

This change is feasible and will increase equitable representation in the applicant pool for the City Manager appointment process. The Mayor and Council already regularly review candidates based on skill and experience. Allowing the entire Council to submit (if they so choose or to back another Council Member's nomination) will foster collaboration and ensure equitable representation by allowing Council Members to submit an applicant that aligns with their/constituents' values.

What are the arguments against this proposal?

The commission identified two primary arguments against maintaining the current Council-Manager form (or for expanding Mayoral powers):

1. Under our current governance form, the Mayor is viewed as a figurehead and doesn't have enough power to get things done, whereas the City Manager has too much power and is not directly accountable to the public.

However, the fact is that the City Manager has to answer to the council members, which include the Mayor. If the City Manager isn't performing their job satisfactorily, it is the job of the Council and the Mayor to hold them accountable. The Mayor and Council can employ management strategies like annual evaluations that are public, performance markers, ensuring that the City Manager and their department is properly resourced. Under the current governance structure the Mayor is granted enough power to achieve their vision through collaboration, an example of this is Mayor Chuck Reed's Green Vision, which he was able to see to fruition because he had the support of the Council.

2. Former Mayor Ron Gonzales also shared in the Commission study session on April 5 that, under the current governance structure, the Mayor already has enhanced powers. An example of this is the ability of the Mayor to prepare the city's budget message, which lays out the policy direction for the city manager. Mayor Gonzales also passed bond measures for affordable housing, open spaces, strong neighborhood initiative and libraries using the leadership of the Mayor's office during his tenure.

Proposed Charter Language

Amend "ARTICLE VII CITY MANAGER SECTION 700 Appointment", Term and Compensation of the Charter as follows:

There shall be a City Manager. The Mayor **and members of the Council** shall **have the ability to** nominate one or more candidates for Council consideration for appointment to the position of City Manager. The City Manager shall be appointed by the Council for an indefinite term. The Council shall fix the compensation of the City Manager.

Establish Future Charter Review Commissions

What is the recommendation?

Appoint Charter Review Commissions at the second regular meeting of Council in the year 2028, and of each succeeding tenth year thereafter, and at any time council may call for such a commission, to review and recommend amendments to this Charter.

This recommendation was passed on October 18th, 2021 with 21 aye, 0 nay and 1 absent votes.

What problem(s) does this recommendation address?

The current Charter Review Commission was established by the Mayor and City Council as a singular event. The previous San José Charter Review Commission, similarly established, completed its final report in 1985. Hence, over 35 years have passed since San José's Charter was thoroughly reviewed. San José experienced significant change during that time. An earlier review of the Charter may have been more appropriate.

Historically in San José, the Charter has only been reviewed when requested by the Mayor and/or City Council, usually from public concern over a specific issue. Considering the dynamic change of the San José community, a periodic review of the Charter is more appropriate to determine if any changes are needed, rather than waiting for a specific issue or problem to initiate the review.

This proposal benefits the San José community at large by providing a requirement for residents to review the City Charter at least every 10 years.

Why is this particular change being recommended?

Similar sections in other city charters exist that establish charter review commissions on a regular basis making this recommendation feasible and needed. Furthermore, the general San José community will benefit from this proposal since it establishes a mechanism in the Charter for the residents to review it on a regular basis.

The recommendation was changed after the Commission had a discussion and came to an agreement to remove the notion that the Commission would send super-majority supported revisions directly to the ballot.

What are the arguments against this proposal?

The Charter is the foundation of San José's government and sets forth guiding principles for its governance. As such, the Charter should be kept as general as possible to allow the Mayor and Council flexibility to address the needs of the community through policy. The Charter should not be used to directly set policy, address the "issue of the day," or advance a political agenda of any person.

A mandated periodic review of the Charter provides an opportunity for the Charter amendment process to be used inappropriately. Limiting review of the Charter minimizes this risk and focuses future reviews on Charter issues identified by the Mayor and/or Council, presumably by input from the community.

The Mayor and City Council are the elected representatives of the community with a full time focus on its needs. As such, they are closer to issues that may require an amendment to the Charter, and are in a better position to determine when a Charter Review Commission is needed.

Proposed Charter Language

Add a new section to the Charter, "ARTICLE X BOARDS AND COMMISSIONS Section 1002.1 Charter Review Commission," as follows:

A Charter Review Commission shall be appointed at the second regular meeting of council in the year 2028 and of each succeeding tenth year thereafter, and at any time council may call for such a commission, to review and recommend amendments to this Charter. The Charter Review Commission shall be reflective of the City in terms of its racial and ethnic diversity, age and geography. The mayor shall nominate three (3) Charter Review Commission members, and each member of the Council shall nominate two (2) Charter Review Commission members from

their District, who shall all be subject to confirmation by the Council. The term of the Charter Review Commission shall be no more than two years unless extended by the City Council. The Charter Review Commission shall determine its own rules of procedure. No member of the Charter Review Commission shall serve as an elective officer of the City during the member's service on the Charter Review Commission. The City Council may establish, by ordinance, criteria for eligibility on the Charter Review Commission. The Mayor or Council may request that the Charter Review Commission review specific sections of the Charter, but the work and recommendations of the Charter Review Commission shall not be limited to such specific sections. The Charter Review Commission shall be provided all reasonable resources it identifies are needed to complete its review. The Commission shall provide a written report of its findings to the City Council.

Nothing in this section shall limit the authority of council to submit any proposed charter amendment to a vote of the people unless otherwise provided for in this charter.

A vacancy exists on the Charter Review Commission upon a member's resignation, death, inability to serve or failure of a member without cause to attend three successive regular meetings. If there is a vacancy on the Charter Commission, the Mayor or Council member who made the original nomination, or that member's successor in office, shall nominate a person to fill the unexpired term of office, subject to confirmation by Council.

Expand Council to 14 Districts

What is the recommendation?

Expand the number of council districts from 10 to 14 to bring the ratio of residents to representatives more in line with what they were in 1978, when the ten districts were originally established. Future Redistricting Commissions may recommend further expansion if appropriate.

This recommendation was passed on October 18th, 2021 with 14 aye, 7 nay and 1 absent votes.

What problem(s) does this recommendation address?

As San José has grown in population so has the feeling of residents that they are not being fairly represented within their respective council districts.

San José originally was governed by a 7-member city council elected citywide. In 1978 voters passed Measure F which established an 11-member city council and district elections for 10 of the council seats.

San José's population in 1980 was 629,442 with each council member representing approximately 63,000 residents. Today each councilmember represents approximately 100,000 residents.

Through this proposal, we are trying to address the increase in population in San José during the past 40 years. Increasing the number of Council Districts would reduce the number of residents per council district. This would ensure better representation of each Council District.

Why is this particular change being recommended?

Until the reform made possible by district elections, our Black, Indigenous, and People of Color had been largely unrepresented in city council and as a result their communities received less government services and funding for their neighborhoods.

Our city council, through district elections, now better reflects the demographics of our residents but the increase in population (nearly double) has resulted in less meaningful representation of those residents in their respective districts.

These individuals get less attention due to the larger number of residents in each district. A smaller population per council district would allow each Councilmember to better deal with the issues of the unhoused population, immigrants and the myriad of problems that come with an ever-increasing population.

We recommend a change in the number of council districts to the City Council. Specifically, we request that the composition of the city council be more in line with the ratio that existed when Measure F was approved, and each council district represented fewer residents than is the case currently.

What are the arguments against this proposal?

One argument could be that there is no need for such a change to Council Districts at this time. There is currently a Redistricting Commission in place that is working on the 2020 census to bring about an equitable distribution for all current Council Districts. Another argument would be that the current system has worked well for the past 40 years, so why change things at this time.

Another unintended consequence could be more “me-first” politics when narrower communities have a stronger grip on their council members. This could lead to a less functional council.

Other arguments against this recommendation include:

- Cost, depending on how the change is structured.
- Increased NIMBYism as council members represent narrower constituencies.
- The council can’t expand infinitely as a city grows, and 10 is a reasonable size. Six of the 10 largest cities in the country have 11 or fewer council members.

Proposed Charter Language

The City Attorney shall review the City Charter and recommend language that is consistent with this recommendation if this recommendation is moved forward by the Council.

Policy Recommendations

No policy recommendations in the area of Governance Structure were approved by the Commission.

Voting & Elections

Preface

This area of focus covers the following directives from Council:

3. **Evaluate whether the Mayor elected in 2022 should serve a two (2)-year or six (6)-year term** to transition the mayoral election to the presidential election in 2024 or 2028, respectively;
4. Evaluate transition of the election cycle for **odd-numbered districts to align with the presidential election cycle and the even-numbered districts with the gubernatorial election cycle;**

These directives informed the research and deliberations of the Voting & Elections ad hoc subcommittee, as well as the recommendations they put forth for consideration by the full Commission.

Charter Recommendations

With Regards to the Timing of District Elections

The Charter Review Commission was tasked with studying the possibility of transitioning odd-numbered city council district elections (1,3, 5, 7, and 9) to the presidential cycle and aligning even-numbered districts (2, 4, 6, 8, 10) with the gubernatorial cycle. How might this change affect voter participation rates in city council districts? The ad hoc subcommittee on Voting and Elections collected data on voter participation rates in odd-numbered and even-numbered council districts between 2010-2020. After assessing the results, the ad hoc subcommittee decided not to recommend altering the timing of City Council elections.

The data showed that in Primary City Council elections, voter turnout rates in even-numbered districts was, on average, 10.8% higher than turnout in odd-numbered districts (41.9% vs 31.1%). In run-off or general election contests, the turnout rate in even-numbered districts was, on average, 24.6% higher than odd-numbered districts (71.9% to 47.3%). Because transitioning even and odd number districts to the alternative election cycle (e.g. even districts to the gubernatorial cycle and odd districts to the presidential) would knowingly decrease turnout in some districts while increasing it in

others, the committee could not discern any clear benefits to the city as a whole. The ad hoc subcommittee moved to recommend a change to rank-choice-voting which should lessen turnout inequities currently found in primary and run-off contests in both even and odd numbered districts.

Move San José Mayoral Elections from Gubernatorial to Presidential Election Years

What is the recommendation?

Change the timing of San José's mayoral elections from the gubernatorial cycle to the presidential cycle beginning in 2024. To initially sequence the city's mayoral elections to the presidential cycle, the candidate elected mayor in 2022 would serve a 2-year term with that term expiring in 2024. All candidates for mayor, including the then incumbent mayor, would be eligible to run for a regular 4-year mayoral term in 2024. Thereafter, a mayoral election would be held every four years during the presidential cycle. A mayoral candidate elected to office in 2022 would be eligible to serve the initial 2-year term plus two additional (regular) 4-year terms as currently allowed under Section 402 of the City Charter. A person's total time in the mayor's office could reach a total of 10 years if they win office in 2022 and are reelected in 2024 and 2028. The Commission urges that the City Council act as expediently as possible on this recommendation, which has been the subject of broad public discourse in San Jose for over two years at the time of the submission of this report. With the 2022 mayoral election rapidly approaching, voters and candidates getting engaged in the election deserve the greatest possible understanding and transparency from the City Council about the dynamics and implications of those elections, notably whether voters will be considering the option to make the next mayor's first term two years long.

This recommendation was passed on October 4th, 2021 with 17 aye, 1 nay, and 4 absent votes.

What problem(s) does this recommendation address?

Elections are pillars of a representative democracy. They allow the people to choose representatives who make decisions on behalf of the public and help hold elected officials accountable. Low turnout in city elections weakens the bonds between people and their elected representatives. When turnout increases, local government becomes more

representative and responsive to the broader public. A more responsive and representative government is particularly important in a racially and ethnically diverse city like San José.

Historically, voter turnout in city elections is lower than in races for elected office in higher levels of government. The low rate of participation is partly a product of the timing of many city elections.(Desilver, July 2021: see Appendix 1, Section 3) Political reformers more than a century ago advocated for “isolated” or “off-cycle” city elections which are scheduled in years separate from state (gubernatorial) and national (presidential) contests. Off-cycle elections, it was argued, allowed voters to concentrate on local issues and candidates. They were also seen as a tool to combat the power of 19th and early 20th century urban political machines who relied on the political support of racial and ethnic minorities and newly naturalized citizens. Middle and upper class, predominately white, voters were often seen as protectors of “good government.” (Christensen and Hogen-Esch, 2006: see Appendix 1, Section 3)

In elected contests for San José mayor—the only at-large elected position in the city—voter turnout rates are relatively low. Although mayoral contests are not isolated elections in the traditional use of the term, the placement of the mayor’s race in gubernatorial election years depresses turnout. Voter registration and turnout data covering the past four mayoral election cycles (2018, 2014, 2010, 2006) reveal that on average, less than half of the City’s registered voters (43.4%) cast ballots in the mayor’s race. Research suggests moving the timing of San José’s mayoral elections to presidential years would increase voter turnout in a range of 28% to 33%. In San José, this would equate to 148,203 to 169,375 additional voters in any given mayoral election using current voter registration figures (529,299) in the city. (Percival, 2021: see Appendix 1, Section 3)

The City’s current mayoral election process, characterized by relatively low turnout, would be less problematic if members of the voting public shared the same policy preferences, or had the same experiences with government, as nonvoters do.

Political science research, however, shows this is not the case. White residents, and residents with higher incomes and greater financial resources are, on average, more likely to vote in city elections. On issues surrounding policing, housing, or the environment (among other issues), where the interests and experiences of racial and ethnic minorities and lower income residents diverge from White residents and those with greater incomes, low voter participation can restrict the scope of political and policy debates. Low

participation can indirectly skew city policy by not only influencing who gets elected but also who the mayor feels accountable to.

Why is this particular change being recommended?

The San José's City Charter structures the timing of city elections. Moving the timing of the mayoral elections can thus only be accomplished by a change to the City Charter.

Moving San José's mayoral elections to presidential years would position the city as a leader behind statewide efforts designed to increase voter participation in our local elections. It would help signal that San José values a larger, more racially and ethnically inclusive electorate that reflects the city's demographic and socio-economic characteristics. The change would give greater voice to people too often left out of our city's politics and political discourse. It would strengthen our democracy in ways that match the city's 21st century ideals.

Moving the mayoral elections to presidential years should increase the likelihood that the winner of the contest has competed for votes in an electorate that more closely resembles the racial, ethnic, and socioeconomic characteristics of the city.

What are the arguments against this proposal?

Several arguments have been made against moving the time of mayoral elections to presidential years and were expressed by a few members of the public and Commissioners during commission meetings.

First, it is argued city issues would get lost in the "noise" of presidential year contests. As a result, voters would not have enough information to make "good" choices about local candidates or local issues.

These claims have no supporting evidence in peer-reviewed academic research. Under current policy, the city's mayoral elections held in gubernatorial years already compete for attention with "up ballot" races (e.g. governor, attorney general, secretary of state, etc.) and numerous statewide ballot initiatives. Researchers have long documented that American voters have low levels of "textbook" knowledge about politics and government. Instead of gathering complex or technical policy information, voters often use what political scientists call "information shortcuts" (such as candidate or issue endorsements issued by a political

party, interest group, newspaper, or other trusted source) to help make more informed decisions at election time. There is no data or evidence that suggests voters become less knowledgeable (or more confused) about local issues or candidates when mayoral elections are held in presidential years.

Second, it is argued that removing the mayor's race from the gubernatorial cycle will depress turnout in odd-numbered City Council district elections which are held at the same time. This presumes, however, that a large share of voters cast ballots for city council because of the mere presence of a mayor's race. Political science research on California municipal elections show mayoral races have no statistically significant effect on voter turnout in city council races.

Proposed Charter Language

Amend "ARTICLE IV SECTION 402 Mayor and Council Member Term Limits" as follows:

The regular term of office of each member of the Council shall be four (4) years. The Mayor and Council members shall be subject to the following term limits:

(a) MAYOR. No person who has been elected to the office of Mayor for two (2) successive four-year terms shall be eligible to run for election to the office of Mayor, nor to serve as such, for any additional successive term; but the above shall not disqualify any person from running for election to the office of Mayor, nor from further service as Mayor, for any term or terms which are not successive; nor for any parts of terms which are not successive. **Notwithstanding any other provision of the Charter, to transition the election of the office of Mayor to the same year as the presidential election beginning in 2024, the term for the office of Mayor beginning on January 1, 2023 shall be for two (2) years. However, the person holding the office of Mayor as the incumbent for this two-year term may be eligible to run for election to the office of Mayor and serve as such for two (2) additional successive four-year terms.**

Amend "ARTICLE V SECTION 500 Mayor" as follows:

There shall be a Mayor of the City of San José, elected at large, who shall be the eleventh member of the Council. Except as otherwise provided elsewhere in the Charter, the Mayor shall be elected by a majority of the votes cast citywide at a Regular Municipal Election, for a term of four (4) years from and after the first day of January following the year of the election. **Notwithstanding any other provision of**

the Charter, to transition the election of the office of Mayor to the same year as the presidential election beginning in 2024, the term for the office of Mayor beginning on January 1, 2023 shall be for two (2) years. However, the person holding the office of Mayor as the incumbent for this two-year term may be eligible to run for election to the office of Mayor and serve as such for two (2) additional successive four-year terms.

The office of each member of the Council, including the office of the member who is Mayor, is a separate office to be separately filled. Any incumbent member of the Council may run for the seat of Mayor, and the Mayor may run for the seat of Mayor or for any other seat on the Council for which the Mayor is otherwise eligible; however, no member of the Council shall hold more than one seat, and no person may be a candidate for more than one seat.

Amend "ARTICLE XVI SECTION 1600. Municipal Elections" as follows:

All municipal elections shall be held in accordance with the following:

(a) REGULAR MUNICIPAL ELECTIONS. A Regular Municipal Election is either a regularly scheduled Primary or Run-off Municipal Election. Such elections shall be held every two years, with the election for Mayor and for the odd numbered Council Districts being every four (4) years beginning with 1994, and the election for the even numbered Council Districts being every four (4) years beginning in 1996. Beginning in 2024, the election for Mayor and for the even numbered Council Districts will be held every four (4) years, and the election for the odd numbered Council Districts will be held every four (4) years beginning in 2026. Each member's term shall commence on the first day of January next following, and end on the last day of December in the fourth calendar year succeeding, the date of the member's election, except the member elected to the office of Mayor whose term began January 1, 2023, as set forth in Section 402 of Article IV and 500 of Article. A regularly scheduled Primary Election shall be held on the same date that the State of California holds its Direct Primary Election. A Run-off Municipal Election shall be held on the same date the State of California holds its Statewide General Election.

Implement Ranked Choice Voting

What is the recommendation?

Consolidate Primary and General Elections for candidates and allow voters to rank multiple candidates in San José elections via Ranked Choice Voting, an election system in which voters rank the candidates for office in order of preference. The ballots are counted in rounds that simulate a series of runoffs until one candidate receives a majority of votes.

This recommendation was passed on October 18th, 2021 with 18 aye, 3 nay and 1 absent votes.

What problem(s) does this recommendation address?

Increasing the diverse representation of the communities in San José by reducing barriers to running for office and providing voters the option to vote for the candidates that best reflect their values. This recommendation does this by reducing the costs of running for office by consolidating the elections process, and by allowing voters to rank multiple candidates instead of choosing only one.

Ranked Choice Voting (RCV) is gaining in popularity around the nation, including four cities here in the Bay Area. RCV has two main benefits: (1) allows voters to select candidates who best reflect their values, and (2) reduces the costs running for office by consolidating the primary and general.

Allowing voters to rank candidates gives them the ability to choose the candidate that best reflects their values. Further, it does not limit voters to pick the candidates who have the best chance of winning (i.e. lesser of two evils). The most recent data shows that representation of women – women of color in particular – increased in the Bay Area cities where RCV was adopted. Data from the early 20th century also showed that representation of people of color increased in New York City and several Ohio cities where proportional RCV was used.

Additionally, one of the obstacles of running for San José city-wide office is the pure cost, in money and in time. The primary system means that candidates have to be ready to run in two separate elections, each taking months of commitment and campaign expenditures that can easily exceed \$100,000 for each election. This type of commitment is very unrealistic for those who have family and job commitments but represent the more common experiences of the residents of San José.

Data also establishes that RCV improves on the civility of elections and promotes issue-oriented campaigns because candidates will work to become the second or third choice for voters. Improving the civility and promoting more issue- oriented campaigns

provides more incentives for women and people of color to participate as candidates by allowing campaigns to focus on policy ideas rather than attacking people.

Lastly, turnout during primary elections is always lower than turnout during general elections. However, primary voters are the ones who cut the field to the top-two contenders, and in many cases elect local representatives outright. RCV will consolidate primary and general elections into one run in November, allowing more voters to participate in our local elections.

Why is this particular change being recommended?

As stated above, current and historical data shows that representation of women and people of color increases under RCV systems.

Opponents have argued that RCV is confusing, and a new system that requires participants to understand the new mechanics of voting would have a negative impact on older and/or limited English proficiency speakers. However, a study from 2015 showed that at least 80% of voters in RCV jurisdictions rated RCV as easy to understand, regardless of age, race, education, or income-level. The only exception to this were 18-to-29-year-old voters. In this group, 79% rated RCV as easy to understand. This was reinforced in 2020 where a study of 1000 2020 RCV Democratic voters showed that: (1) 80% had no difficulty ranking candidates; (2) though older voters were more concerned about voting incorrectly, they were more likely to vote correctly than younger voters, and (3) only 12% under-voted, and available data suggests that this was intentional rather than by mistake.

Additionally, transitioning to new systems will always require investments in education and outreach to minimize any of the challenges in switching to a new system. The ultimate question should be whether the change is worth the transition.

This change is feasible. It has been done in cities around the United States and the Bay Area, including Oakland, Berkeley, San Leandro, San Francisco, and most recently Albany. This change must be a Charter revision. The process defining the primary/general election system is currently outlined in the Charter under Section 1600 and must be amended to allow for RCV to occur.

What are the arguments against this proposal?

First, opponents to RCV believe that it increases the chance that a non-monotonic winner may result. Example: 2009 Burlington, Vermont mayoral race and 2010 Oakland California

mayoral race. In these races, the candidate who ultimately won did not receive the most votes in the initial rounds of ballot allocation. Opponents argue that this is not a desirable result because voters in the initial rounds of counting preferred other candidates. However, each voter only voted once, and the final result is still an expression of the will of the voters. The ultimate winner received the most votes. Having a lower rank among voter preferences does not indicate that any other candidate was entitled to the seat.

Second, opponents to RCV also argue that the system promotes collusion among candidates. Example: This was one criticism of candidates Mark Leno and Jane Kim in the 2018 San Francisco Mayoral race. Leno and Kim issued ads urging their supporters to vote for each other in an effort to keep Ed Lee from winning. Leno and Kim gave this specific statement about why they were supporting each other while running against each other: “We’re telling all of our supporters to vote for both of us,” Sup. Kim told an assembled crowd Thursday. “Mark and I are opponents, as everyone knows, but we also agree that negative attacks don’t serve us in an election cycle, and certainly don’t educate our voters.” Finding commonality among competitors is not collusion, and this aspect of RCV is a reason to adopt it rather than reject it.

Third, opponents argue that RCV is not a true majority system. It is true that the ultimate winner in RCV elections does not necessarily have to receive a majority of *all votes cast*. The ultimate winner in an RCV election receives the majority of continuing ballots. However, our current system is not a true majority system either. Example: In AD-25, Alex Lee came in second in the primary with 15.4% of the vote, which practically guaranteed that he would win the seat in November.

Proposed Charter Language

Amend “ARTICLE XVI SECTION 1600 Municipal Elections” as follows:

All municipal elections shall be held in accordance with the following:

- (a) “REGULAR MUNICIPAL ELECTIONS. A Regular Municipal Election is ~~either a regularly scheduled Primary or Run-off Municipal Election,~~ **which shall be held on the same date the State of California holds its Statewide General Election.** Such elections shall be held every two years, with the election for Mayor and for the odd numbered Council Districts being every four (4) years beginning with 1994, and the election for the even numbered Council Districts being every four (4) years beginning in 1996. Each member’s term shall commence on the first day of January next following, and end on the

last day of December in the fourth calendar year succeeding, the date of the member's election. ~~A regularly scheduled Primary Election shall be held on the same date that the State of California holds its Direct Primary Election. A Run-off Municipal Election shall be held on the same date the State of California holds its Statewide General Election."~~

- (d) ~~RUN-OFF QUALIFICATION. The two candidates who poll the greatest number of votes for office in the Primary Municipal Election shall be the only candidates whose names shall appear on the ballot as candidates for such office at the following Run-off Municipal Election.~~

RANKED CHOICE VOTING. Elections for all elected city offices, including but not limited to Mayor and Councilmember, shall be conducted using ranked choice voting, known sometimes as "instant runoff voting."

