

San José Charter Review Commission Subcommittee Meeting Agenda & Notes

Accountability, Inclusion, Policing, and Municipal Law Subcommittee

Meeting Details

Date/Time	August 6, 2021
Topics Covered	<p>Measure G and the side letter between the police union and the office of the Independent Police Officer.</p> <p>LGBTQ+</p> <p>Democratically elected Chair for all Boards and Commissions in San Jose, rather than appointed.</p> <p>Stipend for all Boards & Commission Members.</p> <p>Civic