(1) Definitions.

- (a) "Ranked choice voting" shall mean an election system in which voters rank the candidates for office in order of preference, and the ballots are counted in rounds that simulate a series of runoffs until one candidate receives a majority of votes. Ranked choice voting is also known as "instant runoff voting."
- (b) "Majority of votes" shall mean more than fifty percent (50%) of the votes cast on continuing ballots.
- (c) "Continuing ballot" shall mean a ballot that counts towards a continuing candidate.
- (d) "Continuing candidate" shall mean a candidate that has not been eliminated.
- (e) "Choice" means an indication on a ballot of a voter's assigned ranking of candidates (i.e., first choice, second choice, third choice, etc.) for any single office according to the voter's preference.
- (f) "Vote" means a ballot choice that is counted toward the election of a candidate. During each round of counting, each continuing ballot contains one vote. All first choices are votes and lower ranked choices are potential runoff votes that may, in accordance with the requirements of this section, become votes and subsequently credited for a continuing candidate.

- (g) "Round of counting" or "round" means a step in the counting process during which votes for all continuing candidates are tabulated for the purpose of determining whether a candidate has achieved a majority of the votes cast for a particular office, and, absent a majority, which candidate or candidates must be eliminated.
- (h) "Next ranked" means the highest ranked choice for a continuing candidate.

(2) General Provisions. Ranked choice voting elections for the offices of Mayor and City Council member shall be conducted according to the procedures in this section. The City shall conduct a voter education campaign to familiarize voters with ranked choice voting. The use of ranked choice voting shall commence with the 2024 Regular Municipal Election.

(3) Ballot. The ranked choice voting ballot shall allow voters to rank as many choices as there are candidates. The ballot shall not interfere with a voter's ability to rank a write-in candidate.

(4) Tabulation. The ballots shall be counted in rounds.

- (a) In the first round, every ballot shall count as a vote towards the first-choice candidate.
- (b) After every round, if any candidate receives a majority of votes from the continuing ballots, that candidate shall be declared the winner.
- (c) If no candidate receives a majority, the candidate receiving the fewest number of votes shall be eliminated.
- (d) Every ballot counting towards that candidate shall be advanced to the next-ranked continuing candidate. All the continuing ballots for all continuing candidates shall be counted again in a new round.

(5) Ties. In the event that two or more candidates tie for the smallest number of votes, the candidate to eliminate shall be chosen by lot.

- (6) Elimination of more than one candidate. During the elimination stage of any round, in the event that any candidate has more votes than the combined vote total of all candidates with fewer votes, all the candidates with fewer votes shall be eliminated simultaneously, and those ballots advanced to the next ranked continuing candidate.
- (7) Skipped rankings. In the first or any round, in the event that any ballot reaches a ranking with no candidate indicated, that ballot shall immediately be advanced to the next ranking.
- (8) Undervotes, Overvotes, and Exhausted Ballots. After each round, any ballot that is not continuing is an undervote, overvote, or exhausted ballot, as follows: Any ballot that has no candidates indicated at any ranking shall be declared an "undervote." In the event that any ballot reaches a ranking with more than one candidate indicated, that ballot shall immediately be declared an "overvote." In the event that any ballot cannot be advanced because no further continuing candidates are ranked on that ballot, that ballot shall immediately be declared "exhausted". Any ballot that has been declared an undervote, overvote, or exhausted shall remain so and shall not count towards any candidate in that round or in subsequent rounds.
- (9) Reports. The following reports shall be produced for public review.
- (a) The "summary report" for a contest shall mean a report that lists the candidate vote totals in each round, and the cumulative numbers of undervotes, overvotes, and exhausted ballots in each round.
 - (b) The "ballot image report" for a contest shall mean a report that lists, for each ballot, the candidate or candidates indicated at each ranking, the precinct of the ballot, and whether the ballot was cast by a vote-by-mail ballot. In the report, the ballots shall be listed in an order that does not permit the order in which they were cast in each precinct to be reconstructed.
 - (c) The "comprehensive report" for a contest shall mean a report that lists the vote totals in the summary report by precinct. The report shall list, for each round, the number of ballots cast in each precinct that:

- i) were tallied as votes for each candidate in that round,
- ii) have been declared undervotes,
- iii) have been declared overvotes, cumulatively for all previous rounds and inclusive of the reported round of tabulation, and
- iv) have been declared exhausted cumulatively for all previous rounds and inclusive of the reported round of tabulation.

(d) Mode and manner of release. Preliminary versions of the summary report and ballot image report shall be made available as soon as possible after the commencement of the canvass of votes cast. The summary report, ballot image report, comprehensive report, and preliminary versions of the summary report and ballot image report shall be made available to the public during the canvass via the Internet and by other means. The ballot image report and preliminary versions of the ballot image report shall be made available in a plain text electronic format. In any case, preliminary versions of these reports shall be made available to the public prior to the commencement of the manual tally.

(10) Continuing the tally to two candidates. If a winner is declared when there are three or more continuing candidates (including the winner), and if the vote tabulating system allows for it, additional rounds of tallying shall occur until there are only two candidates left.

(a) A preliminary version of the comprehensive report shall be made available to the public prior to the selection of precincts for the public one percent manual tally, as provided by state law.

(b) After each round of the manual tally, the next choice votes shall be assigned based on the candidate totals in the summary round-by-round report for the entire contest.

(11) Changes to Procedures. For the purposes of this subsection: "voting equipment" shall mean all ballots and/or voting devices, vote tabulating systems and/or similar or related systems to be used in the conduct of the City's election, including but not limited to paper ballot systems, optical scan systems, and touchscreen systems.

- (a) Number of rankings. In the event that the voting equipment cannot feasibly accommodate a number of rankings on the ballot equal to the number of candidates, the City Clerk may limit the number of choices a voter may rank to the maximum number allowed by the equipment. This limit shall never be less than three.
 - (b) Voting Equipment. If the voting equipment cannot feasibly accommodate all of the procedures in subsections (5)-(10) above, the City Clerk may make changes to those procedures provided that ranked choice voting shall still be used and the smallest feasible number of changes made until such time as the voting equipment can accommodate those procedures in their entirety.
 - (c) State Guidelines. If the State of California adopts guidelines for the conduct of ranked choice voting elections and the voting equipment used to conduct the City's election can accommodate the State's guidelines, the City Clerk shall have the option of adopting those guidelines, in whole or in part, in lieu of the ranked choice voting procedures in this section.
- (12) Exception from Using Ranked Choice Voting. Notwithstanding any other provision of this Charter, the City shall use ranked choice voting once the Santa Clara County Registrar of Voters is able to conduct the election on behalf of the City in accordance with the requirements and procedures of this section, including any changes to such procedures made pursuant to subsection (11).
- (13) Election Procedures if Ranked Choice Voting is Not Used:
 - (a) In the event that the City is unable to use ranked choice voting, the City shall hold Municipal Primary Elections for the nomination of officers and for such other purposes as the Council may prescribe, which shall be held on the same date the State of California holds its Statewide Primary Election. Any candidate receiving a majority of the vote cast for all candidates for that office at the Municipal Primary Election shall be declared elected.

(b) If at any Municipal Primary Election there is any office to which no person was elected, then the two candidates for such office receiving the highest number of votes for such office shall be the candidates, and the only candidates, for such office whose names shall be printed upon ballots to be issued at the Regular Municipal Election; provided that, in any event, all persons receiving a number of votes equal to the highest number of votes received by any candidate shall also be candidates at such second election. The candidate receiving the highest number of votes cast for all candidates for that office at the Regular Municipal Election shall be declared elected.

(g) MAJORITY OF VOTES. No person shall be declared elected to the office of the Mayor or Council member at any municipal election unless the person receives a majority of the votes cast for such office as defined by Section 1600(d)(1)b.

Elevate the Board of Fair Campaigns and Political Practices to the City Charter

What is the recommendation?

Elevate the San José Board of Fair Campaign and Political Practices from the Municipal Code to the City Charter.

This recommendation was passed on October 18th, 2021 with 20 aye, 1 nay and 1 absent votes.

What problem(s) does this recommendation address?

The San José Board of Fair Campaign and Political Practices (formerly called Ethics Commission) is currently charged with monitoring compliance, investigating violation allegations, and making recommendations on ethics policies. As of November 2020, the City Charter highlights in detail three commissions: Planning Commission, Civil Service Commission, and Salary Setting Commission. Election integrity is crucial towards ensuring a fair election cycle for candidates, volunteers, and voters. This responsibility is one which should not be taken lightly. While details of the San José Board of Fair Campaign and

Political Practices are listed in the Municipal Code, it is currently omitted from the City Charter.

Why is this particular change being recommended?

Elevating the San José Board of Fair Campaign and Political Practices from the Municipal Code to the City Charter is intended to signify the importance that the Board has in ensuring political candidates are following election rules.

It is feasible to elevate this Board to a standing Board under the Charter, as the Board for Fair Campaign and Political Practices already exists in the Municipal Code.

What are the arguments against this proposal?

There is no identifiable burden to elevating this Board to a Standing one under the Charter.

Proposed Charter Language

This amendment would occur in Article X of the City Charter.

Policy Recommendations

No policy recommendations in the area of Voting & Elections were approved by the Commission.

Policing, Municipal Law, Accountability & Inclusion

Preface

This area of focus covers the following directives from Council:

5. Consider **additional measures and potential charter amendments, as needed, that will improve accountability, representation, and inclusion** at San José City Hall.

These directives informed the research and deliberations of the Policing, Municipal Law, Accountability & Inclusion ad hoc subcommittee, as well as the recommendations they put forth for consideration by the full Commission. The ad hoc subcommittee provided the following summaries.

Charter Recommendations

Reform Boards and Commissions (Article X)

What is the recommendation?

- A. Remove citizenship requirement for all applicable Boards and Commissions as permitted by [Senate Bill 225](#), which revised membership requirements to all government boards and commissions;
- B. Ensure all Board and Commissions
 - a. receive training in ethics, civics, and diversity, equity and inclusion;
 - b. elect their chairs and vice-chairs democratically, and;
 - c. incorporate racial and social equity analysis to promote the use of an “equity lens” for decision-making;
- C. Provide a stipend to members of all Boards and Commissions.

This recommendation was passed on Thursday, November 18th, 2021 with 22 ayes, 0 nays and 0 absent votes.

What problem(s) does this recommendation address?

This recommendation seeks to improve accountability, representation, and inclusion under a racial equity lens within Boards and Commissions at the City of San José.

Additionally, this recommendation aligns with the City of San José's newly created Office of Racial Equity in advancing systems change through a citywide racial equity framework that will examine and improve San José's internal policies, programs, and practices to eradicate any structural and/or institutional racism in the City of San José. From the Office of Racial Equity's website

"This includes a focus on enabling the organization, at all levels and in all departments, to identify ways to improve outcomes for Black, Indigenous, Latinx, and People of Color."

Lastly, this recommendation also aligns with our Commissioner Agreement of "We Value Diversity":

"We believe that bringing together a broad range of ideas, experience and backgrounds will result in the best outcomes for San José. We keep an open mind and seek to learn from others."

According to data from the last three years gathered by the City Clerk's Office, the representation across Boards & Commissions is not representative of the population demographic of the City of San José. This data clearly indicates the racial disparities in representation (City of San José, 2021: see Appendix 1, Section 3) on City Boards and Commissions. The impacts of these disparities on BIPOC, low-income, undocumented, and those experiencing houselessness can be seen in the Planning Commission which, up until recently, did not have diverse representation for communities of color. The Planning Commission is a powerful commission whose decisions impact historically redlined communities, such as the Flea Market Redevelopment and Rezoning in the early 2000s (Resolution No. 73956, 71362), that is felt very vividly today by many vendors and their families.

"Today plans for the proposed urban village would shut out two-thirds of vendors because of the market's reduced size. Without plans to protect or relocate the flea market, vendors who depend on it as a main source of income would be displaced and left without employment." - San José Spotlight

What would this have looked like if there was more representation on Boards and Commission from our historically marginalized communities such as our immigrant and/or undocumented community members?

Why is this particular change being recommended?

Representation by those with the lived experience of hardships such as displacement or gentrification means that those individuals would be able to identify potential unintended or negative impacts of policy decisions that could otherwise go unnoticed or addressed by those without those same lived experiences. While we cannot undo the past, now is the time to prevent further community harm to our historically underrepresented communities.

“Equity is defined as, just and fair inclusion into a society in which all can participate, prosper, and reach their full potential. Unlocking the promise of the nation by unleashing the promise in us all.” - The American Planning Association

These changes will benefit all of the people of San José, not right away or all at once but over time.

1. *On membership requirements for Boards and Commissions.* There are examples of these changes across the Country and the State of California. Recently the City of Santa Ana and Costa Mesa have updated their Board and Commission membership requirements as permitted by California Senate Bill 225, signed on October 12, 2019, which granted non-citizen residents, regardless of immigration statutes, access to service in appointment to civil office, including state and local boards and commissions. From SB225:

“The California Legislature finds and declares all of the following:

(a) The State of California is the largest and most diverse state in the nation, with a total population of almost 40 million people, and a total immigrant population of about 10 million people from over 60 different countries.

(b) California prides itself on its great racial, ethnic, and cultural diversity, and acknowledges that diverse backgrounds benefit the state through providing a diversity of experiences and expertise, and this diversity is especially beneficial in creating public policy that supports and protects all people.” - Senate Bill 225 Text

2. *On process for Boards and Commissions:*
 - a. *On training and education.* This one would be a one time curriculum development that could be watched via video. Content can be adapted from presentations given to the Charter Commission on May 3rd by the San José

Office of Racial Equity and Sept 9th presentation by the Santa Clara County Office of LGBTQ Affairs part of the Division of Equity & Social Justice, for Rosenberg's or Robert's Rules of Order that one-time content can be developed by the City Attorney or City Clerk's Office.

- b. On Chair and Vice Chair selection.* Most commissions, unless otherwise stipulated, democratically nominate and select a Chair and Vice Chair through a majority vote of members on said Boards, Commissions, and Committees. This is a procedural amendment with no fiscal or staff impact.
 - c. On incorporating an equity lens into decision-making.* In partnership with a phased approach with appropriate departments such as but not limited to the Office of Racial Equity. There are examples of this change from across the county. Following GARE, the American Planning Association which has 40,000 members from 90 countries released a Planning for Equity Guide in 2019 supporting these practices. The City of Baltimore practices incorporating a racial equity lens into their entire planning department.
3. *On a stipend for Board Members and Commissioners.* Currently, approximately 39 Board Members and Commissioners receive a stipend or reimbursement, which is roughly 11% of all Board Members and Commissioners:
- Appeals Hearing Board - \$100/Per Mtg
 - Planning Commission - \$250/Mo
 - Civil Service Commission - \$450-250/Mo
 - Federated City Employees' Retirement System - \$250/Mo
 - *Deferred Compensation Advisory Committee, Voluntary Employees Beneficiary Association Advisory Committee are reimbursed only.*
 - Police and Fire Retirement Plan Board - \$250/Mo

Through a continued phased approach, some members of Boards and Commissions could be moved to reimbursement and eventually stipend as appropriately determined via budget considerations.

The burden of change weighs on EVERYONE, all participants, both those on the city staff and residents stepping into unfamiliar environments and roles to create sustainable and long lasting change for our City and Communities that improves social and racial equity, accountability, and inclusion. We are all human and deserving of life, joy, safety, shelter and sustenance. As a member of this community we are all responsible for the care that goes

into building community and meaningful connection now and for future generations. Some people are more privileged than others, so while the less privileged are overburdened with surviving unfair and inequitable systems, those that are privileged, like every person here that has made it “enough” to volunteer over 100 hours for free. It is our civic duty and responsibility to relieve every burden possible that is within our ability to do so.

What are the arguments against this proposal?

1. *There is no budget available to support this work, it will cost taxpayers too much money.* Improving social and racial equity will require some equity to be invested into our community. This investment is also supported by the most recent Mayor’s Budget Message, on Spending Proposals Section A Equity and Racial Justice

On items 1: Removing item (a) and (b) There is no fiscal impact as it is a change in membership requirement and does not impact staff or resources.

On items 2-3: The City of San José already allocates time and budget to support the work of Boards, Commissions, and Committees, through a phased approach it is fiscally feasible to create these incremental changes over time in partnership with other City Departments

2. *The City of San José does not have a diversity and/or racial equity problem.* As the data gathered and collected by the City Clerk’s Office on Boards and Commission, there is clear evidence of lack of diversity and representation, and direct impact to BIPOC, low-income, undocumented, and those experiencing houselessness as a result.
3. *There is not enough data available that can ensure equitable outcomes.* While there is *not as much* data documenting long term impacts that ensure more equitable outcomes, there is plenty of data such as gathered and collected by the City Clerk’s Office on Boards and Commission, that there is clear evidence of lack of diversity and representation, and direct impact to BIPOC, low-income, undocumented, and those experiencing houselessness as a result. Additionally, equitable data collection is not widely practiced at the City of San José yet.

However, the formation of the Office of Racial Equity is a step towards better practices. Our first most significant step that we can take is “Equitable Inclusion” through removing barriers to participation.

Proposed Charter Language

Replace "ARTICLE X SECTION 1000 Planning Commission" items (a) and (c) as follows:

- ~~(a) He or she must have been a citizen of the United States for at least one year immediately preceding the commencement of the four-year term or lesser period of time for which he or she is appointed, and he or she must be a citizen of the United States during his or her incumbency;~~ A person shall not be eligible to take or hold office as a member of the Planning Commission unless the person is at least 18 years of age and has been a resident of the City of San José for at least one year immediately preceding the commencement of the four-year term or lesser period of time for which the person is appointed. Members of the Planning Commission must be residents of the City of San José during incumbency.
- ~~(c) He or she must have been a resident of the City of San José for at least one year immediately preceding the commencement of the four-year term or lesser period of time for which he or she is appointed, and he or she must be a resident of the City of San José during his or her incumbency;~~
- ~~(d) He or she must have been a registered elector of the City of San José at the time of his or her appointment and thereafter to and including the date of commencement of the four-year term or lesser period of time for which he or she is appointed.~~

Amend "ARTICLE X SECTION 1001 Civil Service Commission" as follows:

- (a) MEMBERSHIP. The Civil Service Commission shall consist of five (5) members appointed by the Council for terms of four (4) years. Members must be ~~qualified electors of the City at all times during their terms of office~~ at least 18 years of age and be residents of the City at all times during their term of office; Not more than four (4) shall be of the same sex; and one (1) shall be an attorney-at-law, licensed to practice law in the State of California, who shall have practiced law in said State for at least five (5) years.

Amend "ARTICLE X 1001.1 Salary Setting Commission" as follows:

- (a) MEMBERSHIP. The Salary Setting Commission shall consist of five (5) members appointed by the Civil Service Commission. Members must be ~~qualified electors of the City at all times during their term of office~~ at least 18 years of age and be residents of the City at all times during their term of office.

Create new section "ARTICLE X 1004 Guidelines for Boards and Commissions" as follows:

All Boards and Commissions shall follow these guidelines:

- (a) Training and Education. All Board and Commission members are subject to training that address gender, racial and social equity, conflicts of interests, and code of ethics and related civic education as required such as the Brown Act, Rosenberg/Robert's Rules of Order, etc.
- (b) Chair and Vice Chair Selection. All Board, Commission, and Committee(s) shall have a Chair and Vice Chair, democratically selected through a vote of the majority of members of said Board, Commission, or Committee.
- (c) Incorporate racial and social equity analysis to promote the use of an "equity lens" for decision-making. An equity lens is a tool used to improve planning, decision-making, and resource allocation leading to more racially equitable policies and programs. For any policy or project, decision makers could consider:
 - (i) Structural Equity: What historic advantages or disadvantages have affected residents in the given community?
 - (ii) Procedural Equity: How are residents who have been historically excluded from planning processes being authentically included in the planning, implementation, and evaluation of the proposed policy or project?
 - (iii) Distributional Equity: Does the distribution of civic resources and investment explicitly account for potential racially disparate outcomes?
 - (iv) Transgenerational Equity: Does the policy or project result in unfair burdens on future generations?

Amend "ARTICLE X SECTION 1003 Reimbursement for Expenses" as follows:

~~All M~~members of boards, commissions and committees shall receive ~~reimbursement~~ ~~a stipend~~, to the extent such is authorized by the Council ~~for~~ ~~expenses incurred in the performance of their duties or functions of office~~ ~~and does~~ not conflict with rules and regulations for city employees that serve on a commission.

Add a Native Land Acknowledgement to the City Charter

What is the recommendation?

Formally include a Native Land Acknowledgement of the Muwekma Ohlone Tribe in San José's Charter.

This recommendation was passed on Thursday, November 18th, 2021 with 22 aye, 0 nay and 0 absent votes.

What problem(s) does this recommendation address?

The secularization of the Bay Area has caused harm to Indigenous People including, but not limited to, taking and not returning land occupied by tribes, instating government policies that exterminated Native language, cultural practices and religious rights, and causing trauma to generations of Native People. Secularization of the Missions in 1834 was the process of converting mission-controlled lands from religious to secular possession. Under the terms of the 1834-1836 secularization of the California Franciscan Missions by Spain and Mexico, including Missions Santa Clara, San Francisco, and San José within the Bay Area, half of the mission-controlled lands were to go to the emancipated mission Indians, but that never happened. The loss of their Native land and lack of acknowledgement of this history continues to cause harm.

The atrocities leveled against Native People has resulted in mislabeling members with no member input. The Muwekma Ohlone Tribe, without any input from the tribe and without consultation, were mislabeled the Verona Band after a nearby railroad station. Additionally, the Muwekma Ohlone Tribe was slated to receive land in 1914 and again in 1927 but, without a site visit or consultation with the tribe, they were removed from the list of tribes scheduled to receive land. This adversely affected their ability to have homes, community spaces for gatherings, religious ceremonies, and other important cultural events. The mislabeling and denial of land to them were, and are, very harmful to Muwekma Ohlone members. These events led to the start of the intentional extermination of their language, cultural practices and religious rights.

Why is this particular change being recommended?

A Native land acknowledgment will support the healing of generations of trauma and promote them in finding their voice in the conversation of where and how they fit into the diverse community of the Bay Area in general, and San Jose in particular. Land

acknowledgements are very important for the healing process. They recognize the existence of Native People, not only that they were here in some distant past, but rather they are alive and thriving. The Muwekma Ohlone people are stewards of their ancestral land, preserving their connections from past to future generations. This acknowledgement will also recognize and show appreciation for the contributions their ancestors have made to our shared history.

Including this in our Charter is of the utmost importance to our Native community. It is the first step to healing the community by acknowledging its importance to the Muwekma Ohlone Tribe and other indigenous people. This is, to our knowledge, becoming a common practice in many places in California and the rest of the country.

We are not aware of any law prohibiting such an acknowledgement.

What are the arguments against this proposal?

The Commission sees no arguments against this proposal at this time. There is no monetary impact to the community, and no contradiction to the fact that our land was previously occupied by Native People.

Proposed Charter Language

Include the following land acknowledgement as a preamble to the Charter.

Horše túuxi! (Hor-sheh troo-hee)

The City of San José would like to recognize that it is located on the ethnohistoric territory of the ancestral and unceded land of the **Thámien** (*thah-me-in*) **Ohlone** (*oh-loh-knee*) -speaking tribal groups of the greater Santa Clara Valley, which includes the lands of the **Alsons**, **Matalans**, and the **Paleños** - whose tribal region was named after their powerful chief **Capitan Pala**, and the two Mexican land grants located in the East Hills above San José - and who were intermarried with the direct ancestors of some of the lineages enrolled in the Muwekma Ohlone Tribe of the San Francisco Bay Area, whom were missionized into Missions Santa Clara, San José, and San Francisco. The Muwekma Ohlone Tribe of the San Francisco Bay Area is the legal successor of all of the surviving Native American lineages, including the **Thámien Ohlone-speaking** tribes, who comprised the historic sovereign and previously federally recognized Verona Band of Alameda County. This land was and continues

to be of great spiritual and historic importance to the Muwekma Ohlone Tribe and other familial descendants of the Verona Band.

We recognize that every member of the greater San José community has, and continues to benefit from, the use and occupation of this land, since The City of San José's establishment in 1777. Consistent with our values of community, inclusion, and diversity, we have a responsibility to acknowledge and make known through various enterprises The City of San José's relationship to Native Peoples. As members of the San José community, it is vitally important that we not only acknowledge and commemorate the history of the land on which we live, work, and learn, but also, we recognize that the Muwekma Ohlone People are alive and flourishing members of the San José and broader Bay Area communities today. Aho!

Use Gender-Inclusive Language In The Charter And City Documents

What is the recommendation?

Update gendered language in the Charter and official City documents (e.g., ordinances, resolutions, and City policies) to be gender inclusive or gender neutral.

This recommendation was passed on Thursday, November 18th, 2021 with 22 aye, 0 nays and 0 absent votes.

What problem(s) does this recommendation address?

Violence and discrimination born of intolerance and marginalization continue to take lives and create barriers to equity and opportunity for LGBTQ+ people and their families.

Language is also gendered and plays a central role in human cognition and behavior as one of the most common mechanisms by which gender is constructed and reinforced. Some languages do not mark gender distinctions systematically, some use pronouns to distinguish between male and female, and some go even further, extending the gender distinction to inanimate nouns through a system of grammatical gender. Gendered language is essential as it frames the understanding of equality.

Language is a reflection of the attitudes and norms within a society. It also shapes our worldview and, over time, people's attitudes as to what is "normal" and acceptable. The way language is used not only reflects social structures and biases. However, it may also

reinforce preconceptions and inequalities related to gendered roles in everyday life and the work environment.

Appearances of Gendered Language in Charter		Exclusive terms	Inclusive/neutral terms
4	His	Chairman	Chair (or Chairperson)
79	His or Her	Chairmanship	Chairpersonship
48	He or She	Businessman	Businessperson
9	Him or Her	Policeman	Police officer
140	Total	Cleaning lady	Cleaner
		Spokesman	Spokesperson
		Fireman	Firefighter
		Statesman	Political leader/Head of State/Diplomat/Political figure
		Handyman	Technician/Repairer
		Cameraman	Videographer
		Removal man	Mover
		Waiter/Waitress	Server

Why is this particular change being recommended?

This proposed amendment seeks to promote and improve accountability, representation, and inclusion under a racial equity lens at the City of San José by using gender inclusive language in official City documents.

Additionally, this recommendation aligns with the City of San José's newly created Office of Racial Equity in advancing systems change through a citywide racial equity framework that will examine and improve San José's internal policies, programs, and practices to eradicate any structural and/or institutional racism in the City of San José. From the Office of Racial Equity's website:

“This includes a focus on enabling the organization, at all levels and in all departments, to identify ways to improve outcomes for Black, Indigenous, Latinx, and People of Color.”

Using gender-inclusive language in the Charter and the City’s official documents of the City would support writing and speaking in a way that does not discriminate or marginalize based on gender and does not promote or perpetuate gender stereotypes. This shift is imperative for furthering gender equality in the workplace and creating an inclusive working environment for all staff members. Using plural forms (They, Them, Theirs) can be an easy gender-neutral alternative to gendered pronouns. This technique is preferred as it is inclusive and avoids complicated sentence structures.

There are local examples of this change. Santa Clara County has started the process of using inclusive language in all of their documents through a recent policy change.

This recommendation must be a Charter revision to both address issues with current Charter language, as well as support language inclusivity to reflect on all of San José City’s documents.

What are the arguments against this proposal?

The Commission sees no arguments against this proposal at this time.

Proposed Charter Language

Amend “ARTICLE XVII SECTION 1704 Definitions of the Charter” as follows:

(h) ~~The masculine gender includes the feminine and neuter.~~

(i) Gender. The gender neutral pronoun includes the feminine, masculine, and non-binary genders.

(ii) Pronoun Singularity. “They/them” shall indicate a singular individual, unless the context indicates the contrary. In most cases, the singular number includes the plural and the plural includes the singular.

(iii) Gender. Whenever a personal pronoun is used in the neutral gender, it shall be deemed to include the feminine and masculine also. “They/them”, shall indicate a singular individual, unless the context indicates the contrary.

(iv) Update pronouns when appropriate and also includes the updating of

future documents, applying only to official documents like ordinances, resolutions, and City policies by making changes such as the following:

Gendered subject (he, she, etc.), object (him, her, etc.) and possessive (his, hers, etc.) pronouns shall be replaced by a gender-neutral description of the pronoun referent's title of office, employment or descriptor.

Do not make gender visible when it is not relevant for documents and communications.

Update gendered language to be gender inclusive or gender neutral.

Create a Police Commission, an Independent Investigation Department, and an Office of the Inspector General

What is the recommendation?

This recommendation consists of three primary elements, the details of which follow:

- A. Create and add a Police Commission to the Charter that conducts regular (e.g. monthly) public hearings on San Jose Police Department policies, rules, practices, customs, and General Orders, as well as address the public's concerns regarding problems with the Office of the Independent Investigations Department, the Office of the Inspector General, and the San Jose Police Department. The Police Commission shall have subpoena authority and full unfettered and unredacted access to the documents contained by any City department or any employee relating to SJPD;
- B. Convert the Independent Police Auditor's Office to the Independent Investigations Department, with subpoena authority and full unfettered and unredacted access to the documents contained by any City department or any employee relating to SJPD;
- C. Create an Office of the Inspector General, with subpoena authority and full unfettered and unredacted access to the documents contained by any City department or any employee relating to SJPD, to assist the Police Oversight Commission in conducting reviews of patterns, practice, trends, systems, and policies at the Police Department.

This recommendation was passed on Thursday, November 18th, 2021 with 20 aye, 1 nay and 1 absent votes.

A. Police Commission.

1. Review, with expertise and assistance from an Inspector General's Office, and through the use of its access authority:

- a. Training;
- b. Patterns or Practice;
- c. Use of Force, stops/detentions, other practices;
- d. Policies and procedures;
- e. Supervision and management;
- f. Hire and Fire Chief Of Police alongside City Council and Mayor as described below; Appraise Chief of Police; Hire/fire/appraise the Inspector General (IG) and the Independent Investigations Department Head (IID)
- g. Recommend SJPD Budgeting to City Council

2. Conduct regular (e.g. monthly) public hearings on Department policies, rules, practices, customs, and General Orders. The Commission shall determine which Police Department policies, rules, practices, customs, or General Orders shall be the subject of the hearing. The Commission shall be authorized to convene subcommittees to study specific topics or policies and shall ensure broad community participation in those subcommittees.

3. It shall have an investigative/monitoring function: It shall have the same level of access to San José records as the Inspector General (discussed below) and authority to issue subpoenas to compel the production of books, papers and documents and take testimony on any matter pending before it except that the Commission shall not have any authority to issue subpoenas for the purpose of investigating any City employee, including an Agency employee, who is not a police officer. If any person subpoenaed fails or refuses to appear or to produce required documents or to testify, the majority of the members of the Commission may find him in contempt, and shall have power to take proceedings on that behalf provided by the general law of the State.

4. Propose changes at its discretion or upon direction, by adoption of a resolution, of the City Council, including modifications to the Department's proposed changes, to any policy, procedure, custom, or General Order of the Department which governs use of force, use of force review boards, profiling/discrimination based on any of the protected characteristics identified by federal, state, or local law, other constitutional issues (e.g., stops, detentions,

searches) or First Amendment assemblies, or which contains elements expressly listed in federal court orders or federal court settlements which pertain to the Department and are such federal court orders and settlements remain in effect. All such proposed changes and modifications shall be submitted by the Commission Chair or designee to the City Council for review, approval or rejection. If the City Council does not approve, modify and approve, or reject the Commission's proposed changes or modifications within one hundred and twenty (120) days of the Commission's vote on the proposed changes, then the Commission's proposed changes or modifications will become final.

5. Approve or reject the Department's proposed changes to all policies, procedures, customs, and General Orders of the Department which govern the topics/issues identified above.

If the Commission does not approve or reject the Department's proposed changes within one hundred and twenty (120) days of the Department's submission of the proposed changes to the Commission, the Department's proposed changes will become final. If the Commission rejects the Department's proposed changes, notice of the Commission's rejection, together with the Department's proposed changes, shall be submitted by the Commission Chair or designee to the City Council for review.

The City Council shall consider the Commission's decision within one hundred and twenty (120) days of the Commission's vote on the Department's proposed changes, and may approve or reject the decision. If the Council does not approve or reject the Commission's decision, the Commission's decision will become final.

6. Review and comment on, at its discretion, other policies, procedures, customs, and General Orders of the Department. All such comments shall be submitted to the Chief of Police. The Chief of Police shall provide a written response to the Commission upon the Commission's request.

7. Review the City of San José's proposed budget to determine whether budgetary allocations for the Department are aligned with the Department's policies, procedures, and customs. The Commission shall conduct at least one public hearing on the Department budget per budget cycle and shall forward to the City Council any recommendations for change.

8. Require the Chief of Police, or designee, to attend Commission meetings and require the Chief of Police to submit an annual report to the Commission regarding such matters as the Commission shall require, including, but not limited to a description of Department

expenditures on community priorities as identified by the Commission. The Chief of Police, or designee, shall also respond to requests made by the Commission, through the Chairperson, by a majority vote of those present. The Chief of Police, or designee, shall provide to the Commission Chair an estimate of the time required to respond to the Commission's requests.

9. Report at least once a year to the Mayor, the City Council, and to the public to the extent permissible by law, the information contained in the Chiefs report in addition to such other matters as are relevant to the functions and duties of the Commission.

10. The Police Commission has the role of recommending candidates to the City Council for the hiring of a police chief. Hiring the police chief shall involve interviews with community panels and selecting finalists to send to the City. A representative from the Police Commission shall be on the community panel, as the Commission is expected to engage with the public during the selection process. Individual Councilmembers may add candidate names for a vote so long as the community panel has had an opportunity to weigh in on the candidate. Further, the Commission has the role of appraising the police chief's performance in the form of regular performance evaluations. The police chief reports to the Police Commission. City Council may hire a police chief by a vote of their choice, majority or supermajority.

The City Council may fire the police chief without cause by a 2/3 vote, and with cause by a majority vote. The Commission may fire the police chief by a majority vote for cause, and what counts as cause shall be defined by ordinance. The Commission may not fire the police chief without cause. The City Council may block the firing of the police chief by the Commission with a 2/3 vote, within 15 days of the Commission's vote, or it becomes law. Commission shall appoint an acting chief who already works for the SJPD during the 15 days and until a new chief is hired through the hiring process.

The City Manager no longer has the role of hiring, appraising, and firing the police chief.

11. Composition of Police Commission and How They Are Selected and Removed:

Each councilmember, and the mayor, shall select one applicant for a four-year term, for a maximum of 2 terms if the applicant so desires once selected by a councilperson. Half of the initial applicant pool shall serve a two-year term so that at any given time only half the commission needs to be replaced. Former or current law enforcement, and those affiliated with law enforcement or police unions shall not be eligible to serve on the Commission. Disclosures shall be made regarding any immediate family members who are or have

served as law enforcement, and immediate family members who are or were affiliated with a police union. Additionally, no city staff is eligible for this Commission. Each commissioner may create any number of subcommittees of which members of the public will be eligible to be appointed to by the commissioner who is a subcommittee lead.

Commissioners may be removed for cause, as defined by ordinance, by the City Council by a majority vote. Commissioners may not be removed for political reasons, and the elements of “cause” shall exclude politics to the extent it can.

12. Oversee and review the investigations department (discussed below) and the Office of the Inspector General (discussed below). This includes hiring and termination (with cause) of the IID and OIG agency heads. Selection shall involve interview panels with community members and organizations.

B. Create an office of the Inspector General, with subpoena authority and full unfettered and unredacted access to the documents contained by any city department or employee relating to SJPD. This includes full access to anything and everything that the police department’s Internal Affairs has, as well as all bodyworn camera footage, recordings, transcripts, data, police reports, use of force reports, stop data, police communications, disciplinary histories, force reviews, training, etc. All documents shall be unredacted to the extent permitted by current State and Federal laws.

The IG shall have the existing powers of the IPA, but with additional access and authority. Its IPA authorities should also include a role in whether a case should be sustained and in the disciplinary decisions (currently, it only provides input into whether a case should be more thoroughly investigated).

The IG shall also have access to IID (see below) materials. The IG will report directly to the police commission, outside the police department's chain of command. The office can initiate an investigation into any area. The IG is authorized to compel any SJPD employee, including the Police Chief, to submit to an IG investigation. An IG investigation can only be stopped by a majority vote of the commissioners in a public session. The IG shall have the authority to access all of SJPD’s facilities, as well as its documents, audio, and video evidence.

The Commission would direct the IG’s reviews and receive reports and recommendations from the IG. The Commission would utilize these reports and recommendations, as well as its own access, to craft policy changes and review the performance of police management.

The Inspector General shall review patterns of practice, use of force, and other department wide practices, rather than individual cases.

C. Convert the IPA Office to an Independent Investigations Department (IID), with subpoena power. The IID reports directly to and can be hired/fired/appraised by the Commission. Rather than audit Internal Affairs' investigations of complaints as the IPA currently does, IID would conduct the investigations itself. The Commission, through a subcommittee on discipline, would play a limited role in adjudicating disagreements between the Chief and IID as to whether to sustain an allegation and as to the level of discipline issued in a particular case. The Commission would also have access to all IID cases (both directly and through the Office of Inspector General). IID shall issue annual reports. IID shall have sufficient staffing based on a formula relating to caseloads/number of complaints. The IID shall have full unfettered and unredacted access to the documents contained by any city department or employee relating to SJPd. This includes full access to anything and everything that the police department's Internal Affairs has, as well as all body-worn camera footage, recordings, transcripts, data, police reports, use of force reports, stop data, police communications, disciplinary histories, force reviews, training, etc. All documents shall be unredacted to the extent permitted by current State and Federal laws.

D. Independent counsel. The IID, the IG, and the Police Commission shall have their own attorneys (in addition to other staffing), not just the City Attorney because the City Attorney also represents the police department, and the City as a whole, and only describes what the law is and whether a proposed action is legal or not. One or two City Attorneys shall physically work at the office of Inspector General and no longer do other work for other departments.

E. Policy Recommendation: All investigators in the SJPd Internal Affairs shall have at least 10 years of experience as a police officer or an investigator. Lessor experienced officers shall no longer investigate complaints against officers, because they then have to work as officers in the street with those whom they have investigated. This is problematic for substantiating a complaint and then having to work with the officers they have substantiated the complaint against.

What problem(s) does this recommendation address?

There is a history of policing practices, which has resulted in excessive and unnecessary force towards residents of San José ultimately causing our citizens to distrust the police.

This distrust has caused concerns regarding police hiring, training, accountability, mental health awareness, and lack of basic care for the people they are sworn to protect.

San José lacks a robust police oversight structure that, in turn, lacks credibility and legitimacy among impacted communities. The oversight structure does not promote community empowerment and engagement and does not promote prevention of systemic issues or accountability of police management. It is largely reactive, focused on individual officer accountability, not fully independent, and depends upon the IPA Office itself to affirmatively engage community input.

Specifically, San Jose does not have a police inspector general with broad access to records, nor an oversight commission made up of community members interested in participating in police oversight. The cities and/or counties that have one or both of these entities include San Francisco (both), Oakland (both), Davis (commission), San Diego (commission), Orange County (IG) and Los Angeles (both), BART (both), among many others in California and the United States.

San Jose only has an outdated Independent Police Auditor model, which audits records from the San Jose police department's internal affairs, and our Independent Police Auditor has no authority to independently investigate complaints. Nor does the IPA have authority to review issues in the police department outside of specific complaints filed by members of the community. For example, the IPA cannot review patterns or trends relating to stops, responses to certain types of crimes, officer discipline, etc. (Measure G provided some limited additional access related to use of force, but those records are redacted and IPA requests must be accompanied by justification – such limits are without precedent in other jurisdictions).

Citizen groups in San Jose are interested in seeing stronger community safety oversight and would like to participate in that oversight process by being on a Commission, or one of its subcommittees, that reviews police conduct, policies, practices, training, and other aspects they deem important to modern community safety. Excluding the public in decision-making about the largest department in the City, and about the department that exercises force and control over residents, is inconsistent with procedural justice, democratic norms, and good governance. San Jose is a local outlier, different from all our neighboring big cities, and many small ones, in this regard, as other large cities involve the community in policy making and decisions over who leads the police department.

Finally, boards and commissions proliferate in San Jose, including boards and commissions with actual authority. For example, San Jose has a library commission, but not a police commission.

Policing is an exception to this widely used mechanism for public engagement and input. When the City has allowed public participation, it has fumbled in its approach, e.g., when the first iteration of the Reimagining Public Safety committee collapsed because members of the committee felt disempowered and censored by the City's attempts to control the process and thus control the potential final recommendations.

The public should have formal input into policing in light of the current state of distrust and the enormous power that police have. This power has manifested in significant uses of force, including causing serious injury, during the protests following the murder of George Floyd, but there have also been documented disparities in stops and treatment during stops in the last 5-10 years and at least one federal jury finding of an unjustified officer-involved shooting. The IPA routinely makes policy recommendations in light of deficiencies that the office identifies, and it is critical that a body oversees adoption and implementation of such changes. A supplementary IG could also utilize its access to monitor improved policies and practices.

Our BIPOC, low-income, and immigrant communities have been severely impacted by over policing and excessive use of force. Police officers' lack of understanding and approachability has caused these communities, who are already underserved, to believe that police are more prone to causing the problem than solving it. This leads to residents exhibiting fear and restlessness when interacting with the police, and this also leads to hesitancy when in situations that they should call the police. Moreover, this disconnect creates an environment where there are two entities (police and residents) who have distrust for one another, instead of acting as one whole community.

There are complaints of under policing in some neighborhoods, over policing in some neighborhoods, complaints of excessive use of force, racial profiling, different use of force depending on race, and no independent investigatory body of the policing in San José. People complain that police do not come to respond to drug houses, abandoned cars, reports of theft, reports of trespassing, and other complaints. [The District Attorney does investigate alleged criminal behavior on the part of San José police officers. This includes if an officer is accused of murder, sexual assault, sex with a minor, theft, domestic violence, and other crimes. This is not considered to be independent, investigatory oversight of San José policing.] There are complaints of officers smiling and laughing with each other after

pulling residents over during traffic stops (appearing to be laughing at the person they have pulled over).

Injuries caused by the San José Police Department have cost over 26 million dollars in lawsuits since 2010. This money could have been used to fund our schools instead of being diverted to pay for police misconduct.

In prior recent years, there have been documented disparities (UTEP, 2017; City of San José, 2020: see Appendix 1, Section 3).

The lack of a permanent police commission also has a disproportionate impact on marginalized communities. While other commissions exist, the exclusion of a police commission affects BIPOC and other marginalized communities because of the disproportionate impact of policing on those communities.

Why is this particular change being recommended?

Expanded oversight will benefit all San Joséans but will have a disproportionate benefit for BIPOC community members and community members who belong to other marginalized communities, including those with disabilities, the unhoused, and the LGBTQ+ community. This is because of the historical realities of policing affecting those communities most, and the historical distrust between these communities and police.

1. Oversight can help hold the police department accountable for officers' actions.
2. Oversight bodies can help improve the quality of the department's internal investigations of alleged misconduct. **A commission can provide a community voice into that process and evaluate broader policies and systemic issues.**
3. The community at large can be reassured that discipline is being imposed when appropriate, while also increasing the transparency of the disciplinary process. Greater access than the IPA currently has is required.
4. When the oversight agency confirms a complainant's allegation(s), the complainants may feel validated.
5. Similarly, when the oversight agency exonerates the officer, the officer may feel vindicated.
6. Oversight agencies can help improve community relations by fostering **communication** between the community and police agencies. This is particularly the case where a public body provides a regular venue and has a diverse representation of the communities most impacted by policing.
7. Oversight agencies can help reduce public concern about high profile incidents.

8. Oversight agencies can help increase the public's understanding of law enforcement **policies** and procedures, and why they are a particular way.
9. Oversight agencies can improve department policies and procedures. Policy recommendations based on data and review of records can prevent issues by identifying areas of concern and subsequently offering options to improve policing. IG-type access is essential.
10. Oversight agencies can assist a jurisdiction in liability management and reduce the likelihood of costly litigation by identifying problems and proposing corrective measures before a lawsuit is filed. Access to unredacted records and data (IG model) is essential.
11. Mediation has multiple benefits to both citizens and police officers. If the oversight agency provides mediated solutions, it can help complainants feel satisfied through being able to express their concerns to the specific police officer in a neutral environment. Mediation can also help police officers better understand how their words, behaviors and attitudes can unknowingly affect public perceptions.
12. By establishing a strong, modern oversight system that reflects best practices. Public officials are provided the opportunity to demonstrate their desire for increased police accountability and the need to eliminate misconduct.

All of these potential benefits help to support the goals of **community-oriented policing, which seeks to utilize problem solving techniques to work in a cooperative effort with the community to proactively address concerns.**

This is the direction the entire nation is moving in, and most large cities on the West Coast have moved in. San Francisco, Oakland, Davis, Los Angeles, Orange County, San Diego County are all examples of oversight agencies this Commission has studied and has had the actual oversight agencies present during study sessions. San Francisco, Oakland, and Los Angeles all have a Police Commission. San Jose is an outlier with an outdated oversight model. The Commission heard from 11 speakers on the topic of police oversight.

Police oversight currently sits in Section 809 of the Charter, so any change or additional oversight requires a Charter amendment. There are only two ways that San Jose may get its police commission: through a charter change, like San Francisco did, or through a Federal consent decree and continued monitoring, as Oakland and Los Angeles did. This Charter Review Commission prefers that a police commission is created through a charter change.

What are the arguments against this proposal?

One argument against this recommendation is that some people affiliated with the police union and otherwise may say that the San José Police Department should police itself and no one in the community should interfere in police policies and practices.

Some Commissioners also suggested that the lack of input from anyone representing law enforcement provides a weak foundation for this recommendation. Neither the current police chief or police officers, past police chiefs or retired police officers, nor police chiefs or police officers from other jurisdictions were consulted in the Commission's discussion of this issue. This is in contrast to the discussion on a mayor-council form of government where a former mayor and city manager were included, along with perspectives from other cities.

The stated response to this was that this Commission was set up so that the City Council and Mayor would get the community's input on City Charter changes, not to get input from City departments. Employees of the City already have a path for voicing their opinions to City Council through the heads of their departments. This Commission is not the place for City Council to get information from its own employees. Furthermore, the Chief of Police has been sitting on Reimagining meetings when these specific recommendations were discussed, but only listened and did not give feedback. This Commission would have addressed his opinions because we monitor and coordinate with people who sit on the Reimagining Public Safety board. Finally, two Commissioners in this ad hoc subcommittee are attorneys and believed that inviting the chief would be inviting collective bargaining discussions because, in order to get buy-in, we would discuss new policies that affect the actual work of employees of the policies department, and this would trigger collective bargaining under section 3505 of the Meyers-Millias-Brown Act ([link](#)). Finally, in response to our asking the City Manager to speak on Monday, September 13, 2021, we got correspondence from Sandra Cranford of the City Manager's office rejecting the invitation and asking us to operate independently: "It is critical the Commissions deliberations and recommendations be independent and sent directly to the Mayor and Council." We understood this to mean that the Mayor and City Council want the views of the community, of non-City employees. In fact, the application for appointment to this commission asked "Do you work for the City of San Jose?" Which department?"

Should Council decide to move this recommendation forward, it will need to go to collective bargaining which will provide an opportunity for law enforcement to provide their perspective.

Proposed Charter Language

The City Attorney shall review the City Charter and recommend the removal of all portions inconsistent with this recommendation (such as Section 809), and recommend language that is consistent with this recommendation if this recommendation is moved forward by the Council.

Establish Equity Values, Equity Standards, and Equity Assessments

What is the recommendation?

- A. Add a statement of values to the Charter that defines social equity, inclusion, and racial and social justice as guiding principles for the decisions, policies, budgets, programs, and practices of the City;
- B. Outline objectives intended to advance the aforementioned values through the areas of safety, environmental health, water and sanitation, parks and recreation, mobility and transportation, economic development, housing standards, workforce protection and housing amenities;
- C. Conduct an equity assessment for the annual operating and capital budgets as contained in the Recommended Budgets generated by the City Manager each fiscal year and for major policies and programs to be decided upon by the City Council.

This recommendation was passed on Thursday, November 18th, 2021 with 21 aye, 0 nay and 1 absent votes.

What problem(s) does this recommendation address?

San José has a long history of failing to achieve equity, inclusion, and racial justice, particularly in regard to BIPOC constituencies and low-income people. This failing is evident in a host of areas of life: affordable housing, transportation, health care, access to parks and green space, employment opportunities, law enforcement, assets and income, and many others. During recent decades, some serious efforts have been made to address these issues, yet it is widely recognized that disparities exist on a major scale. The experience of the COVID pandemic further demonstrates the depth of, and consequences of, these inequities.

One reason for the persistence of inequities is the inability of City government to sufficiently commit its resources and energies to their reduction. Part of this problem is a weakness in the existing City Charter. It states its opposition to discrimination but does not affirm the objective of reducing inequity or provide standards or procedures to move towards that goal.

By definition, the lack of equity for BIPOC and low-income people burdens those constituencies. Data demonstrating these inequities is widespread and essentially undisputed.

Why is this particular change being recommended?

The proposed language regarding equity standards has been revised to indicate that pure equality is not the city's objective when equity requires a recognition of the effects of past and present discrimination or unfair treatment.

Those who suffer from inequities, particularly BIPOC and low-income people, will benefit. Since the Charter language does not impose mandates, the city and the community retain the flexibility to make changes and respond to unintended consequences.

The changes are certainly feasible. In fact, they have been specifically designed to employ the power of the City Charter in a realistic way. Note that the proposed language does not mandate the end of inequity, nor does it require specific conditions of life, such as the Detroit Bill of Rights claim that every resident is entitled to affordable housing. For the Charter to prescribe those outcomes would risk the adoption of Charter language that the city lacks the capacity to accomplish. Instead, the proposed language includes three reasonable sections. The first is a statement of values, a type of Charter provision already present in the existing document (SECTION 607 Code of Ethics). The second is equity standards. This section focuses on activities in which the city is already involved, such as economic development and housing code enforcement, and articulates that the city will endeavor to achieve similar outcomes for every resident. The third requires a process, not an outcome. It imposes the responsibility of assessing the impact on equity when the city adopts major policies and its annual budget. The decision to conduct an assessment can be made by a majority of the City Council or by the direct petition of residents, the number required being challenging but not insurmountable.

This recommendation does not need to be a Charter revision. The same goals might eventually be achieved through city council action or cultural change. But those other strategies have thus far proven inadequate. Waiting for them to generate substantially

better and faster results condemns those who suffer from inequities to another period of long, indefinite delay. To demonstrate a full commitment to equity, we must employ every major mechanism that is available – including the City Charter

What are the arguments against this proposal?

Some people may argue that equity, inclusion, and racial justice should not be city objectives or priorities. Often proponents of this view believe that people have to take personal responsibility for improving their condition regardless of the disproportionate challenges they must confront.

Proposed Charter Language

Add a new section to the Charter, “ARTICLE VI SECTION 610 Statement of Values” as follows:

To the extent permitted by law, the people of the City of San José affirm that the decisions, policies, budgets, programs, and practices of the City of San José shall be guided by the principles of racial and social equity, inclusion, and racial and social justice. Section 611 Definitions For the purposes of this Article, the following definitions shall apply:

(a) “Racial and social equity” shall mean the condition that would be achieved if one’s group identity – based on categorizations that have experienced discrimination including race, aspects of neurodiversity, and sexual orientation - no longer predicted, in a statistical sense, how one fared.

(b) “Inclusion” shall mean bringing traditionally excluded individuals and/or groups into processes, activities, and decision/policy making in a way that shares power. “Racial and social justice” shall mean the systematic and proactive fair treatment of, and allocation of resources for, people of all races and all group categorizations that have experienced discrimination resulting in equitable opportunities and outcomes for all.

Add a new section to the Charter, “ARTICLE VI SECTION 612 Equity Standards” as follows:

To advance the values in Section 610 and to the extent permitted by law, the City will endeavor to meet all of the following objectives for the residents of the City of San José. When endeavoring to meet these objectives, the City shall recognize that diverse communities may require diverse approaches and programs and that

factors such as unresponsive or exclusionary political systems, low wage employment or other economic factors, environmental or occupational health hazards, inadequate access to health services, discrimination or abuse, or other conditions of exclusion or hardship impose greater burdens on some residents than others, and, therefore, as necessary the City shall adopt policies and service levels different from those specified in Section 612 (a) through (i) primarily to achieve equity across individuals and groups as a countermeasure to inequitable levels of burden.

(a) Safety: Every resident shall be as entitled to live free from harm or threat of harm from other persons, private institutions, or city agencies as every other resident.

(b) Environmental Health: Every resident is as entitled to live in an environment with clean air, soil, and water as every other resident.

(c) Water and Sanitation: Every resident is as entitled to have access to clean water supplies for personal and domestic use and adequate sanitation services as every other resident.

(d) Parks and Recreation: Every resident shall be as entitled to access to parks, recreational opportunities, community centers, and urban green spaces as every other resident.

(e) Mobility and Transportation: Every resident is as entitled to well-maintained and lighted streets and roadways, signage, and other mechanisms to assure pedestrian and vehicle safety, and the opportunity for walking and biking as every other resident.

(f) Economic Development: Residents of every part of the city are as entitled to the benefits of public economic development investments as residents of every other part of the city.

(g) Housing Standards: Every resident is as entitled to the protections provided by city enforcement of housing codes as every other resident.

(h) Workforce Protection: Every person who is employed within the city is as entitled to protection against injury, discrimination, and wage theft as every other employee.

(i) Neighborhood Amenities: Residents of every neighborhood are as entitled to amenities provided by the city such as cultural presentations or library services as residents of every other neighborhood.

Nothing in this Section is intended to nor shall be construed to create a binding funding obligation for the City or cause of action against the City.

Add a new section to the Charter, "ARTICLE VI SECTION 613 Equity Assessment" as follows:

(a) An equity assessment shall be conducted for the annual operating and capital budgets as contained in the Recommended Budgets generated by the City Manager each fiscal year and for major policies and programs to be decided upon by the City Council. The determination as to whether a policy or program is "major" and will require an assessment shall be made by a majority vote of the City Council or by the submission of petitions with at least 2,500 signatures from residents of the city. The process for determining when a policy or program is major, including the process for the submission of petitions, will be established by the City Council.

(b) The Assessment shall include the following elements:

- i. Does the proposed change have any disproportionate impact on racial or ethnic minorities and/or people of low-income and/or other group categorizations that have experienced discrimination?
- ii. Does the proposed change increase or decrease the level of representation of racial or ethnic minorities and/or people of low-income and/or other group categorizations that have experienced discrimination in city decision-making?
- iii. Does the proposed change increase or decrease the extent to which city officials and staff are accountable to racial or ethnic minorities and/or low-income people and/or other group categorizations that have experienced discrimination?
- iv. Does the proposed change increase or decrease the access of ethnic or racial minorities and/or low-income people and/or other group categorizations that have experienced discrimination to city decision-making?
- v. Does the proposed change increase or decrease the extent to which ethnic or racial minorities and/or low-income people and/or other group categorizations that have experienced discrimination receive a fair share of city services and benefits?
- vi. Does the proposed change increase or decrease the safety and security of ethnic or racial minorities and/or low-income people and/or other group categorizations that have experienced discrimination?
- vii. Does the proposed change increase or decrease the ability of the city to meet significant needs of ethnic or racial minorities and/or low-income people and/or other group categorizations that have experienced discrimination?

(c) Equity Assessments shall be presented at a public hearing. The final draft of the Assessment must be published a minimum of two weeks before the date of that hearing.

(d) For the purposes of this Section:

i. "Access" shall mean the ability to secure information about decision-making and participate in the decision-making process to the extent permitted or authorized by law.

ii. "Accountability" shall mean the ability to lawfully impose positive or negative consequences on decision-makers.

iii. "Preparation of Equity Assessments" must include outreach to, and communication with, constituencies likely to be affected by the proposal being assessed.

iv. "Representation" shall mean the ability to affect who will be making decisions that impact a constituency and what the outcome of a decision-making process will be.

Address Equity And Inclusion In City Programming and Budgeting

What is the recommendation?

Guarantee San José residents are equitably included in the benefits of City services and have the benefit of equal access to City services by aligning Department Statements of Policy and City budgeting processes with the proposed Equity Values, Equity Standards, and Equity Assessments.

This recommendation was passed on Thursday, November 18th, 2021 with 20 aye, 1 nay and 0 absent votes.

What problem(s) does this recommendation address?

In San José, disparities among its residents impact their economic and emotional lives. The 2021 Silicon Valley Poll, produced by Joint Ventures Silicon Valley (JVSV) studied this. Russell Hancock, JVSV President and Chief Executive Officer states:

“The 2021 Silicon Valley poll—our first—finds us in a darker mood. We’ve long been a high-stress region. Staggering housing prices, rising homelessness, a stark income divide and a host of sustainability challenges have had us on edge for some time. But when you toss a highly infectious disease into the mix you get a smothering amount of anxiety: 60 percent of respondents say their lives have become more stressful since the pandemic set in; 52 percent feel more isolated and alone, and 66 percent are genuinely worried about the future.....Altogether, the impact on work and employment appear to have hit hardest among those who were already in precarious positions: renters, non-white respondents, low-income families, and service-sector workers who are struck hardest by high cost of living and housing.”

In order to study if inequities exist within the City of San José Budget, the Commission Consultant was asked to study the questions: “How can a city measure equitable financial distribution of public services across the city? With these metrics in mind, how equitable is the distribution of public services across the City of San José's? And how do they compare to two other cities?”

The Consultant interviewed staff from the City of San José Office of Racial Equity (ORE) and reported the following:

“Since its creation in 2020, ORE has begun the process of collecting data on questions of equitable policies and distribution of resources. They are working with departments to collect equity data and assess existing policies. Currently, ORE is developing training for city departments to better collect and report on equity data. While ORE is working towards building a shared understanding across departments, there is no set definition of what equity means within the City. ORE is in start-up mode and ramping up capacity to take on this work in the coming years. ORE is eager to learn from the Commission’s research and inquiries and has provided information, guidance, and resources to support the effort.”

The Commission Consultant recommended the following process for evaluating how equitably the City’s financial resources are distributed:

“Based on the limitations around equity data for service areas, it is recommended that a geographic analysis be conducted based on community indicators (ie: race, income, language, education, etc.) and allocation of city funds (capital projects, such as new facilities, street improvements, park development, or resource allocations to police and fire stations, schools, parks, etc.). Through a geospatial analysis, we

would identify the districts that receive the most amount of funding (given budget allocation data that is available geographically) and cross reference these findings with the districts with a high density of people with specific socioeconomic characteristics. This analysis would shed some initial light on whether certain funding allocation is evenly distributed across the city and how a district's socioeconomic makeup correlates with the amount of funding received. This type of analysis would also provide insight into the distribution of certain funds across districts and how that distribution correlates to the population of San José.

Next steps would be to collect census data on these three indicators and map capital and operational financial data (for expenditures that are geographic by nature, ie: physical projects, location of services and resources)."

We recognize historical patterns of redlining, and what today appear to be overt and covert practices which disfavor the poor, persons of color who are often geographically segregated in certain neighborhoods, although home communities have been aggressively gentrified and taken away over the years.

Residents of all ages who live in crowded homes due to the high cost of housing need equitable access to City parks, libraries and community centers, as do other residents. For poorer San Joséans, these City resources represent significant health, wellbeing and educational opportunities and are vital to the lives of children, teens, adults and older adults. These individuals may have a greater need for City resources that are engaging, easily available and completely accessible to all persons regardless of physical or mental ability.

The Mayor, City Council and the City Manager need to promote equity and inclusion among all residents and further to determine if there are violations of the Civil Rights Act of 1964 that occur and must be remedied. The data that documents the historical impact of City policies and practice on the most disadvantaged neighborhoods is long overdue and would provide the data that the community's life experience already knows, and the eye can tell what is undeniable injustice.

Why is this particular change being recommended?

The purpose of this recommendation is to guarantee San Jose residents are equitably included in the benefits of City services and have the benefit of equal access to City services. The Mayor, City Council and the City Manager need to promote equity and inclusion among all residents especially promote equity and inclusion among all residents

especially in the budget for the City of San Jose. The absence of this requirement in the Charter has and may continue to cause inequities.

Therefore, it is recommended the City Charter be amended with recommended language for Article IV The Council, Article V The Mayor and Article VII City Manager. This recommendation is specific adherences to the Commission recommendation on Equity Values, Equity Standards, Equity Assessments. Article IV the Council would require adherence to the Statement of Values; Article V The Mayor would require specific adherence to Equity Assessment; Article VII City Manager would require specific adherence to Equity Standards.

The distribution of City of San José resources equitably among all residents, throughout all areas of San José is not required per the City Charter. Policies that guarantee residents of San José shall receive equal access to City Resources do not exist. The absence of this requirement in the Charter has and may continue to cause inequities. Thus the Charter does not prevent inequities by ensuring equity for ALL City residents. The goal of this recommendation is to create Equity and Inclusion.

This recommendation needs to be a Charter revision because the Charter gives the Mayor, City Manager certain duties and responsibilities with respect to the City finances. However, equity is not addressed. This will require the Mayor, City Manager and City Council to address equity within the context of their existing responsibilities.

Research to determine if other cities have adopted similar charter amendments is necessary, but we believe this change is feasible per these conditions:

- It appears not to contradict existing Charter language or policies.
- It will require extra work on the part of the Mayor, City Council and the City Manager, however this work may be in conjunction with the work of the Office of Equity and Inclusion.
- Legal research will be required to ensure there are no legal barriers to implementing this.

All residents of San José will benefit from this change. Living in a city that respects and treats all of its residents equitably creates a safer and more prosperous community. This helps business and creates more opportunities for those in need. The consequences may be that those who have received unfair advantages may need to receive less City services.

What are the arguments against this proposal?

The status quo is the current process of budgeting and expenditures which does not have a formal way of addressing equity and inclusion. The current and recent Mayors, City Council Members and City Managers appear to collaborate well in their service, so equity and inclusion are considered and promoted in preparing the City's budget and allocating resources. For this reason, some will argue that this good work occurs without the recommended City Charter language. However, continued improvement in this area of equity and inclusion is the very reason to add this language. The goal should be to maintain equity and to guarantee it will always be the way the City of San José conducts its business.

Proposed Charter Language

NOTE: The following amendments reference the proposed new ARTICLE VI sections in the preceding "Establish Equity Values, Equity Standards, and Equity Assessments" recommendation, "SECTION 610 Statement of Values," "SECTION 611 Definitions," "SECTION 612 Equity Standards," and "SECTION 613 Equity Assessment."

Amend "ARTICLE IV THE COUNCIL, SECTION 411.1 Department Heads; Policy Objectives; Consent to Hire" as follows:

The Council shall adopt a written Statement of Policy for each City Department which is under the administration of the City Manager. Said Statement of Policy shall set forth the board goals, objectives and aspirations to be accomplished by that Department. **The Statement of Policy shall adhere and follow specific criteria as set forth in [the CRC proposed] "ARTICLE VI SECTION 610 Statement of Values".**

Amend "ARTICLE V THE MAYOR, SECTION 502 The Mayor; Powers and Duties" as follows:

The Mayor shall have the following duties:

(d) If the Mayor recommends any increases in the City budget, the Mayor shall recommend the method of financing such expenditures **and ensure that both the methods for financing and the recommendations for increases adhere to [the CRC proposed] ARTICLE VI SECTIONS 610, 611, 612, and in particular 613 Equity Assessment.** If the Mayor proposed the curtailment of any services, the Mayor shall provide specific recommendations and the reasons for the proposal. **If the Mayor, upon receiving an Equity Assessment, as set forth in ARTICLE VI SECTION 613 Equity Assessment, which results in portions of the budget that do not adhere to ARTICLE VI SECTIONS 610, 611, 612, and 613, shall recommend remedial action.**

Amend "ARTICLE VII CITY MANAGER, SECTION 701 City Manager; Power and Duties" as follows:

(e) The City Manager shall prepare and submit the annual budget to the Council in accordance with the provisions in Section 1204. **Each section of the budget will be evaluated in accordance with ARTICLE VI SECTION 613 Equity Assessment and adjusted to adhere with ARTICLE VI SECTION 612 Equity Standards.**

(f) The City Manager shall submit a complete report on the finances and administrative activities of the City as of the end of the preceding fiscal year.... **The annual report will address in detail to the provisions in ARTICLE VI SECTIONS 610, 611, 612, 613 .**

Establish Regular Department-Level Audits

What is the recommendation?

Ensure that department-wide performance audits are conducted for all city departments, to assess key performance against their mission, goals and objectives in order to ensure accountability and fiscal responsibility, as well as to identify theft, fraud, embezzlement, campaign finance violations, or other crimes. Constituent-facing departments shall get a department-wide performance audit at least every 6 years, while remaining departments shall get a department-wide performance audit at least every 12 years.

This recommendation was passed on Thursday, November 18th, 2021 with 18 aye, 3 nay and 1 absent votes.

What problem(s) does this recommendation address?

This recommendation is intended to remove political pressure from the decision-making process and to bring greater financial accountability for San José.

The City Auditor function as currently enshrined in the Charter has two shortcomings:

1. Auditing topics are entirely determined by the city council;
2. The lack of department-wide auditing.

The San José City Charter Section 805 prescribes the powers and duties of the City Auditor's office. The Charter also grants the Auditor's Office access and authority to examine all records of a City department, office or agency. The performance audit function that the

Auditor's Office conducts is an essential element to hold the City's operations and services accountable, efficiency and effectiveness.

Under the current process, the Auditor's Office prepares an "Annual Audit Work Plan". The methodology for determining the work plan contains multiple factors and the results are outlined in a "Risk Matrix." The potential "audit subjects" on the "Annual Audit Work Plan" could be from staff, City Council or members of the public. The City Auditor submits the "Annual Audit Work Plan" to the Rules and Open Government Committee (i.e., The Rules Committee) for review and approval.

The Rules Committee makes the determination of the annual auditing tasks that the Auditor's Office will conduct in the next fiscal year. The Rules Committee can accept or partially accept the City Auditor's recommendation, or choose to completely ignore the City Auditor's recommendation.

The current determination process of "audit subjects" could potentially result in some departments or budget units to be consistently left out of audits and never get audited.

Additionally, the Auditor's Office has primarily focused on specific areas of a city department and conducts in-depth auditing on that area. While smaller scale auditing is important, department-wide performance auditing is critical and essential to track key performance goals for the city's services, and currently the department-wide performance auditing were barely conducted. The absence of such auditing on a regular basis could result in the misuse of city resources, lack of accountability and even corruption. Larger-scale departmental audits are necessary to ensure taxpayer resources are being spent in a fiscally responsible manner to ensure the highest quality of service to our community.

Increased accountability of all city services benefits every San José resident by ensuring fiscal responsibility and maximum quality of service, especially for underserved communities who rely heavily on city services, resources and support.

Why is this particular change being recommended?

We believe this change is feasible and necessary to ensure and increase accountability. San José has an audit function in place already. This simply adds a larger scope to the current audit process to ensure a higher quality of oversight and accountability for taxpayers.

Every San José resident benefits from this change by providing an increased level of accountability and oversight for our communities. This recommendation would ensure that no part of any City department goes unaudited for more than a 12-year period. It helps detect fraud, embezzlement, and any other crimes as well as it identifies potential ways to decrease spending and increase efficiency. This improves financial accountability in the City of San José.

This recommendation needs to be a Charter revision in order to ensure this is an unbiased approach that will not be influenced by elected officials or impacted department staff, it must be a Charter revision.

What are the arguments against this proposal?

This change may require increasing the budget and capability of the Auditor's Office.

Workload and budget for the Auditor's office are likely to increase.

This change may take away resources from areas where auditing is more important.

Proposed Charter Language

Add a new section to the Charter "ARTICLE VI SECTION 805.3 Department-Wide Performance Audit" as follows:

A department-wide performance audit must be conducted to all city departments, to assess key performance against its mission, goals and objectives in order to ensure accountability and fiscal responsibility.

The constituent-facing departments shall get a department-wide performance audit at least every 6 years, while the remaining department shall get a department-wide performance audit at least every 12 years.

The auditor report shall be presented at public meetings, with trackable correction action items and follow ups.

Policy Recommendations

Create A Climate Action Commission

What is the recommendation?

Create a “Climate Action Commission” (CAC) in the municipal code, composed of a combination of 17 community members and Special Eligibility Seats to study, create reports, and recommend policy and programs that help to identify, mitigate and prepare for the impacts of climate change and global heating as it may manifest in San José, and to support and give feedback on the Climate Smart San José program.

1. MEMBERSHIP:

- a. Ten (10) District Representatives (1 per district) and 1 Citywide appointed by Council and the Mayor,
- b. Up to two (2) individuals nominated by and representing the interests of Muwekma Ohlone Tribe, the original stewards of the land (county residency requirement only),
- c. Up to Three (3) individuals representing fields of Science, Ecology, Biology, Food Systems, or from Community Based Non-profits (county residency requirement only),
- d. One (1) Attorney-at-Law (county residency requirement only).

Similar to the Housing and Community Development Commission collaboration with the City Staff of the Housing Department, the CAC may be supported by, or receive reports from any of the following departments/other commissions but not limited to the Youth Commission, Senior Citizens Commission, Environment Service Department, Climate Smart Program, Department of Transportation, as necessary to ensure informed decisions on policy or program recommendations to Council. Current employees of the City of San José are not eligible to serve on this Commission, as they already have a path for giving input to the City of San José and we do not want an echo chamber, but rather fresh ideas flowing to City Council and the Mayor.

Before making a policy or program recommendation, the CAC should conduct public hearings on their recommendations to solicit community feedback.

CAC shall develop a work plan that aligns with the Chicago Climate Charter, signed by Mayor Sam Liccardo in 2017, and prioritizes the following directives:

1. Reduce greenhouse gas emissions by a percentage equal to or exceeding their home nation’s commitment
2. Track, measure, and report the data
3. Empower cities through collective action
4. Engage all communities, especially nontraditional voices, in policy formation

5. Integrate climate risks into infrastructure and emergency planning
6. Support policies and actions that incorporate the cost of carbon and support those most affected
7. Partner broadly for robust solutions

This recommendation was passed on Thursday, November 18th, 2021 with 16 aye, 5 nay and 1 absent votes.

What problem(s) does this recommendation address?

Climate change is expected to impact people of all ages, for generations, but underserved communities first and most. Climate change poses immediate and long-term threats to the City's economy, public health sustainability, security, and quality of life, especially those of low-income with the least resources. The potential adverse effects of global warming include a rise in sea levels resulting in the displacement of businesses and residences, especially those living in the Alviso Community in District 1. As such, the Commission has heard that residents have been asking for greater inclusion in the creation of climate change mitigation strategies on a city level.

Furthermore,

"The largest impact of climate change is that it could wipe off up to 18% of GDP off the worldwide economy by 2050 if global temperatures rise by 3.2°C, the Swiss Re Institute warns." (World Economic Forum, 2021: see Appendix 1, Section 3)

"Climate change is going to amplify the already existing divide between those who have resources and those who do not, Eliot Levine, Director of the Environment Technical Support Unit at Mercy Corps." (Global Citizen, 2020: see Appendix 1, Section 3).

"Boulder climate action could save millions of lives each year by 2040" - Reuters

San Joseans, especially BIPOC, low-income, immigrants, and those experiencing homelessness will be impacted by climate change as follows:

1. According to U.S. Census Data, approximately 88,152 (8.7%) San José residents are considered to be living in poverty.

2. Data from the U.S. Census Bureau's American Housing Survey, which tracks whether households have heating and cooling, shows that just over 47% of the Bay Area's 1.7 million households had air conditioning in 2019, the last year of published data.
3. In the second half of the 2010s, the share of Bay Area households with air conditioning increased more than 10 percentage points, from 36% in 2015 to 47% in 2019.
4. "Higher temperatures will increase annual electricity demand for homes, driven mainly by the increased use of air conditioning units," a statewide climate change assessment report said.
5. The effects of climate change can be expected to shave 11 percent to 14 percent off global economic output by 2050 compared with growth levels without climate change, according to a report from Swiss Re, one of the world's largest providers of insurance to other insurance companies. That amounts to as much as \$23 trillion in reduced annual global economic output worldwide as a result of climate change.
6. "There is no doubt that global demand for space cooling and the energy needed to provide it will continue to grow for decades to come," according to a 2018 report by the International Energy Agency, a global consortium of countries that advocates for clean energy and energy security. "If left unchecked, energy demand from air conditioners will more than triple (globally) by 2050."

Examples of climate change impacts on San José residents include:

1. 2017 Coyote Creek Floods "...heavy rain caused a deluge that put hundreds of San José households underwater, displaced 14,000 people in three neighborhoods and left behind \$100 million in damages" - San José Spotlight
2. "Red-flag warning called for much of Bay Area as dry-lightning threat approached." - San José Mercury News, 09/09/21
3. "As climate change makes heatwaves increasingly common, poor neighborhoods in the Bay Area and across the country are experiencing hotter ..." - San José Mercury News, 07/09/21
4. "2nd heat wave heading to Bay Area could bring record-high temps" - ABC 7 News, 06/22/21
5. "Here's why the Bay Area has yet to see terrible air quality this fire season..." - San Francisco Chronicle 09/16/21
6. Hazardous Air: San José Closes Parks; 'We Have Smoke Coming At Us From Virtually All Directions'" - CBS SF Bay Area
7. "Wildfires made California air quality among worst in the world ..." - San José Mercury News, 03/17/21

Impacts of extreme and unpredictable weather events have already been felt locally and with increasing occurrence. The City of San José's programs only address subjects like electrification and future building standards, buying potentially cleaner energy for increased fees, and locating electric cars for purchase, for example. There is a gap to address the current and very immediate impacts of the climate crisis, especially fiscally for the least resourced communities.

In 2017, Mayor Sam Liccardo signed the Chicago Climate Charter (see Appendix 1, Section 3) alongside mayors of 40 major U.S. cities. In doing so, Mayor Liccardo, prioritized the following directives:

1. Reduce greenhouse gas emissions by a percentage equal to or exceeding their home nation's commitment
2. Track, measure, and report the data
3. Empower cities through collective action
4. Engage all communities, especially nontraditional voices, in policy formation
5. Integrate climate risks into infrastructure and emergency planning
6. Support policies and actions that incorporate the cost of carbon and support those most affected
7. Partner broadly for robust solutions for climate resiliency

The Commission has heard that residents are asking for greater inclusion in the creation of climate change mitigation strategies on a city level.

Why is this particular change being recommended?

The Commission believes the City of San José should collaborate more with its very intelligent and climate conscious and caring residents to take coordinated actions to prepare city services and residents for the ongoing impacts from climate change. Residents of all ages, but especially our youth, deserve to have an organized, City-supported platform to independently study, create, and recommend policy and programs to the City Manager and to the Council that address the impacts of global warming and climate change.

This recommendation will benefit the people of San José for generations to come, as there are no shortages of climate impact headlines in the news at the moment, including the most recent Intergovernmental Panel on Climate Change Report and the 2021 United Nations Climate Change Conference (COP26).

An example of the dire urgency for this commission to study climate mitigation is that in June of this year (2021), an extreme heat event in Western Canada actually cooked to death over 1 billion clams, mussels, and other marine animals that lived on a beach. An FLIR thermal imaging camera found surface temperatures topping 125 degrees Fahrenheit, hotter than reported by weather stations. Lytton, British Columbia, broke Canada's all-time record reported by weather stations on June 30 when the temperature topped 121 degrees. The town was all but destroyed in a deadly wildfire. As a result, there were 719 deaths reported to the province's coroners between June 25 and July 1, 2021. The average temperature in Lytton, B.C. is 38.2 degrees Fahrenheit and it gets 37.8 inches of rain per year. San José's average temperature is 68.9 degrees Fahrenheit, and we get about 17 inches of rain per year. We are much hotter and dryer than Lytton. We must prepare residents for summers that reach 125 degrees Fahrenheit, or hotter, drought, and continuous seasonal wildfire smoke. Mass cooling centers will be needed soon.

City Staff time from associated Departments, such as but not limited to Offices of the City Clerk, City Attorney, Environmental Services Department, etc. would need to be allocated for support, reporting, and implementation should Council accept any of the policy or program recommendations from the CAC. The San José Office of Emergency Management might be the department that should staff this commission. It is feasible to create a Climate Action Commission since the City already supports over 29 boards and commissions that have various powers and duties to study, create, and recommend policy and/or programs to Mayor and Council. The CAC would follow a similar form and structure.

Other examples of commissions similar to the Climate Action Commission include:

- The City and County of Honolulu has voter-approved Charter language that created a Climate Change Commission which sits in their City Charter.
- Citizen-oriented climate change commissions are now operating in many cities across the state of California, the country, and the world, such as Vermont, Virginia, Los Angeles, San Francisco, Oakland, Alameda, Berkeley, Chico, Solano Beach, Petaluma and San Anselmo. Many nations in Europe have climate action commissions, particularly those who are part of the EU.
- Chicago Climate Charter. Its report contextualizes the North American Climate Summit in the broader arc of climate action, outlines the commitments made by signatories to the Chicago Climate Charter, and provides recommendations for cities seeking to accelerate their sustainability efforts.

The creation of this commission would help coordinate a mutual government-resident response to climate disasters specifically. While City government may not be able to protect the numbers of people that may suddenly need protection, it can give an official platform for residents to develop and create family and neighborhood response ahead of an impending crisis, with more expanded information about neighborhood-specific climate threats.

What are the arguments against this proposal?

1. Duplication and redundancy with San José's Clean Energy Community Advisory Commission.

Response: The San José's Clean Energy Advisory Commission, does not address climate change. It provides feedback and input on the development of strategy and operating principles or models to inform the prioritization and development of energy programs, particularly electrification.

Furthermore, clean energy is a highly important and very technical subject that requires commissioners to have a particular interest in energy, so we think this commission is more useful as a stand-alone commission with its somewhat narrow focus.

2. Duplication and redundancy with Climate Smart Program.

Response: We have other problems that impact our local resilience like food insecurity, water insecurity, energy cost and availability (especially during heatwaves), fire, additional cooling centers needed, etc. We need a separate resident-led commission set up to address the broad and unanticipated threats that will result from global heating and regional climate change. For example, greater accountability in reporting fossil fuel use and in mitigating the effects of climate change in San José is needed, among many other suggestions shared by residents.

The Climate Smart program sits at a policy level and reflects specific city programs. It has low public participation in its public facing programs. It does not take regular public input through hearing and testimony. The gold standard would be to solicit ideas from the residents of the City of San José, with their lived experience, professional education, intellectual resources, and powerful desire to not suffer in natural and man-made disasters. We think the lack of community engagement and empowerment to participate in finding solutions and presenting those solutions to

City Council, City Manager, and the Mayor is what is causing the apathy in participating in the public facing Climate Smart programs.

This proposal works to support the Mayor's Chicago Climate Charter goals, and resolve the problem with Climate Smart, and thus would support and enhance Climate Smart by providing it with public feedback and additional proposed solutions, as well as outreach.

3. Duplication and redundancy with other programs created by multiple Mayors, city Councilmembers and staff that have made San José a leader in addressing climate change and its impact on the people in San José.

Ordinances, policies and plans, such as the Green Building Ordinance; the Riparian Corridor Policy; Green Vision; Urban Forest Plan and Net Zero Green House Emissions by 2030 are indicative of actions the city has and will take in the future. Concern was voiced that a commission looking into climate change is redundant and will take staff's attention away from implementing ordinances, policies, and plans already in place.

Response: No City program specifically addresses climate change, global heating, severe drought, and extreme weather events, such as San Jose reaching temperatures of 125 degrees in the next few years. Having a Riparian corridor does not provide a million people with a way to cool down during extreme heat events. In fact, the rivers are a casualty of extreme weather events in the form of flooding. The green building ordinance is lacking in requiring carbon sequestering materials to be used, such as hempcrete. It does not address the offgassing from building products containing formaldehyde. The urban forest has shrunk almost 3 miles in the last several years and the city has not updated its tree inventory since 2014.

Being carbon neutral is not the same as having zero carbon emissions. There is no current plan for the City of San Jose to use zero fossil fuels by the next 8 years, which includes the incremental 1/8 reduction of total fossil fuel use starting in 2022. San Jose could start buying carbon credits this year so that it can be carbon neutral now, while it works towards actually reducing its fossil fuel usage.

While we should support the City's green programs, they are not redundant with a Climate Action Commission because they do not specifically address the multifaceted

actions needed to keep residents safe or help mitigate the effects of climate change.

Explore a Community Opportunity to Purchase Act

What is the recommendation?

Explore policies that will prioritize establishing and continuing to support a Community Opportunity to Purchase Program (COPA) and creating new sources of funding for affordable housing community ownership models and anti-displacement and the continuation of tenant protections.

This recommendation was passed on Thursday, November 18th, 2021 with 16 aye, 5 nay and 1 absent votes.

What problem(s) does this recommendation address?

Over the last few years, neighborhoods have rapidly changed before our eyes, with increases in home sales and evictions of dozens of families. Many of our neighbors have been displaced; we are seeing the destabilization of our once culturally rich communities; culture and heritage are being erased from spaces; and local, family-owned businesses have closed. The City's "Community Strategy to End Displacement in San José Report (2020)" (City of San José, 2020: see Appendix 1, Section 3) provides data on the urgent need to create preventative measures to staff displacement and its impact on communities of color.

According to a staff memorandum:

"A 2016 report from Urban Habitat found a significant regional out-migration of Black and Latinx households to outlying areas of the Bay Area or to neighboring counties like San Joaquin and Stanislaus. Further, a 2018 study from the California Housing Partnership and the Urban Displacement Project found that rising housing costs have led to large increases in Black and Latinx households living in high poverty, segregated areas. Between 2000 and 2015, the study found a 15% increase in the number of Black households and 100% increase in the number of Latinx households living in segregated and high poverty neighborhoods in the Bay Area."

Furthermore, locally:

“According to UDP research, 43% of all census tracts in San José are either at-risk of or are experiencing ongoing displacement. While all City Council districts are experiencing some level of displacement, Council Districts 3 and 5 have the highest number of census tracts with either ongoing displacement or being at-risk of displacement. Latinx households are overrepresented in these areas. In San José, 47% of all Latinx households and 45% of all Black households live in areas categorized as experiencing ongoing displacement or at-risk of displacement.”

Why is this particular change being recommended?

This recommendation seeks to promote and improve accountability, representation, and inclusion under a racial equity lens within the housing department and anti-displacement efforts at the City of San José by promoting and supporting a Community to Purchase Act (COPA), which promotes the prevention of tenant displacement, and creates preservation of community-owned affordable housing to build a more just and equitable city. Preservation strategies are needed in order to prevent further displacement, segregation, a negative quality of life, and generational poverty. Preservation strategies often struggle for funding sources and commitment from cities, which ultimately impacts BIPOC (Black, Indigenous, People of Color) and low-income families. Preservation strategies are necessary to address long term affordability and to complement our housing production goals and no net loss ratios. Preservation strategies are key to ensure BIPOC families do not experience homelessness and a cycle of institutional violence. Protecting tenant rights, producing affordable housing and investment should be seen as a long term priority as part of our vision to cement our cities commitment to ending displacement and materializing housing as a human right.

Additionally, this recommendation aligns with the City's newly created Office of Racial Equity in advancing systems change through a citywide racial equity framework that will examine and improve San José's internal policies, programs, and practices to eradicate any structural and/or institutional racism in the City of San José. From the Office of Racial Equity's website:

“This includes a focus on enabling the organization, at all levels and in all departments, to identify ways to improve outcomes for Black, Indigenous, Latinx, and People of Color.”

This recommendation also aligns with the overall San José Anti-Displacement goals and strategies set for with community input, housing department direction, and City Council

Board approval. The 10 recommendations in this multi-year strategy are designed to complement each other and are listed below. The recommendations are prioritized by timing, from near-term to medium-term.

1. Support Equitable COVID-19 Recovery and Impact Mitigation Measures for Renters and Homeowners
2. Establish a Neighborhood Tenant Preference for Affordable Housing
- 3. Explore a Community Opportunity to Purchase Program/Ordinance (COPA)**
4. Increase Equitable Representation of Historically Underrepresented Communities on City Commissions
5. Create a Role for Local Government in State Tenant Protections
6. Increase Housing Quality and Prevent Code Enforcement-related Displacement
7. Create a Preservation Report and Policy
8. Develop YIGBY Land Use - Yes in God's Backyard
9. Optimize Urban Villages for Affordable Housing Development and Anti-Displacement
10. Establish New Sources of Funding for Affordable Housing and Anti-Displacement

Lastly, this recommendation also aligns with our Commissioner Agreement of “We Value Diversity”:

“We believe that bringing together a broad range of ideas, experience and backgrounds will result in the best outcomes for San José. We keep an open mind and seek to learn from others.”

As COPA attempts to address historical and current discrimination based on home ownership and opportunities to build wealth, the aforementioned staff memo highlights the racial impacts of home ownership:

“In San José, Black households have a homeownership rate of 33%. The homeownership rate for Latinxs is 41%. In comparison, White households have the highest homeownership rate in the City at 66%.

Furthermore, COPA attempts to address the racial impact of the 2008 foreclosure on BIPOC Communities. From 2007 to 2010 East San José was named “Ground Zero” (Cassidy, 2008: see Appendix 1, Section 3) of the foreclosure crisis and nationwide Black and Latinx communities were 2 to 2.5 times more likely to experience foreclosure than their White peers. Wealth building is connected to asset ownership, and value of assets owned by BIPOC communities is also impacted by racism. Housing displacement greatly impacts

Black and Latinx residents as it relates to affordability, home stability and overcrowded homes, as well, which greatly impacted families during the covid pandemic and caused health harms. Unemployment and other economic barriers tied to housing leads to overrepresentation of Black and Latinx families in the homeless count.

Cities throughout the country, such as San Francisco and Washington D.C., have implemented COPA and TOPA in efforts to support anti-displacement and build ownership possibilities for tenants. San José can do the same. Displacement is happening now! The need to continue supporting and establishing a neighborhood tenant community own housing needs to be prioritized as a long term solution.

We can no longer wait, nor be scared of housing co-op's or community land trusts, because we have seen these policies make changes in cities like San Francisco and Washington D.C. This recommendation will benefit communities that have historically been impacted by redlining, housing segregation and historical disinvestment in communities that majorly have affected Black, African American Descent, Indigenous, Latinx, and People of Color.

Co-op and community ownership models have already been discussed by city council as a method to address the impact of displacement. In the future this policy could be a Charter amendment as the city continues to work to implement this policy to combat anti-displacement and promote the prevention of tenant displacement.

What are the arguments against this proposal?

The following frequently asked questions address some of the arguments against this proposal (COPA Working Group *et al*, see Appendix 1, Section 3).

Frequently Asked Questions - Landlords

1. *Does COPA force me to sell my rental property before I want to sell it?* No. COPA does not force an owner to sell before they are ready. When you choose to sell, COPA provides a process for existing tenants to remain in the property by purchasing it themselves, or assigning their purchase rights to a qualified organization. If tenants/qualified organizations do not respond or waive their purchase rights, the owner can proceed to sell the property on the market.
2. *Does COPA control the price owners can sell their property for?* No. Owners receive fair market value for the sale of their property under COPA. The owner has the right to accept or reject the initial offer they receive from tenants or qualified organization. If an owner rejects the initial offer and subsequently receives an offer, from another

buyer, they want to accept then tenants/qualified organizations have a certain amount of time to match the offer and purchase the property.

3. *Will COPA prevent me from transferring my property to my family?* No. COPA exempts transfers even when money is offered between immediate family members including the spouse, domestic partners, parents and child siblings, grandparents and grandchild.
4. *Can I market my rental property for sale before complying with COPA?* No. COPA requires sellers of rental properties to give existing tenants and qualified organizations the exclusive opportunity to make an offer before marketing it to other buyers.
5. *Who would I have to notify that I intend to sell my rental property and how long would they have to respond?* You would notify existing tenants and a list of qualified organizations vetted by the city. You would also file copies of the notices with the city. Tenants and qualified organizations would have time to submit a statement of interest.
6. *If I accept the offer from tenants or a qualified organization, what happens?* You enter into contract. Your contract should include a financing contingency that complies with COPA timelines for securing financing, giving the tenant/qualified organization sufficient time to secure financing and close the deal.
7. *If I reject the initial offer from tenants, or qualified organization, what happens?* You're then free to solicit offers on the market. If you receive an offer you would like to accept or make an offer that another buyer would like to accept, you would need to notify the tenants or qualified organizations (whoever submitted the initial offer) and give them an opportunity to exercise their right of first refusal to match the offer.

Frequently Asked Questions - Tenants

1. *If my landlord decides to sell the property, what are my options?* You can decide to make the first offer on the property. Choose a qualified organization to assign your rights to or waive your rights altogether by choosing not to respond.
2. *What does the COPA process look like?*
 - a. Landlord decides to sell their property,
 - b. Landlord notifies tenants and qualified organizations of intent to sell.
 - c. If tenants are interested in purchasing or assigning their rights to a qualified organization, majority must submit a collective statement of interest to the owner.

- d. If tenants do not submit a statement of interest qualified organizations may submit a statement of interest to the landlord and go through a similar process.
 - e. If no qualified organizations submit a statement of interest, then the landlord can proceed to sell on the open market.
- 3. *If my only option is my only option to purchase the property?* No. If you wish to stay in your home but do not wish to purchase or find that it is financially infeasible for you to purchase, you can choose to assign your COPA rights to a qualified organization who may be ready and willing to purchase. The city of San José will maintain a list of qualified organizations Nonprofit Housing, Community Land Trust's and cooperatives that are committed to permanent affordability, partnering with tenants and keeping you in your home.
- 4. *If I choose to remain a renter and a qualified organization purchases the building will I still have tenant protections?* Yes. Tenants would continue to be able to live there, either as owners or as tenants with tenant protections, and the enforcement of tenants rights under existing local, state and federal laws. The policy is designed to not lead to any internal displacement as a result of COPA sales. As a tenant COPA ensures tenant protections post purchase, including Just Cause Eviction and rent control.

Frequently Asked Questions - Racial Equity

- 1. *What are some of the racial equity policy goals of COPA?* The most important racial equity goal of COPA is to reduce displacement which disproportionately impacts the Black and Latinx communities in San José. By opening up pathways to ownership for tenants COPA also represents an opportunity to reduce barriers to homeownership. Historic barriers to homeownership, like redlining, have led to the racial wealth gap. And this wealth gap is clear in home ownership numbers broken down by ethnicity. COPA represents one part of a strategy to confront this racial wealth gap.
- 2. *Given that many of San José's black and Latinx residents have already been displaced, how can we ensure that this policy still benefits black and Latin X people with ties to San José?* While COPA is initially going to benefit those who are already in a building to help them stay there would be opportunities with vacancies in COPA buildings to rehouse people displaced in the past. COPA is about preventing displacement of current residents and through the creation of permanently affordable housing creating a more accessible and less exclusionary San José in the long run.
- 3. *What are the impacts of COPA on intergenerational wealth building in communities of color?* COPA exempts transfers even when money is offered between immediate

family members including spouses domestic, parent and child partners, siblings, grandparent and grandchild, COPA also does not interfere with transfers of property to one's heirs upon the death of the owner. This applies to properties bought by tenants as a result of the COPA program as well.

4. *How will this impact property owners for whom their rental property is one of their only assets?* Property owners selling under COPA will still get fair market value when selling their property.
5. *Why should property owners of color who have had to come up against systemic discrimination have to comply with a process for how they sell their property?* The impacts of property owners from the COPA policy are minimal. Property owners can still sell to family and COPA does not interfere with estate. For those property owners who do participate. The COPA process adds time, but does not control the sales price. At the same time, the potential positive impacts of marginalized renters and for making San José a less exclusive place into the future our large. People of color benefit disproportionately when displacement is reduced, and tenants have the opportunity to become homeowners.

Additionally, COPA already is under review by San José council offices and staff, with lobbying under way both for and against. Aspects of the program are not working well in San Francisco and Washington D.C. Since San José is gathering information and doing due diligence, some feel a recommendation to pursue COPA is premature.

Promote Home Ownership Opportunities for Low-Income Residents of San José

What is the recommendation?

Explore new policies to support the purchase of affordable housing by low-income San José residents while not impacting existing policies or resources available to support affordable rental housing for its residents.

The following definitions are proposed:

1. low-income Residents: Defined by 60% AMI or some other widely acceptable measured in the future
2. Affordable Housing: Somebody should pay no more than 30% of their income for a mortgage

3. House for Purchase: includes detached houses, condominiums, town houses, duplexes etc.

Council should explore the following policy to directly assist San José residents who otherwise are not able to purchase a home in San José because their salary will not qualify them to purchase available homes for sale. This policy shall not impact already existing or future land that provides rental housing. Policy elements could include:

1. At least every other year, the Mayor and City Council shall conduct a comprehensive study which identifies opportunities that will assist San José residents to purchase a home. Examples of potential opportunities are City, County, State or Federal legislative acts, efforts by the business or philanthropic sectors seeking to improve the quality of life in the city of San José by supporting the expansion of home ownership by low-income San José residents. This analysis shall be considered a major policy requiring an Equity Assessment.
2. Upon identifying opportunities per the study, the Mayor and City Council will delegate the responsibility to pursue, promote and participate in these opportunities for home purchase for its residents starting with low-income residents who have continuously resided in San José for a minimum of ten years.
3. On a regular basis the City of San José shall identify land not currently zoned for housing which is highly suitable to convert to land to be used for affordable housing for purchase. This section shall not apply to land covered by Article XIX.
4. As the City of San José negotiates new business developments, community benefit programs to assist low-income residents as defined by the City Housing Department to achieve home ownership, shall be included.

Additional policies and programs to promote homeownership by low-income residents which are subsidy, incentive and educational based, including those that are voluntarily rather than regulatory based shall be explored.

Any policies adopted shall incorporate racial and social equity analysis to promote the use of an “equity lens” during its implementation. An equity lens is a tool used to improve planning, decision-making, and resource allocation leading to more racially equitable policies and programs. For any policy or project proposed, decision makers could consider:

1. Structural Equity: What historic advantages or disadvantages have affected residents in the given community?

2. Procedural Equity: How are residents who have been historically excluded from planning processes being authentically included in the planning, implementation, and evaluation of the proposed policy or project?
3. Distributional Equity: Does the distribution of civic resources and investment explicitly account for potential racially disparate outcomes?
4. Transgenerational Equity: Does the policy or project result in unfair burdens on future generations?

This recommendation was passed on Thursday, November 18th, 2021 with 12 aye, 9 nay and 1 absent votes.

What problem(s) does this recommendation address?

Today, all San José residents experience dramatic rising costs for home ownership. Within Santa Clara County, San José is the largest and fastest growing housing center, yet low-income residents do not find homes for purchase affordable on their otherwise adequate income. Today, San José is experiencing a housing crisis. The cost of mortgage or rental payments are out of reach for many low-income residents. Many individuals and families must live in crowded shared homes and apartments.

The City of San José has policies which protect the environment by preserving surrounding rural lands, preserve commercial property which may present future business and employment opportunities, and control the cost of City of San José growth. Many of these requirements are contained in Charter "Article XIX An Act to Limit Urban Sprawl and the Fiscal and Environmental Effects of Specified Development in Outlying Areas". However, the Charter does not address the serious housing crisis faced by San José residents.

The key findings of a new report issued by Joint Venture Silicon Valley titled "2021 Silicon Valley Poll" (Joint Venture Silicon Valley, 2021: see Appendix 1, Section 3) sought to identify how residents of Silicon Valley are feeling especially now as they are impacted by the pandemic in addition to pre-pandemic stressors:

- "56% of respondents say they are likely to leave the region in "the next few years." This is a nine-point uptick from 2020 when the same question was posed by a pre-pandemic survey."
- "The general cost of living (84%) and high housing costs (77%) are the top two reasons cited for wanting to move."

- “76% of the respondents identify the cost of housing as the most serious problem in the Bay Area, followed by the cost of living, homelessness, the increasing frequency of wildfires and drought.”
- “40% of overall respondents feel financially insecure. Higher percentages of Hispanic or Latino/a and Black or African Americans self-identify as insecure.”

The low-income sector of San José has been most severely impacted by the high increases in the cost of housing in Silicon Valley. This has led to severely crowded living conditions where more than one family must share a small house or apartment, and the numbers of unhoused individuals in our community illustrate injustice and hopelessness. Individuals identified as middle class face the burden of high rental costs and mortgages that are outside their income levels.

Why is this particular change being recommended?

This proposal seeks to start addressing the needs of those with the highest burden, the low-income population. The direct beneficiaries of this proposal are low-income residents defined in the recommended Article XX as “60% AMI or some other widely acceptable measured in the future.” There is no identified burden from this change to the San José City Charter

The housing crisis in San José includes the burden faced by low-income working residents who most likely will never be able to buy a home in their city. This reality appears to be cemented into the local economy. This proposal contains proactive, results-oriented support toward the possibilities of home ownership for these residents which City of San José leaders can implement.

This is a policy recommendation that was initially presented to the Commission as a Charter recommendation. The Commission voted to not approve as a Charter recommendation.

What are the arguments against this proposal?

The policy recommendation includes several proposals, none of which is a new idea and only one of which is focused on home ownership. The county and The Housing Trust offer help to first-time homebuyers, the city helps nonprofits buy land for affordable housing,

and preservation of industrial land is a complex financial decision.

Strengthen Community Input to the Smart City Advisory and Innovation and Technology Advisory Boards

What is the recommendation?

Alter appointments to San José's Smart City Advisory Board and the Innovation and Technology Advisory Board with the goal of strengthening community input on the effects and consequences of technological change.

The Commission encourages Council to expand the size and breadth of membership on the Smart City Advisory Board and the Innovation and Technology Advisory Board. Membership on the Smart City Advisory Board should consider expanding beyond its current 7 members. Similarly, the Innovation and Technology Advisory Board should expand beyond its current "5-8 members." The exact number of appointed members should be determined by the city council after consultation with San José's Office of Racial Equity and community, academic experts, and industry stakeholders. Board membership should be focused on expanding the range of perspectives, backgrounds, and experiences of the appointees.

New members might include representatives from the city's different council districts, neighborhood associations, academic experts, and/or representatives of nonprofit organizations and civic organizations with extensive experience working with San José's diverse population and communities.

This recommendation was passed on Thursday, November 18th, 2021 with 21 aye, 0 nay and 1 absent votes.

Why is this particular change being recommended?

As part of its "Smart City Vision" San José has created two advisory boards: the Smart City Advisory Board and the Innovation and Technology Advisory Board. The Smart City Advisory Board "aims to obtain expert input from industry thought-leaders experienced at creating and deploying innovative technology solutions to solve 21st problems." The Innovation and Technology Advisory Board is designed to "tap the rich expertise of our community in shaping the strategic technology direction of the city."

While technological advancement, including advancements in Artificial Intelligence and Machine Learning, carry the promise of bringing innovation and efficiency to city governance, they also stand to intersect with longstanding economic and social issues and challenges. For example, new software and internet-based technologies are likely to reshape the future of work. This includes both the type of work available to city residents but also where future work is done. What this means for the future job growth and opportunities, city tax revenues, economic opportunity, service delivery, individual privacy, and social and economic inequality are important considerations (Goldin & Katz, 2008; Walch, 2019: see Appendix 1, Section 3). Technological innovation, including Artificial Intelligence, is likely to affect core city functions including policing and public safety, record keeping, and transportation, among others. Technological change is also likely to alter how residents interact with political leaders and their representatives in the democratic process (Rigano, ND).

Technological change synonymous with the Smart City Vision is likely to affect San José's diverse population in very different and unpredictable ways. This is already recognized by city leaders. San José has already developed a digital inclusion and broadband strategy (See Appendix 1, Section 3). Yet currently, the Smart City and Innovation and Technology Advisory board members are almost universally drawn from technology industries. There is no requirement that the composition of board membership includes community representatives from the city's different council districts, neighborhood associations, academics, representatives from social service providers or civic organizations who may bring different (overlooked) perspectives regarding the benefits and costs of technological change and what it means for San José city governance and community life.

Racial and ethnic minorities, residents with lower socioeconomic status, and traditionally underserved neighborhoods are less likely to experience the full benefits of technological advancement. This has been seen most recently with the inequitable expansion of broadband technologies within urban spaces (Fishbane & Tomer, 2020: : see Appendix 1, Section 3). These same groups are more likely to experience negative consequences from technological change. This has been particularly true in the labor market (Autor, Dorn, and Hanson, 2015; Katz & Murphy, 1992: see Appendix 1, Section 3). Increasing both the number and diversity of perspectives on these advisory boards will strengthen community representation and elevate the concerns among people and groups who benefit the least or who are harmed the most by technological change. It will improve the chances that new technologies are deployed by the city in a manner consistent with the goals and values of the entire community

In the regional area, the cities of San Ramon and Petaluma have Innovation and Technology Advisory committees that include members of the community who are independent of the technology industry. The City of Oakland has developed a Privacy Advisory Commission to provide advice on the city's purchase of surveillance equipment and data storage.

All San José residents who are directly or indirectly affected by technological change would benefit from this change. Minimal costs would be imposed on the City Council; councilmembers would need to spend time researching and consulting on this issue.

What are the arguments against this proposal?

Issues surrounding technology and technological change can be technical and complex. As a result, some may argue that a significant degree of expertise is needed to knowledgeably engage on technology-related issues. Discussion and policy recommendations should be reserved for people - representatives from the technology sector - with a deep familiarity of the industry and how new technologies are developed and deployed.

APPENDICES

APPENDIX ONE - Minority Report

The following Minority Report contains recommendations that were not approved by the Commission by majority vote, as well as dissenting opinions submitted by Commissioners. This section has been included to provide a full picture of the diversity of opinions expressed by Commissioners during the Commission's deliberations.

Governance Structure

Charter Recommendations

Maintain a “Council-Manager” Government Structure

Submitted by Commissioner Lan Diep

The San José City Charter Review Commission was tasked – among other instructions – with studying our city's current governance structure to suggest possible reforms to “[a]lign mayoral executive authority with residents’ and local business’ reasonable expectations for responsive and accountable democratic governance in a major U.S. city.” In response to this specific direction, the Commission demurred, finding this direction to be in direct conflict with a lesser, catch-all instruction to “[c]onsider additional measures and potential charter amendments, as needed, that will improve accountability, representation, and inclusion at San José City Hall.” Beginning with the belief that “moving to a ‘Mayor-Council’ government structure will not improve accountability, representation, or inclusion at San José City Hall”, the Commission rejected the imagined, maximalist version of a “strong mayor” without due consideration to numerous possible reforms that exist along the sliding scale between the Council-Manager and Mayor-Council forms of government.

Contrary to the majority's interpretation, reforming San José's governance structure does not present a binary choice between the status quo or a mayor-as-undemocratic-dictator. There are many incremental reforms that could be adopted that might benefit San José without undermining accountability, representation, or inclusion.

Two-thirds of America's 25 largest cities have changed to a mayor-council form of government, preferring their mayor act as an executive rather than a board member. At the same time San José was exploring this matter, similar-sized cities such as Austin, Portland, and Sacramento are grappling or have recently grappled with the same

questions. Within California, Fresno, Oakland, Los Angeles, San Diego, and San Francisco have transitioned to a “strong mayor” form of government. Surely the majority of this commission does not believe that these cities do not value accountability, representation or inclusion.

Future city councils or charter review commissions reviewing the 2021 Charter Review Commission’s recommendation to preserve status quo in San José’s governance structure should take it with a grain of salt, as this recommendation is based on a fundamentally incorrect understanding of the issue under consideration.

The majority argues that “[i]f mayoral power is expanded in San José, this increased power will impact and potentially limit the current powers of our Council Members who are voted to represent their districts in San José.” The majority is incorrect to frame the expansion of mayoral powers as a power struggle between the city council and the mayor, as any expansion of mayoral power would diminish the city manager’s authority, not the city council’s. In any amended governance structure, the city council would continue to legislate and represent their districts. The mayor should never be allowed to unilaterally pass legislation. Yet gradual expansion of the mayor’s authority would *allow the mayor to have greater ability to exercise judgement and discretion over how the policies adopted by the city council are executed*.

An expanded role for the mayor may take on many forms, depending on what San José residents have an appetite for. In other cities where the mayor has more authority than in San José, the mayor is not a member of the city council but retains a veto over legislation passed by the council. Some mayors can bring with them to office a cabinet to help her implement the vision voters citywide elected her to do. Other mayors can only hire and fire a few department heads. Future city councils and charter review commissions should explore the full range of possibilities and determine what will work best for San José, rather than dismiss any reforms out of hand on the false premise that the choice is binary; to either preserve the status quo or go all-in on a particular extreme.

At present, the San José City Council adopts policy by a majority vote of its members, including the mayor. This is a simple and straight-forward system, appropriate for small cities with part-time city councils. Yet for a large city like San José with full-time councilmembers, something more dynamic is desirable. A city manager is a professional compared to a part-time elected official, but one can argue that a full-time elected official is a professional as well. It seems odd, if not problematic that San José’s mayor is required to

win citywide (a task 10 times harder than winning a single council district) only to have equal say over policy matters as a councilmember.

Voters understandably expect the mayor to implement the platform he or she ran on, yet in San José the mayor's vision must survive scrutiny of a majority of councilmembers, despite already being approved by a majority voters who elected the mayor. While the mayor should not legislate, he or she should have some authority independent of the city council to respond to the demands of city residents. This might be through the power to appoint or fire some or all department heads; the power to prioritize how city resources and staff time will be used to implement policies adopted by the city council; or the power of executive order. Such powers exist to varying degrees in other cities and allow the mayor to respond nimbly to public concern.

Yet the majority of the Commission asserts expanding mayoral powers in any degree would disenfranchise voters, based on the wrong belief that a stronger mayor necessitates a weaker city council:

"Moving to a Mayor-Council form of government will dilute the overall power and representation of communities of color, further burdening and widening the gap of inequitable policies through an inequitable practice that siphons the shared collective power to one person, the Mayor. This will also impact social capital because trust in city government will be eroded by districts that will continue to be disenfranchised."

If the majority were truly concerned with preventing disenfranchisement of voters, they would be more open to reforms in San José's governance structure to allow a more specialized role for the mayor – as distinguished from a councilmember – to reflect his status as the only official elected citywide and the only member of the council who could lay claim to some sort of mandate from voters. San José's current governing system amounts to lawmaking by a majority of 11 votes between the Mayor and councilmembers. This potentially undermines the desires of the electorate – as expressed through its selection of mayor – by subjecting the mayor's vision to secondary approval by councilmembers representing the more narrow interests of their districts. Under this system, a politically savvy councilmember who builds a majority coalition on the council could become its de facto leader, effectively neutralizing the mayor.

Further, the concern about disenfranchisement seems contradictory considering the recommendation this commission has made to move mayoral elections to align with the

presidential election cycle. Much emphasis was made of the fact that presidential election years enjoy higher turnout, meaning a more diverse electorate. The Commission believes the mayor should be elected along with the president so that the electorate who picks the mayor will reflect a more diverse cross-section of the city. But in simultaneously recommending that the mayoral election should be moved and that the city should preserve its present governing structure, the majority of the commission becomes at odds with itself. Effectively, the Commission asserts the importance of more people being represented through the election of a mayor while also arguing that that any increased authority for the mayor to serve this more diverse electorate is somehow an affront to notions of representation or inclusion.

The recommendation from this commission regarding the city's governance structure has not been made in due consideration of the various possibilities that exist for San José's government to better serve its residents. It was a recommendation made on the false assumption that San José must choose between the status quo or some imagined extreme, when in truth we are free to craft a vision of government that best suits us in San José. The recommendation on governance structure also suffers from the mistaken belief that increased authority for the mayor necessarily undermines the city council. In fact, any increased authority for the mayor would come at the expense of the unelected city manager. In light of this, future city councils and charter review commissions should feel free to reexamine this matter in more depth without feeling that this issue has already been extensively studied. It has not.

Expand Council to 14 Districts

Submitted by Commissioner Barbara Marshman

The proposal to expand the City Council was introduced late in the Commission's work. It was based on the assumption that the smaller districts are, the better Councilmembers will represent their constituents and the more equitable City services and programs will be.

Opponents of the addition of four seats, expanding Council from 10 to 14, were not opposed to expanding the Council. The objection was that the number 14 was arbitrary. More study is needed to conclude what is the best number to balance smaller districts with the need for a functional City Council.

The issues for opponents to this proposal included:

1. Most city councils with even 15 members make decisions mainly through committees, whose chairs gain more power. This may be a good thing. We don't know. We did not have time to reach community interest groups in those cities to understand how they feel about their systems and whether they believe they are the best way to run a government. For community groups that lobby the council for change, more members means a larger number to reach.
2. Most large-council cities in San José's population range have strong mayors. This commission has recommended giving more power to the Council. A large council with a weak mayor could be less decisive and effective, making achieving majorities let alone consensus more difficult and time consuming.
3. The smaller per capita districts in small cities (e.g., Sunnyvale and Santa Clara) are not comparable to San José because their council members are part-time and do not have staff. A majority of the top 10 population cities have councils of 11 members or fewer. We'd like to know why more of them have not chosen to expand.
4. At 10 districts, San José always has had some Councilmembers who communicate well with residents and some who do not. It is a matter of choosing the right staff and prioritizing inclusion. A large Council with some members who do not engage their communities could be no more effective than today's, yet more costly.

Some Commissioners suggested going directly to 12 council members within this decade because it would make it easier to draw representative districts - noting the difficulty of redistricting this year - but would be unlikely to negatively affect the functioning of city government. It would be incremental change - but that is not always a bad thing. It would give time for the community to assess what the optimal size of the council would be.

That assessment was perceived by the majority as "justice denied." The minority perceived it as avoiding unintended consequences, which also can deny justice.

Grant Mayoral Emergency Powers

What is the recommendation?

Empower the Mayor (or Vice Mayor in his or her absences) instead of the City Manager as the person authorized to declare a local emergency. Said declaration would expire if not ratified by Council within 72 hours.

This recommendation failed to pass on October 18th, 2021 with 6 aye, 15 nay and 1 absent votes.

What problem(s) does this recommendation address?

San José Municipal Code Sec. 8.08.200 vests in the City Manager, or her or his designee, as Director of the Office of Emergency Services emergency power to enact rules and regulation subject to later ratification by the City Council. Over the years, the Director, because the Council was not in session, issued proclamations declaring the existence of a local emergency. During both instances the Mayor was available but did not have the power to declare the local emergency and implement the powers delineated in Sec. 8.08.250. For 7 days thereafter, the powers of the City Manager to wit: “to make and issue rules and regulations on matters reasonably related to the protection of life and property”, were not ratified by the City Council. This proposal substitutes the Mayor (or Vice Mayor in his or her absences) for the City Manager as the person authorized to declare a local emergency. Furthermore, said declaration expires if it is not ratified by the City Council within 72 hours.

The Mayor is the very visible leader of the City. During a crisis or emergency the public looks to the Mayor for leadership and resolutions. However, the City Manager is in complete control of emergency and crisis response, including the emergency response to the 2017 floods that failed to account for monolingual Vietnamese households and the overly aggressive reaction of SJPd to the George Floyd protests during the summer of 2020.

During the flooding in 2017, in particular, many individuals and businesses were unaware of the imminent flooding. The disconnect and lack of timely information between the OES, the Mayor and other outside agencies contributed to the neighborhood impacts.

Why is this particular change being recommended?

The City Manager is tasked with oversight of every department and employee of the City of San José. This is a massive undertaking considering that our government is responsible for nearly 1.1 million residents, and such responsibility in our Council-Manager system creates the risk that the Manager becomes narrowly focused on efficient internal operations rather than assessing and adjusting to the external needs of residents. Efficiency should be an

operational goal, but a heavy inward focus can mask our external needs. This is particularly true during times of crisis or emergency when the effectiveness of our response is determined by our preparation rather than reaction, especially in how we protect our monolingual or limited English proficient residents that do not have the same access to information or our officials as English speakers do.

This recommendation benefits the people of San José as well as the City Administration by ensuring that an official who is directly accountable to the public may step in before and during an emergency to ensure that our response accounts for all communities in our City.

What are the arguments against this proposal?

One possible argument against this proposal is the fact that the Mayor, Vice Mayor and/or staff could be required to obtain training commensurate with the training provided to the City Manager (or her/his designee) as Director/Head of Emergency Services. On-going training could be required by the Director/Head of the Emergency Services. There could also be the potential need for additional staff for the Mayor to have persons trained or familiar with Emergency Services and assets available throughout the City.

A number of Commissioners also voiced concerns that this recommendation could allow for the political use of Mayoral emergency powers, and that “local emergency” is an overly broad criteria for emergency powers. Some proposed it should be restricted only to natural disasters.

Proposed Charter Language

Add a new item to “ARTICLE V SECTION 502 The Mayor; Powers and Duties” as follows:

1. Proclamation of local emergency. Whenever a local emergency, or the imminent threat thereof, occurs, in the city and results in, or threatens to result in, the death or injury of persons or the destruction of or damage to property to such extent as to require, in the judgment of the mayor, after consultation with the City Manager and appropriate staff, extraordinary measure to protect the public peace, safety and welfare, the Mayor shall forthwith proclaim in writing the existence of a local emergency. In the absence or inability of the Mayor, such a local emergency may be declared by the following in line of succession: Vice-Mayor, City Manager.
 - A. During the existence of a local emergency the Mayor shall serve as the director of emergency services and head of the office of emergency services. All powers and duties otherwise conferred upon the city manager or

department head related to a local emergency declaration shall be exercised subject to the direction and approval of the Mayor.

- B. Whenever a local emergency is proclaimed by the Mayor, the city council shall take action to ratify the proclamation within 72 hours, or the proclamation shall have no further force or effect.
- C. The Mayor shall cause any proclamation issued pursuant to the authority of this Section, to be delivered to all news media within the city and shall utilize such other available means, including social media, and public postings on the City website.
- D. The mayor shall have those powers enumerated in Municipal Code Section 8.08.250 (A-D).
- E. Nothing herein shall expand the powers and duties of the Mayor beyond those set forth above. Said exercise of powers set forth above shall be deemed to not violate Charter Section 411 - Interference with Administrative Matters.

Amend “ARTICLE IV SECTION 411 The Council: Interference with Administrative Matters” to include an exception to the prohibition against interference with Administrative Matters, with suggested changes, as follows:

Except as provided in Section 502 I, neither the Council nor any of its members nor the Mayor shall interfere with the execution by the City Manager of his or her powers and duties, nor in any manner dictate the appointment or removal of any City officers or employees whom the City Manager is empowered to appoint except as expressly provided in Section 411.1. However, the Council may express its views and fully and freely discuss with the City Manager anything pertaining to the appointment and removal of such officers and employees.

Policy Recommendations

Explore Adding Council Districts

What is the recommendation?

Explore whether smaller districts might offer more focus on communities of greater need. This question should be studied before the next redistricting process begins, and early enough to schedule a public vote if a change is recommended.

The review should examine:

- Whether dividing the city into perhaps 12 districts would make it easier to group like communities.
- Whether community support for adding districts is strong enough to move forward.
- Whether other cities have found a correlation between increasing the number of districts and providing more effective government.
- Whether cities with smaller council districts have more or less conflict over issues of equity such as locating affordable housing.
- Whether there are other ways to improve representation or equity in delivering services without adding council districts. Today, some council offices are far better than others at reaching out to constituents and responding to their concerns. Is there a way to institutionalize that ability without adding council seats?

This recommendation failed to pass on October 18th, 2021 with 14 aye, 7 nay and 1 absent votes.

What problem(s) does this recommendation address?

A 1978 initiative replaced San José's at-large council elections with district elections. The 10 districts grouped communities of interest so that neighborhoods throughout the city and members of different racial, ethnic and other interest groups had more access to, and influence on, City Hall. Each district originally held about 60,000 residents. Today, with city population exceeding one million, each district has more than 100,000 residents. At the same time, San José has experienced the national trend of increasing income disparities, amplifying concerns that policies and programs need to be in the interest of all parts of the city. Uneven patterns of development over the past decade are forcing the city's redistricting committee to look at very different district divisions to keep the population evenly divided. This begs the question: Should the city look at increasing the number of council districts to more effectively represent communities of interest?

The 10 council districts maintain a reasonable-size governing body that may be more effective and nimble than a larger group to implement policies and programs.

But smaller districts might offer more focus on communities of greater need. They could help make democracy more real and credible to communities that doubt their interests are taken as seriously as others'. In turn, more trust could make collaborative democracy work better.

Why is this particular change being recommended?

Residents would benefit from easier access to their council members, particularly in under-served communities. Disadvantaged racial, cultural and interest groups could gain a stronger voice. Candidates might find it less costly to run in a smaller district, opening the field to more residents.

A redistricting commission is already at work and extensive research and population data from the 2020 census have been completed. It would be a waste of public time and expense to suggest a change in district numbers for this cycle. It is recommended that the question be studied before the next redistricting process begins, and early enough to schedule a public vote if a change is recommended.

This recommendation originally proposed expanding the Council from 10 to 14 districts. After discussion, some Commissioners felt that, while the idea of adding more districts had merit, it would benefit from further study in light of the Redistricting Commission's work, and the Governance Structure Subcommittee revised the charter recommendation to a policy recommendation for Council to further study the issue. However, during final voting, a substitute motion was made for a charter recommendation to expand Council to 14 districts and was subsequently approved.

What are the arguments against this proposal?

An unintended consequence could be more "me-first" politics when narrower communities have a stronger grip on their council members. This could lead to a less functional council.

Other arguments against this recommendation include:

- Cost, depending on how the change is structured.
- Increased NIMBYism as council members represent narrower constituencies.
- The council can't expand infinitely as a city grows, and 10 is a reasonable size. Six of the 10 largest cities in the country have 11 or fewer council members.

Voting and Elections

Charter Recommendations

There were no proposed Voting and Elections Charter recommendations not approved by the Commission.

Policy Recommendations

Additional Policy Recommendations for the Board of Fair Campaigns and Political Practices

What is the recommendation?

- 1) Direct City Clerk's Office (or appropriate entity once finalized) to revamp the City webpage pertaining to Council and Mayoral elections, including a spreadsheet or document highlighting independent expenditures supporting respective candidates, of which is to be maintained frequently. The finished product is intended to resemble sites currently maintained by the City of San Francisco and City of San Diego.
- 2) Implement a Small-Donor Matching Funds system, where the City of San José will match individual contributions for both Mayoral and City Council elections, at a ratio to be determined by the Council and approved by the voters in San José.¹
- 3) Expand the charge for the Board for Fair Campaigns and Political Practices to study and assess recommendations that address historical disenfranchisement, including, but not limited to:
 - a) Creating a budget for and support outreach organizations like Somos Mayfair or Latina Coalition in all districts throughout the City;
 - b) Set policy for voting centers and drop-off boxes in equal proportions and distances in each district and throughout the City;
 - c) Set policy for reaching out to incarcerated teens in an effort to educate and guide them in the personal power of their voice.

This recommendation failed to pass on November 1st, 2021 with 9 aye, 10 nay and 3 absent votes.

What problem(s) does this recommendation address?

- 1) *On disclosure of independent expenditures.* While a campaign can be won based on values and proposals, it also can unfortunately be clinched with effectively used monetary resources. In recent years, Mayoral and City Council elections in San José have witnessed a gradual rise in total campaign spending through political organizations. Over \$1.8 million was spent on the District 4 and District 6 San José City Council races in 2020 (Wipf, 2021: see Appendix 1, Section 3). While political organizations are currently required to disclose their independent expenditures on their 496 Forms, more can be done for the everyday San Joséan to ensure that the information is quickly accessible and easily transparent through an interface design fit for a city located in Silicon Valley.
- 2) *On a small donor matching program.* In San José, there is currently a \$700.00 contribution limit per person for a City Council candidate, and a \$1,400 for Mayoral candidates (City of San José, 2009, see Appendix 1, Section 3). These rules are intended to prevent corruption and level the playing field, but they have lagged as a result of political organizations turning to independent expenditures. This has contributed to an increasing tug-of-war between business and labor groups in the city (Wipf, 2021: see Appendix 1, Section 3). We must look into evening the playing field by having contributions from individuals within the City matter more than they currently do. Nearly two-thirds of the American public believes “there should be limits on the amount of money individuals and organizations” can spend on political campaigns (Jones, 2018: see Appendix 1, Section 3). Much of the debate on increased disclosure centers on the Political Reform Act, which allows for payments expressly advocating support of or opposition to a candidate or ballot measure, known as “independent expenditures” (Federal Political Practices Commission, 2020: see Appendix 1, Section 3). Recent Supreme Court rulings have squashed methods in limiting independent expenditures (Citizens United vs. Federal Election Commission, 2010: see Appendix 1, Section 3).

A handful of attempts have been made to lessen the impact made on monetary influence from special interests. Three examples are listed below.

City of Seattle: Mails residents four \$25 “Democracy vouchers” to Seattle residents, who then can assign it to any candidate participating in the program (Seattle Ethics & Elections Commission, 2019: see Appendix 1, Section 3). The program is funded through a property tax costing Seattle voters \$3 million per year, roughly \$8 per year for the average homeowner (Young, 2015: see Appendix 1, Section 3). Charged with administering the vouchers is the Seattle Ethics & Elections Commission, who ultimately have three Full-Time employees managing the election infrastructure (Seattle Ethics & Elections Commission, 2019: see Appendix 1, Section 3).

New York City: Currently has a 6:1 match program for mayoral and city council races (i.e. for every dollar a candidate receives, New York matches it with six public dollars) (New York City Campaign Finance Board, 2021: see Appendix 1, Section 3).

City of Los Angeles: Currently has a dual-tiered match rate dependent on qualifications met by candidates. 1:1 for general and primary for candidates that met the minimum criteria, and 2:1 for the primary. There is a 4:1 match for candidates in the general who meet additional criteria (Los Angeles City Ethics Commission, 2015: see Appendix 1, Section 3).

- 3) *On historical disenfranchisement.* While San José has one of the most aggressive voter participation programs in the state, there are still those who feel disenfranchised for many reasons. This proposal aims to suggest solutions for those who are left out of the election process, whether by design or by neglect.

Why is this particular change being recommended?

- 1) *On disclosure of independent expenditures.* Providing accessible disclosure of major independent expenditures on the main City of San José website should provide voters with additional information on which organizations align with respective candidates and help create a more user-friendly site for folks to scour through material.
- 2) *On a small donor matching program.* This proposal intends to decrease monetary influence from local political organizations/action committees and increase participation from San Joséans in campaign contributions. Each venture towards amending Campaign Finance rules in San José would not be the first of its kind, for

other cities in California - as well as others in the United States - have already led the charge. It is legally possible but would require some overhauling in structural mechanisms currently in place, or even those potentially lacking. Creating a system which elevates the weight and meaning of campaign contributions from San Joséans can help ensure that the voices of community members are elevated in as close to equal standing as efforts by political organizations. It can also contribute to more voter engagement and participation in Council and Mayoral elections due to increased awareness.

- 3) *On historical disenfranchisement.* Expanding the charge of the Board for Fair Campaign and Political Practices to examine this issue and provide recommendations such as outreach strategies and expenditures, studying racism and bias in campaign literature, promoting voting among younger residents, and other ideas can help to better understand the issue and address it. The benefit of strengthening and expanding the scope of the Board for Fair Campaigns and Political Practices reaches all people and businesses in San José by creating a resident agency that can focus on campaign finance and historical disenfranchisement, two issues that directly impact the quality of representation that residents have in our city.

What are the arguments against this proposal?

These policy recommendations were originally bundled with the Charter recommendation proposing to elevate the Board of Fair Campaigns and Political Practices to the Charter. After further discussion, while Commissioners strongly supported addressing historical disenfranchisement, there were concerns that there had not been adequate study to determine if the Board of Fair Campaigns and Political Practices was the right body to lead this work, especially given the unique requirements of Board membership potentially being at odds with the experience necessary to address historical disenfranchisement.

Policing, Municipal Law, Accountability & Inclusion

Charter Recommendations

Create a Police Commission, an Independent Investigation Department, and an Office of the Inspector General

Submitted by Commissioner Frank Maitski

The Commission spent significant time on the issue of police oversight including eight presentations, over three study sessions, from professionals with police oversight experience in San Jose and other jurisdictions. Unfortunately, the perspective of law enforcement was not included in any of the Commission's deliberations. Neither the current police chief or police officers, past police chiefs or retired police officers, nor police chiefs or police officers from other jurisdictions were consulted in the Commission's discussion of this issue. This is in contrast to the discussion on a mayor-council form of government where a former mayor and city manager were included, along with perspectives from other cities. I believe this is a significant flaw in the process and does not provide an adequate foundation for any Charter amendments on this topic.

The invited speakers provided excellent information and a full menu of all known methods of police oversight. What did not occur was a discussion of the pros and cons of each method from the law enforcement perspective. Police officers put their lives on the line every day to protect all citizens of San Jose. They are also required to make split second decisions on the use of force. The perspective of the police chief and police officers is vital not only in developing an effective police oversight system, but also in building trust between the community and the police.

One of the guest speakers, an Independent Police Auditor (IPA) from another city, stated that one of the most important things an IPA needs to do is establish trust with both the community and police. In any dispute, all parties need to be included in development of an effective resolution. I am concerned that adoption of this proposal could be a step

backwards in addressing community/police relations simply because the police were not included in the process.

This proposal also gives significant authority to a Commission, an unelected body, on how policing will be conducted in San Jose and by whom. It provides approval authority of department policies and procedures unless specifically rejected by the City Council. It also develops the candidate pool for police chief vacancies (but allows the Council to add candidates), and can fire the police chief with cause, unless specifically blocked by the Council with a super-majority vote. I believe this is significant over reach for a process that did not include the perspective of law enforcement. I believe this authority should remain with the City Council as implemented by the City Manager.

Although I disagree with this proposal, I am not opposed to additional police oversight. Through this process it became apparent that a significant portion of the community has lost trust with the police and expects substantial change from the City's "reimagining police" effort. It also appears the Independent Police Auditor lacks sufficient authority for effective oversight.

The appropriate action by the Council on this topic is to receive it as information from the Charter Review Commission and include it in its "reimagining police" efforts.

Establish A Climate Action Commission In The City Charter

The original Charter recommendation proposing to establish a climate action commission in the Charter was not approved by the Commission.

A number of Commissioners felt that, while they were supportive of a CAC, adding to the Charter was unnecessary and, further, might hinder future changes to a CAC's objectives by requiring a vote by residents to amend the Charter. This proposed Charter recommendation was instead approved as a policy recommendation.

Minority Opinion: The Climate Action Plan Should Be Added to the City Charter

Submitted by Commissioner Magnolia Segol

We have been considering an amendment to the Charter for the City of San Jose to require the city leadership to adopt substantial measures intended to deal with the crisis of global heating. There is an alternative proposal to not amend the Charter but rather leave such

measures in the realm of policy, subject to the priorities of the political class. Doing so would be a grave mistake. Allow me to explain why I think this is the case.

For context, we can start with the 2021 Conference of the Parties recently concluded in Glasgow, Scotland. This would be the 26th such gathering of the COP. The annual COP is where the nations of the world gather to discuss their collective response to global climate change. You wouldn't know that from just the event title. In the lead-up to COP-26, many world influencers went on record to say how this would be the most important COP ever, and admonished the participants to make genuine changes to global agreements intended to reduce global heating. Some of those voices suggesting that failing to make progress in 2021 would put the entirety of human civilization onto the path of runaway climate change for decades to come. In the end, COP-26 was an abject failure. Nothing of consequence emerged, and the world's leaders returned to their own countries to crow about how they had protected the national interests.

COP-26 is only the most recent in a decades-long series of highly visible global diplomatic failures. It is now evident from observations that the political class has no appetite for dealing with global heating caused by the burning of fossil fuels. There are currently no viable, significant solutions (or even the pretense of such) coming from the international community, nor from the US federal government, nor from the California state government. There are any number of "greening the economy" projects, or "carbon neutral" schemes, or other such hand-waving now in flight all over the world stage, but these are almost entirely too late and too modest in their scope. We have no time left; the planetary system that has nurtured our endeavors for centuries has finally turned against us even while the window of opportunity to "fight climate change" has closed, likely for whatever time humans remain on Earth. Now, we must learn to cope.

Cities have for thousands of years offered citizens tools to cope with threats to existence. If nothing else, a city typically had defensive walls, shared granaries, water cisterns and wells, and were made up of many self-aware small, contained, resilient communities able to support each other during trying times. None of our modern cities have these things, or modern equivalents of them, to supply the demand during the trying times ahead, and our political and business elites have shown little interest in providing such in a substantive manner necessary to cope with the coming threats in the near future (such as the need for mass cooling centers that can keep society moving and schools running during week-long extreme heat events). Thus we drift into uncharted waters without a proper boat. If the City

does not have the historical, inherited, and evolved set of responses to organize people around collective survival, and the political class is seen running from the challenges, then we need to teach the city itself how to perform the supportive role that cities of old had always offered.

And so, to our topic of the San Jose City Charter.

The initial suggestion to amend the Charter for the city of San Jose was a deliberate move to inject into the city's DNA a set of concrete rules by which to cope with the looming, grinding, existential challenge that is global heating. We can guess at some of the challenges we will face, but many more (and likely, worse) will arrive without warning. The opportunity for harmful demagoguery is immense. Placing some general rules and modest ambitions into the Charter would somewhat insulate them from political meddling — that is, would position the needs of common people above the narrow needs of the elites in a way that the political process simply refuses to do — and would position the rules to be taken up by future standard-bearers as the crisis accelerates into unknown territory, in the process perhaps avoiding some future lethal societal implosion.

Of course, having a rule book is not a popular move when politicians would rather broker power and influence for their personal gain, but the days of playing with power are behind us. Or certainly need to be. Making a transition to shared resilience quickly, while the opportunity still exists, requires bold actions of a kind that people naturally distrust. People need to have an explanation, which explanation sadly falls to politicians. In substitution of that, the rationale presented here will have to do.

The planetary system is changing, and we are not positioned at all well to deal with that. We have no time left to wrangle over how to prioritize the operations of the city around what is proposed to be a thousand conflicting goals. In fact we have one goal; survival. That was always the case, it remains true to this day. Simply put, we have forgotten this. We must quickly remember.

We must amend the Charter.

Promote Home Ownership Opportunities for Low-Income Residents of San José (Article XX)

The original Charter recommendation on promoting home ownership opportunities for low-income residents was not approved by the Commission.

Commissioners felt this was an important topic but not an appropriate issue at this time for a Charter revision. This proposed Charter recommendation was instead approved as a policy recommendation.

Policy Recommendations

There were no proposed Voting and Elections policy recommendations not approved by the Commission.

APPENDIX TWO - Research, Speakers & References

1. Full Commission Meeting Speakers

February 8, 2021

- **Camille Fontanilla**, Executive Director, SOMOS Mayfair,
- **Poncho Guevara**, Executive Director, Sacred Heart Community Service

March 8, 2021

- **John Marshall Collins** (Past Charter Review Commissioner, 1985)
- **Bob Brownstein** (Past Charter Review Commissioner, 1985)

March 22, 2021

- **Kimberly Nelson**, Professor, The University of North Carolina at Chapel Hill School of Government

April 5, 2021

- **Norberto Duenas**, Former City Manager
- **Ron Gonzales**, Former Mayor

April 19, 2021

- **Terry Christensen**, Professor Emeritus, San José State University
- **Mary Currin-Percival**, Professor Emeritus, San José State University

May 3, 2021

- **Denzel McCampbell, Carol Weaver, Lamont Satchel**, Detroit Charter Commission
- **Stephanie Jayne & Sabrina Parra-Garcia**, San José Office of Racial Equity

May 17, 2021

- **Aimee Faucett**, Former Chief Of Staff for City of San Diego Council Members and Mayor

August 23, 2021

- **Brian Corr**, Immediate Past President, National Association for Civilian Oversight of Law Enforcement (NACOLE)
- **Aaron Zisser**, former San José Independent Police Auditor
- **Paul R. Parker III**, Executive Officer, San Diego County Citizens' Law Enforcement Review Board (CLERB)
- **Michael Gennaco**, Principal of OIR Group, City of Davis Independent Police Auditor

October 25th, 2021

- **Joséph Rois**, City Auditor, City of San José
- **Robyn Rose**, Internal Audit Manager, County of Santa Clara
- **Mark P. Smith**, Inspector General, Los Angeles Police Commission, Office of the Inspector General
- **Mica Estremera**, Deputy Public Defender, Santa Clara County Office of the Public Defender; President of La Raza Lawyers local chapter
- **Gloria Gomez**, Muwekma Language Committee Member and Former Councilmember, Muwekma Ohlone Tribe of the San Francisco Bay Area
- **Monica V. Arellano**, Vice Chairwoman, Muwekma Ohlone Tribe of the San Francisco Bay Area
- **Dr. Lawrence Quill**, Professor of Political Theory, San José State University
- **Meredith Muller**, science and math teacher and permaculturist
- **Kathryn Mathewson**, Landscape Architect and Owner, Secret Gardens

September 9th, 2021

- **Bonnie Sugiyama**, Director, PRIDE Center & Gender Equity Center, San José State University
- **Sera Fernando and Maribel Martinez**, County of Santa Clara Office of LGBTQ Affairs
- **Robert Brownstein**, former Budget Director for Mayor Susan Hammer
- **Ellina Yin**, San José Council Advisory Appointment Commission

September 13th, 2021

- **Michael Mastrandrea**, Climate Scientist, Stanford University
- **Cat Woodmansee**, MS in Biology and Systems Ecologist, Chico State University

September 27th, 2021

- **Matthew Gonser**, Chief Resilience Officer & Executive Director, Office of Climate Change, Sustainability and Resiliency, City & County of Honolulu (spoke at October 25th, 2021 Full Commission meeting)
- **Shivaun Nurre**, San José Office of the Independent Police Auditor
- **John Alden**, Executive Director, City of Oakland, Community Police Review Agency
- **Sergio Perez**, Executive Director, County of Orange Office of Independent Review
- **Russell Bloom**, Independent Police Auditor, BART
- **Erin Armstrong**, Member, BART Police Citizen Review Board
- **Corina Herrera-Loera**, Public Information Officer, Santa Clara County Emergency Operations Center and Professor of Chicano/a Studies, San José State University
- **Gerardo Loera**, Director of Development and Communications, Indian Health Center of Santa Clara Valley

October 25th, 2021

- **Joséph Rois**, City Auditor, City of San José
- **Robyn Rose**, Internal Audit Manager, County of Santa Clara
- **Mark P. Smith**, Inspector General, Los Angeles Police Commission, Office of the Inspector General
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- **Gloria Gomez**, Muwekma Language Committee Member and Former Muwekma Ohlone Tribe Council member
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- **Dr. Lawrence Quill**, Professor of Political Theory, San José State University
- Meredith Muller, science and math teacher and permaculturist
- **Kathryn Mathewson**, Landscape Architect and Owner of Secret Gardens

November 3rd, 2021

- **Sandy Perry**, President, Affordable Housing Network of Santa Clara
- **Andrea Portillo**, Community Organizing and Policy Manager, SOMOS Mayfair
- **Jacky Rivera**, Project Coordinator, South Bay Community Land Trust
- **Michael Henshaw**, Real Estate Professional
- **Melanie Griswold**, Real Estate Professional

November 6th, 2021

- Representatives of Reimagining Public Safety Committee

2. Governance Structure Speakers & References

Speakers

- No speakers presented at Governance Structure ad hoc subcommittee meetings.

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Maintain a “Council-Manager” Government Structure and Allow Council Members to Make Nominations for City Manager Candidates

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2. City Charter of Portland, Oregon: <https://www.portland.gov/charter>
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1. San José City Charter Sec. 5-2: Municipal Code Title 18, Part 2, Sec. 8.08.210; 8.08.250
2. New Executive Law 24, Ch. 18, Art. 2-B, Sect. 24
3. City of Los Angeles Municipal Code Sec. 8.27, et. Seq.

4. San Francisco Administrative Code Sec. 7.6
5. Seattle Municipal Code Chapter 10.02
6. City of Toppenish, Washington Code Sec. 2.95.010-050
7. City of Laurel Maryland, Laurel City Code Article, VIII, Sec. 2-176

3. Voting & Elections Subcommittee Speakers & References

Speakers

- Dr. Terry Christensen, Political Science Professor Emeritus (San José State University)
- Dr. Mary Currin-Percival, Associate Professor of Political Science (San José State University)

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Elevate the Board of Fair Campaigns and Political Practices to the City Charter

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3. Policing, Municipal Law, Accountability & Inclusion Speakers

Speakers

- **Gerardo Loera**, Director of Development and Communications for the Indian Health Center of Santa Clara Valley
- **Corina Herrera-Loera**, Public Information Officer for the Santa Clara County Emergency Operations Center. She is also a professor of Chicano/a Studies at San José State University and the Board President Elect for Alum Rock Union Elementary School District.
- **Ellina Yin**, San José Resident presented data on Boards and Commissions
- **Robert Brownstein**, San José Resident presented on Equity best practices
- **Cat Woodmansee**, field biologist, a computer scientist, and environmental activist
- **Kerry Romanow**, Environmental Services Department, Administrative Assistant,

City of San José

- **Julie Benabente**, Deputy Director, Climate Smart, Environmental Services Department
- **Yael Kisel**, Climate Smart Analytics Lead & Projects Coordinator City of San José | Environmental Services Department 134
- **Lori Mitchell**, Director of the San José Clean Energy Program. 8. Jessica Zenk is Acting Deputy Director for the City of San José Department of Transportation, working on planning, designing and building a more accessible and sustainable transportation for the City of San José.
- **Regina Jackson**, Oakland Police Commission Chair
- **Brian Corr**, Immediate Past President, National Association for Civilian Oversight of Law Enforcement (NACOLE)
- **Paul R. Parker III**, Executive Officer, San Diego County Citizens' Law Enforcement Review Board (CLERB)
- **Shivaun Nurre**, San José Office of the Independent Police Auditor
- **Russell Bloom**, Independent Police Auditor, BART
- **Erin Armstrong**, Member, BART Police Citizen Review Board
- **Andrea Portillo**, Community Organizing and Policy Manager, SOMOS Mayfair
- **Jacky Rivera**, Project Coordinator, South Bay Community Land Trust

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On Stipend Boards, Commissions at the City of San José

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On Planning with an Equity Lens

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On expanding membership requirements to board and commission

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Tools and Resources on Improving Equity

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Data and sources

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 - a. Current Stipend Commissions
 - i. \$100/Per Mtg - Appeals Hearing Board
 - ii. \$250/Mo - Planning Commission
 - iii. \$450-250/Mo - Civil Service Commission
 - iv. \$250/Mo - Federated City Employees' Retirement System
 - v. \$250/Mo - Police and Fire Retirement Plan Board

- vi. (7 Appeals, 11 Planning, 5 Civil Service, 7 Federated, 9 Police & Fire = 39 seats)
- b. *Deferred Compensation Advisory Committee, Voluntary Employees Beneficiary Association Advisory Committee are reimbursed only.
- c. \$250 x 12 Months = \$3,000 Yearly per Commissioner
- d. \$250 x 287 (326 - 39 Currently Stipend Commissioners) =
- e. \$861,000/Annually + overhead related costs
- f. Data provided by City Clerk's Office:
 - i. 276 Filled / 326 Total (50 Vacant)

Add a Native Land Acknowledgement to the Charter

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Use Gender-Inclusive Language in the Charter and City Documents

1. Sera Fernando, guest speaker for our 9/9 study session, shared the free online training **Building a More Inclusive Workplace: LGBTQ** module, the presentation slide deck (attached), and links below.
2. **Building a More Inclusive Workplace LGBTQ Training.** The approaches you learn in this online module for intervening when you hear biased and discriminatory language against LGBTQ people is applicable within your organization as well as

your day to day LGBTQ+ cultural competency. Instructions for taking the training below. You can also download the facilitator's guide to support you in hosting a post-training dialogue:

https://go.kognito.com/rs/143-HCJ-270/images/InclusiveWorkplaceLGBTQ_Facilitator_Guide.pdf. To access the online training:

- a. Go to www.kognitocampus.com
 - b. Register for a free account
 - c. Use "sccatwork" as the enrollment key when prompted
3. TSER - The Gender Unicorn <https://transstudent.org/gender/>
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- APPENDIX TWO - Public Process Overview

Create a Police Commission, an Independent Investigation Department, and an Office of the Inspector General

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Relevant Links

258. This is an article to the report Mark Smith mentioned the the Commission on 148 arrests (sometimes called "contempt of cop").
https://www.latimes.com/local/lanow/la-me-lapd-resisting-arrest-20180827-story.html?utm_source=dlvr.it&utm_medium=twitter
259. L O S A N G E L E S P O L I C E C O M M I S S I O N REVIEW OF ARRESTS FOR VIOLATIONS OF CALIFORNIA PENAL CODE SECTION 148(A)(1) Conducted by the OFFICE OF THE INSPECTOR GENERAL MARK P. SMITH Inspector General.
https://a27e0481-a3d0-44b8-8142-1376cfbb6e32.filesusr.com/ugd/b2dd23_4c3e1e1c762845ae9bcb6375a88dd974.pdf
260. Jennifer Eberhardt. A study finds racial disparities in police officers' use of language
<https://engineering.stanford.edu/magazine/article/study-finds-racial-disparities-police-officers-use-language>
<https://www.pbs.org/newshour/science/police-respect-whites-blacks-traffic-stops-language-analysis-finds>
261. Some information on legal settlements following alleged police misconduct.
 - a. Cities Spend Millions On Police Misconduct Every Year. Here's Why It's So Difficult to Hold Departments Accountable. *FiveThirtyEight* Feb. 22, 2021
<https://fivethirtyeight.com/features/police-misconduct-costs-cities-millions-every-year-but-thats-where-the-accountability-ends/>
 - b. Police Settlements: How The Cost Of Misconduct Impacts Cities And Taxpayers. *National Public Radio*. Sept. 19, 2020
<https://www.npr.org/2020/09/19/914170214/police-settlements-how-the-cost-of-misconduct-impacts-cities-and-taxpayers>

- c. This interactive dashboard in Chicago reflects settlements for police misconduct stopped in early 2017. Details include neighborhood, payment amount, type of interaction, type of weapon and type of misconduct.
<https://projects.chicagoreporter.com/settlements/search/cases>
- d. Assembly Bill 603, currently pending in Sacramento would require municipalities, as defined, to annually post on their internet websites specified information relating to settlements and judgments resulting from allegations of improper police conduct, including, among other information, amounts paid, broken down by individual settlement and judgment, information on bonds used to finance use of force settlement and judgment payments, and premiums paid for insurance against settlements or judgments resulting from allegations of improper police conduct.
https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202120220AB603
- e. In its most recent annual report, the IPA recommended that the Police Department open an administrative investigation when an officer is named as a defendant. (see pages 60-62)
"Law enforcement accountability is a system of checks and balances aimed at ensuring that police carry out their duties properly and are held responsible if they fail to do so. Such a system strives to uphold police integrity, deter misconduct, and enhance public confidence in policing. Complaints lodged with the IPA or IA are not the only avenue for our community to voice their concerns about police conduct. Civil lawsuits in both state and federal courts also reflect allegations that officers engaged in misconduct. However, the Department currently does not have a system that initiates an administrative investigation when an SJPd officer is named in a lawsuit. We recommend that it does so in cases alleging misconduct by on-duty officers or alleging an off-duty officer engaged in misconduct under color of law. We recommend the Department explore best practices employed by other enforcement agencies in this regard. A civil suit does not result in any discipline of a police officer. Discipline can only be imposed by the Police Chief after an internal administrative investigation is complete."
<https://www.sanjoseca.gov/home/showpublisheddocument/75181/637608196115570000>

262. Phoenix sues state over new law that undermines its long-sought police accountability office.

<https://www.azcentral.com/story/news/local/phoenix/2021/08/17/phoenix-sues-arizona-over-limiting-police-accountability-office/8172737002/>

263. Houston Has A New Deputy Inspector General For Police Accountability.
<https://www.houstonpublicmedia.org/articles/news/in-depth/2021/08/17/406167/houston-has-a-new-deputy-inspector-general-for-police-reform-heres-what-she-does/>
Activists call on San Diego Sheriff's to do more to prevent excessive force instances
<https://www.10news.com/news/team-10/activists-call-on-san-diego-sheriffs-to-do-more-to-prevent-excessive-force-instances>
264. Transition to San Diego's new police oversight commission underway after Measure B's big win.
<https://www.sandiegouniontribune.com/news/public-safety/story/2020-11-30/transition-to-san-diegos-new-police-oversight-commission-underway-after-measure-bs-big-win>
265. San Diego city attorney proposes outside counsel help revise draft of police commission ordinance - The San Diego Union-Tribune
<https://www.sandiegouniontribune.com/news/public-safety/story/2021-07-19/san-diego-city-attorney-proposes-outside-counsel-help-rework-police-commission-ordinance>

Establish Equity Values, Equity Standards, and Equity Assessments

1. Terry Keheler. "Racial Equity Impact Assessment". Race Forward, The Center for Racial Justice Innovation. (2009)

Address Equity and Inclusion in City Programming and Budgeting

1. Appendix XX. Equity
2. 2021 Silicon Valley Poll and 2021 Silicon Valley Index: <https://jointventure.org/>

Establish Regular Department-Level Audits

1. <https://board.sccgov.org/management-audit-division/fy-2021-22-management-audit-risk-assessment>
2. <https://www.sanjoseca.gov/your-government/appointees/city-auditor/about-us/the-audit-process>
3. Audit reveals how a San José code enforcement officer was allegedly able to extort massage businesses for sex. The report found gaping holes in city code enforcement's oversight procedures and division policies
 - a. <https://www.nbcbayarea.com/news/local/ex-supervisor-uses-public->

- funds-for-gambling-apologizes-then-goes-gambling/2050970/
 - b. <https://www.mercurynews.com/2021/09/09/san-jose-auditor-finds-lacking-oversight-contributed-to-code-enforcement-officer-extorting-massage-businesses-for-sex/>
- 4. Loose Oversight Leads to Questionable Credit Card Spending at SJ City Hall
 - a. <https://www.sanjoseinside.com/news/loose-oversight-leads-to-questionable-credit-card-spending-at-san-jose-city-hall/>

Create a Climate Change Commission

1. Chicago Climate Charter signed by Mayor Sam Liccardo 2017:
<https://www.chicago.gov/content/dam/city/depts/mayor/Press%20Room/Press%20Releases/2017/December/2017ChicagoClimateCharter.pdf>
2. Climate Change 2021: The Physical Science Basis (Working Group I)
 - a. The Working Group I contribution to the Sixth Assessment Report addresses the most up-to-date physical understanding of the climate system and climate change, bringing together the latest advances in climate science, and combining multiple lines of evidence from paleoclimate, observations, process understanding, and global and regional climate simulations. Note that there are two additional Working Groups who are in the process of drafting reports ("Impacts, Adaptation and Vulnerability" and "Mitigation of Climate Change"). All three reports make up the full Sixth Assessment Report.
3. Summary documents for The Physical Science Basis report
 - a. Climate Change 2021: The Physical Science Basis - Summary for Policymakers The IPCC's 42-page summary, which is less technical and geared towards policymakers.
 - b. Headline Statements from the Summary for Policymakers A 2-page bullet-point summary of the report headlines and main points. Published by the IPCC.
 - c. World Resources Institute's "5 Big Findings from the IPCC's 2021 Climate Report"
 - d. New York Time's "A Hotter Future Is Certain, Climate Panel Warns. But How Hot Is Up to Us."
 - e. NPR's A Major Report Warns Climate Change Is Accelerating And Humans Must Cut Emissions Now
 - f. New York Times "Climate Change Could Cut World Economy by \$23 Trillion in 2050, Insurance Giant Warns"
4. Bay Area impacts and projects, based on IPCC's The Physical Science Basis report

- a. Regional fact-sheet for North and Central America IPCC's summary of regionalized anticipated impacts
 - b. ABC7 News: UN climate report puts focus on sea level rise threat to San Francisco Bay Recent news report from ABC discussing more local impacts on the SF Bay Area.
 - c. California's Fourth Climate Change Assessment: San Francisco Bay Area Region Report (2019) Not in response to the recent IPCC report, but a helpful resource focusing on Regional Climate Science, Social Systems and Built Environment, and Natural and Managed Resource Systems.
5. World Economic Forum. 2020. "This is how climate change could impact the global economy":
<https://www.weforum.org/agenda/2021/06/impact-climate-change-global-gdp/>
6. Global Citizen. 2020. "Why Climate Change and Poverty Are Inextricably Linked" :
<https://www.globalcitizen.org/en/content/climate-change-is-connected-to-poverty/>
7. Honolulu 2016 Charter Amendments, see #7, p.6:
https://www.honolulu.gov/rep/site/clk/clk_docs/2016_Charter_Amendments_Brochure-FINAL.pdf
8. League of Women Voters Pros/Cons Guide (direct link to proposal #7):
<https://www.lww-hawaii.com/procon2016.pdf#page=4>
9. Honolulu Charter was amended to include Section 6-107. Office of Climate Change, Sustainability and Resiliency and established the Climate Change Commission (direct link to charter section):
https://www.honolulu.gov/rep/site/cor/rch/Charter_2017_Ed_01.04.21_Clean_01.15.21.pdf#page=50
10. Additional Honolulu Commission details added in 2020:
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 - e. <https://sanfrancisco.cbslocal.com/2020/08/16/rare-august-thunderstorm-rolls-through-san-francisco-bay-area-lightning-strikes-sparks-widespread-wildfires/>

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9. <https://sfmohcd.org/community-opportunity-purchase-act-copa>
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3. Lara Fishbane & Aide Tomer. 2020. "Neighborhood Broadband Data Makes it Clear: We Need An Agenda to Fight Digital Poverty." Brookings Institution.
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APPENDIX THREE - Public Engagement Process

Goals and Objectives of the Public Engagement Process

The Charter Review Commission was interested in a deep and comprehensive approach to connect with different communities throughout San José. The Commission worked with a consulting firm to develop a robust engagement plan. This plan was designed to educate San José residents about the City Charter and the Charter Review Commission's review process, and to encourage participation in public hearings. Public hearings were the primary avenue for public input on the City Charter. Emails to the Charter Review Commission will also be welcome. The engagement efforts for this project were driven by the following objectives:

1. Understand community needs, preferences and concerns related to improving accountability, representation, and inclusion at City Hall
2. Educate the community on the role of the City Charter and the review process to elicit meaningful input from the public
3. Earn resident trust in the Commission's process and commitment to listening and representing the community's interests
4. Place special focus on reaching hard-to-reach, vulnerable and historically marginalized groups

Over the course of 4 public hearings from June - October 2021, community members had the opportunity to learn about and engage with the following topics related to the City Charter review:

1. Results of the Commission's study phase and gather issues the public thinks the Charter Commission can address
2. Potential recommendations regarding Timing of Elections
3. Potential recommendations regarding Governance & Balance of Power
4. Potential recommendations regarding improving Accountability, Representation and Inclusion at City Hall
5. (Optional) Feedback on draft Majority (and Minority) report(s)

Public Engagement Strategy

After a robust analysis of San José's racial, ethnic and linguistic populations, language-accessible engagement was focused on the following language communities:

Spanish, Vietnamese and Chinese. Based on a geographic analysis, outreach was focused on specific populations in the following districts: Districts 2, 3, 5, 6 and 7.

Easier-to-reach populations were reached through broad outreach aimed at communities with easy access to internet and digital devices to attend public hearings. Outreach for harder-to-reach populations included focused, deep engagement in partnership with Community-Based Organizations to access harder-to-reach populations that might have a number of barriers to accessing the public hearings.

To ensure community input adequately informed the Commission's final recommendations, community-based organizations were selected and compensated to conduct culturally-appropriate outreach and engagement around Commission public hearings. These community partners were encouraged to utilize outreach tactics they felt would best engage their communities.

Public Meeting Schedule

Commission Meetings	
January 11	August 23
January 25	September 6
February 8	September 9 - Study Session
March 8	September 13 - Study Session
March 22	September 20
April 5	September 27 - Study Session
April 19	October 4
May 3	October 18
May 17	October 25 - Study Session
May 31	November 1
June 14	November 3 - Study Session

July 12	November 15
July 23	November 18
July 26	November 29
August 9	

Public Hearings
Monday, June 28, 6 p.m.
Thursday, July 29, 6 p.m.
August 25 - CANCELLED
Saturday, September 25, 11 a.m.
Saturday, November 6, 11 a.m.

Public Outreach

Messaging and outreach materials for the Charter Review Commission (including translations in Spanish and Vietnamese) were made available in a Community Partner Promotional Toolkit. (See Appendix Four)

City Clerk Communications

The City Clerk's office hosted the following channels for community education and input:

- Commission website with Commission documents, including agendas
- Commission Meetings and Public Hearings were conducted via Zoom (with live translation in Spanish and Vietnamese after DATE) and live streamed on the City's website as well as on YouTube. Videos archived on both the website and YouTube.
- CRC agendas sent to the City Council, other Commissioners, and subscribers for their information and promotion.
- Social media via City Department and Council Member accounts as well as the main City of San José Facebook and NextDoor accounts

- Emails to stakeholder lists, city newsletters, council newsletters, etc.

Commissioner Outreach

Commissioners were encouraged to promote Commission meetings and public hearings to their networks. Public presentations were given by Commissioners at the request of the following groups:

Commissioner	Presented To
George Sanchez	
Huy Tran	Ken Yeager's class at SJSU, the Santa Clara County Democratic Central Committee, podcasts about Charter Review proposals for the Vietnamese American Roundtable (with Vice Chair Johnson)
Garrick Percival	
Barbara Marshman	
Enrico Callender	Black Leadership Kitchen Cabinet, the San Jose Silicon Valley NAACP
Thi Tran	
Frank Maitski	
Elly Matsumura	District 3 monthly community meeting
Sammy Robledo	Briefing for District 1 Councilmember's meeting, overview to the WONA association
Yong Zhao	
María Fuentes	
Magnolia Segol	
Jose Posadas	
Christina Johnson	Podcast about a Charter Review proposal for the Vietnamese American Roundtable (with Commissioner Huy Tran)

Linda Lezotte	
Jeremy Barousse	
Elizabeth Monley	
Louis Barocio	D5 United, Alum Rock Village Action Committee (ARVAC)
Veronica Amador	D5 United, Latinos United for a New America (LUNA)
Sherry Segura	
Lan Diep	
Frederick Ferrer	
Tobin Gilman	

Community Partner Outreach

Community Partner Selection

Community-based organizations in San José were encouraged to express their interest in supporting the outreach and engagement process of the Commission via an online form. A final group of community partners was selected given the following guidelines

- Has 5+ years experience working with at least one priority population (defined above)
- Demonstrated ability to conduct culturally-appropriate outreach and engagement to at least one priority population
- Has the ability to reach at least 100's of members of at least one priority population.
- Has 5+ years experience conducting outreach and engagement with at least one priority population
- Has availability and necessary staff capacity for this work from June - November 2021
- Brings an equity lens to this work either as demonstrated through an organizational equity framework and/or proven equitable outcomes
- Brings experience working with communities to overcome barriers to public participation including language, digital access, and/or disability

The final list of community partners included:

- African American Community Services Agency (AACSA)
- Amigos de Guadalupe Center for Justice and Empowerment
- Asian Law Alliance
- Friends of Hue Foundation
- Latinos United for a New America
- LGBTQ Wellness, a program of Caminar
- Madre-A-Madre, a program of Healing Grove
- Plata Arroyo Neighborhood Association & Eastgate N.A.C.
- Vietnamese Voluntary Foundation (VIVO)
- YouthHype

Once selected, partners signed a Memorandum of Understanding, including scope of work and payment terms. From June through November, community partners consulted on development of plain language messaging about the Commission's purpose, developed equity-centered outreach plans, conducted outreach to priority population(s) to raise awareness about the Charter Review Commission and upcoming hearings, and provided monthly reports about outreach conducted.

Summary of Community Partner Engagement Activities

Over the course of five months, community partners were able to collectively engage with **2,223 unique individuals** within the City of San José.

Organization	Total Engaged	Audience	Districts
African American Community Services Agency	280	Black College students Black Leadership Roundtable Black Leadership Kitchen Cabinet AACSA Leadership Academy AACSA's membership base Senior Citizens Neighborhoods Assns Family clients via Family Resource Center Our services Clients (food pantry, homelessness prevention, re-entry)	D2, D3, D5, D6, D7
Amigos de Guadalupe Center for Justice and Empowerment	25	Immigrant community members from East San José	D5

Asian Law Alliance	100	Wider AAPI community in San José; Chinese Monolingual Community; East San José AAPI Community; Ethnic Minoritized College students seeking educational credit	All districts
Friends of Hue Foundation	100	Vietnamese Community; Low & extremely low-income, 70% Asian and 20% Lantinx living mostly in East San José & Downtown San José.	D3, D4, D5, D7, D8
Latinos United for a New America	613	Latinx community in San José, all ages, elders to youth, mainly low-income, working-class immigrants who suffer from the social inequity	D3, D5, D7, D8
LGBTQ Youth Space (Caminar)	100	The LGBTQIA+ community in San José; community members of all ages—young adults, adults, older adults	D3, D6, D7, D9
Madre-A-Madre (Healing Grove)	420	Low-income Spanish-speaking Latinx families	D3, D5, D7
Plata Arroyo Neighborhood Association & Eastgate N.A.C.	<i>No response</i>	Low income Spanish-speaking Latinx families	D5
VIVO - Vietnamese Voluntary Foundation	550	Vietnamese American Community in San José	D7
YouthHype	35	San José Youth: YouthHype middle school chapters; Black Student Unions; NAACP Youth division; High School ethnic studies; political science & government classes; Youth commissioners	All districts
TOTAL ENGAGED:	2,223		

Community Partner Outreach Activities

The following is a list of the various outreach and information gathering activities Community Partners indicated engaging in during this time period.

Digital Communications:

- Social media posts
- Email, phone, text message responses & exchanges
- **Total Instances of Outreach Made: >20**

Gatherings:

- Hosting in-Person & online meetings & discussion: **142**
- Tabling at local events: **9**
- **Total Events Hosted: 151**

Recruitment:

- Recruitment events to enlist community members for inputs: **59**
- Recruitment events to enlist attendants for public hearings: **9**
- **Total Events Hosted: 68**

Attending Public Hearings:

- **Total Events Attended: 23**

Meeting with Commissioners:

- **3 out of 9** Community Partner organizations were successful at meeting with a Commissioner to talk about the City Charter recommendation process. **One** of those two indicated that they were able to meet with a commissioner routinely.

Other Forms of Outreach:

- Radio talk shows at 8pm on AM station 1500
- Door to door outreach

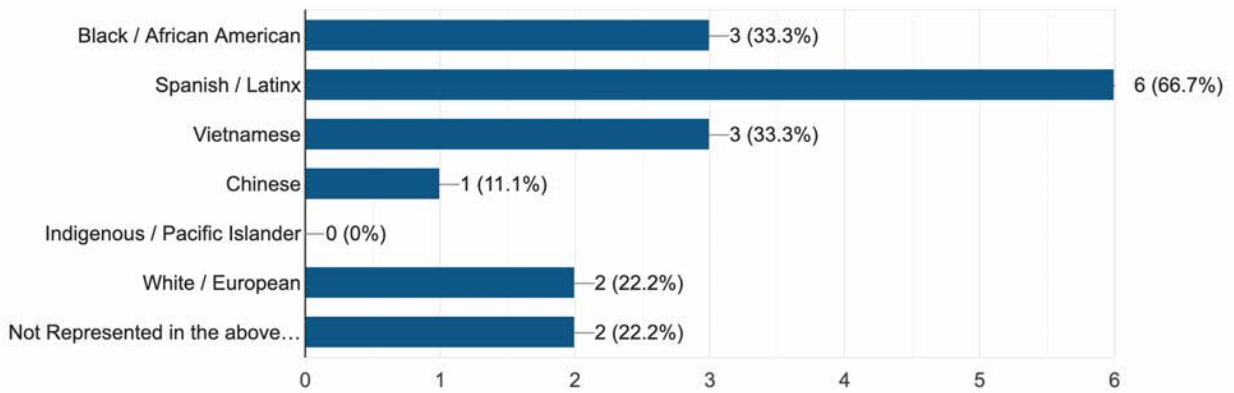
Summary of Audience Demographics

The following charts represent a demographic analysis of the individuals each CBO engaged with during this time period. Out of 10 community partners, 9 provided data for the analysis.

Race / Ethnicity

Race / Ethnicity

9 responses

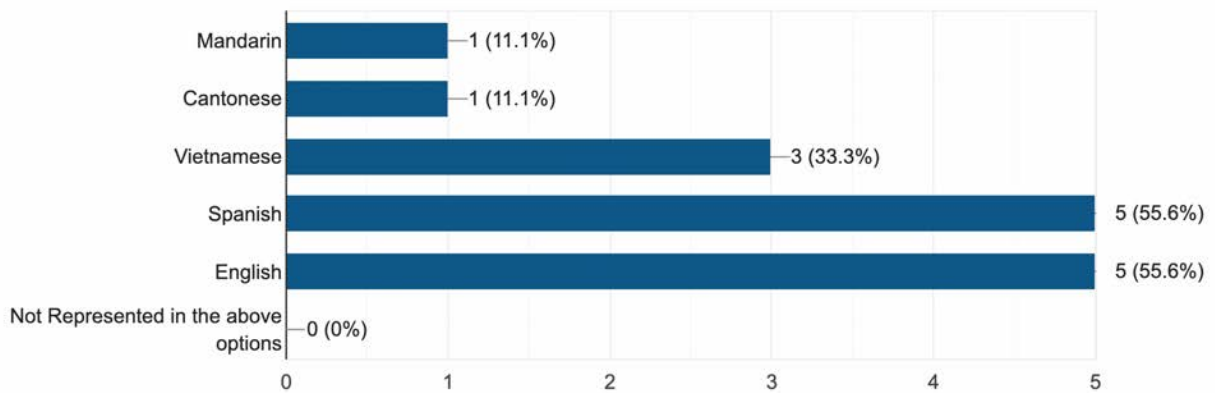


**Note that the other Race/Ethnicity categories were Indian, Japanese, Filipino, Korean, and Vietnamese.*

Language Preferences (primary language spoken in the home)

Language Preferences

9 responses

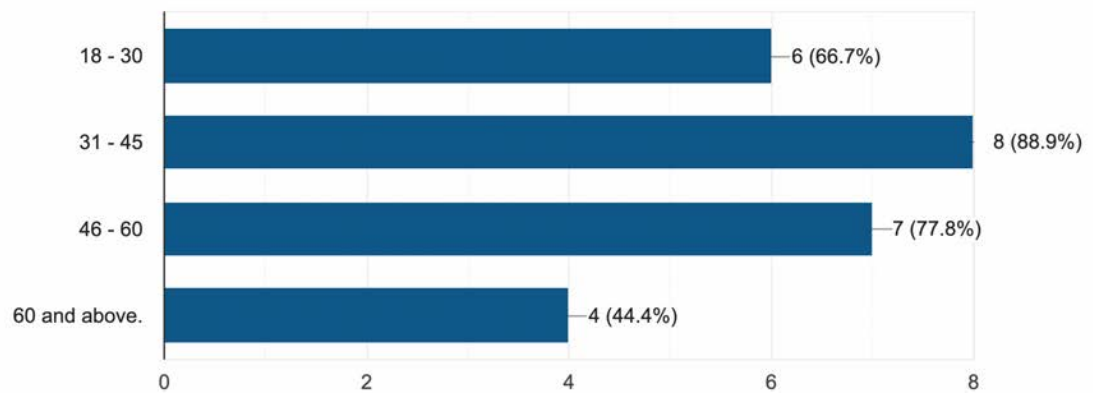


**Hindi and Japanese were also identified as languages spoken at home by one organization.*

Age Groupings

Age Groupings

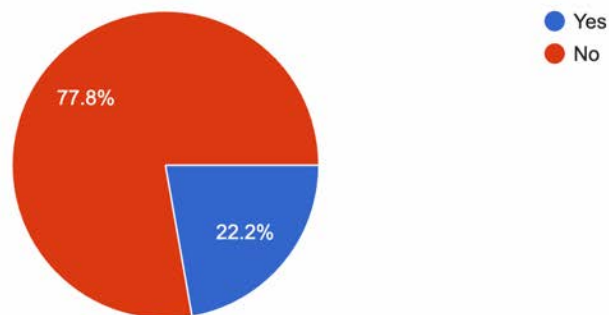
9 responses



Sexual Orientation

LGBTQIA

9 responses



**Percentage of organizations that identified their main audience base during this time period as being a part of the LGBTQIA community.*

Outreach Debriefs from Community Partners

Debriefs were conducted with Community Partners to capture any last thoughts and comments about this overall experience with the option to offer recommendations for future Commissions. They were also asked to provide some insight on what forms of

engagement and topics were the most impactful for their primary audiences. Out of 10 community partners, 7 were able to participate in these debriefs.

Most impactful events:

- In-house Open Forums (embedded in already scheduled events)
- Public Tabling Events

Comments: The subject matter at hand definitely had an impact on turnout. Several Community Partners commented that hosting in-house open forums for questions offered a more “casual” and accessible atmosphere for peers to engage in dialogue and gain insight on particular topics. They also stated that embedding Charter topics within their regular programming events ensured that there would be an audience for providings updates and soliciting opinions.

Topics of most interest:

- Police Oversight
- Governance Structure

Comments: There were some comments from Community Partners about the inaccessibility of some of the recommendation language concerning Governance Structure (see communication recommendations below).

Areas for improvement:

- **Communications** - Recommendations included:
 - More toolkits that could easily break down each recommendation as they are being considered. (some of the language for recommendations surrounding Governance Structure were not as accessible without the historical context of how these structures currently work.)
 - A list of all of the Commissioners with short bios and what districts they represent (plus what subcommittee they sit on)
 - Phone numbers listed for outreach coordinators to be able to reach more immediately.
 - Direct support with managing online engagement to stimulate more conversations. Either a social media strategist or coordinator.
- **Information Sharing** - Recommendations included:

- Would recommend having monthly Community Partner gatherings or meetings to discuss outreach tactics and hear how other organizations are phrasing/talking about certain issues with their communities.
- There is an acknowledgment that COVID severely impacted Community Partners ability to gather community in person but they discovered that using zoom in some cases actually boosted accessibility. In the future they would like to do a mix of both online and in person meetings.
- **Commissioner Selection Process** - Recommendations included:
 - More direct community engagement in the process of selecting commissioners.
 - **Comments:**
 - *"It feels like the process for selecting Commissioners is contributing to historical political gatekeeping"....*Would like to see more diverse representation from within each marginalized community.
 - Would like the work of the Commission to advocate for more democratization of governance including community workshops done in every corner of the City:
 - Example: [The Strong Neighborhood Initiative \(SNI\)](#)
 - Community identified deliverable and desirable assets
 - Promoted a sense of actual Investment and empowerment in the community as directed by those communities.

Public Comment Speakers

- Ellina Yin, Paul Soto, Tessa Woodmansee, Marie Arnold, Blair Beekman, Carol Watts, Jake Tonkel, Robert Brownstein, Jeffrey Buchanan, Matt King, Adrian Gonzales, Justin Lardinois, A caller with the phone number ending in 5140, Crystal, Shiloh Ballard, Elizabeth Kamya, Helen Kassa, Yeme Girma, Norman Kline, Alex Shoor, Walter Hudson, Gabriela Garzon Gupta, Roland, Robert Reese, Omar Torres, Peter Allen, Cynthia-In-The-Public, Sandy Perry, Call-In-User_1, Danny, A caller with the phone number ending in 5586, Juan E., Kevin Ma, Danny Garza, Reginald Swilley, Brett Bymaster, Walter Wilson, Martha Beatty, Juan Estrada, Bao Trieu, Mollie Mcleod, Scott Reese, Robert Aguirre, Dominic Torreano, Mary Helen Doherty, Alex Caraballo, Brian Wheatley, Brian O'Neill, Huascar Castro, Jethroe Moore, Krista, Chava Bustamante, Helen Chapman, Brenda Zendejas, Susan Price, Hiwad Haider, Mayra,

Sam Gordon, Mira Karthik, Lam Nguyen, Kiana Simmons, Roma Dawson, Brenda Dohmen, Sandra, Tony Romero, Rebecca Gallardo, Mariana Damian, Krista De La Torre, Steve Chessin, Maria Marcelo, Gabriel Manrique, Michele Mashburn, Zakiya Cooper, Tami Sell, Mayra Pelagio, Jessi Faust, A speaker named "Create a Review Board", Lou Dimes, A speaker named "Police Accountability NOW", Chelsea Allen, A speaker named "Black Outreach", Esha, Terrence, Michael Hunter, Jason Spitzer, Nick Cortez, Jesilyn Faust, Luc Gnamien, Andrew Boone, Poncho Guevara, Nihar Agrawal, Crystal Calhoun, Sandra Asher, Rachel Kumar, Peter Ortiz, Gaby Lopez, Pamela Emmanuel, Mica Estremera, Lucky Jordan, Laverne Foster, Tina Najibi, A speaker named "Expand Police Oversight", Rupini, Cher L, Tom Izu, Pat Richards, Jonathan Diaz, Tarab Ansari, Brian Schmidt, Anil Babbar, José Maldadona, Ana Melara Glenn, Call-In User_2, Liz Soehngen, Cory, Kim Guptill, Sameena Usman, José Rodruiguez, Megan Swift, Jaala Robinson, Jocelyne Cardona, Elizabeth AJ, Carmen B., Myisha Taylor, Kiana Munoz, Milan Balinton, Steph Hanson-Quintana, Sigrid Jacobsen, Victor Sin, Dave W., Tim Espinoza

APPENDIX FOUR - Supporting Documents

- [Resolution 79722](#)
- [Commission Bylaws](#)
- [Charter Review Commission Work Plan](#)
- [Recommendation Memo Template](#)
- [Subcommittee Work Plan Template](#)
- [Subcommittee Meeting Agenda & Notes Template](#)
- [Subcommittee Topics and Assignments](#)
- [Primer of Historical Context Materials](#)
- [Summary of Community Partner Monthly Engagement Reports](#)
- [Promotional Toolkit](#)
- [San José Budget Research for Governance Structure Ad Hoc Subcommittee](#)
- [Policing Oversight Research for PMLAI Ad Hoc Subcommittee](#)
- [Climate Change Research for PMLAI Ad Hoc Subcommittee](#)
- [Powerpoint Visually Describing Police Oversight Reform Recommendations](#)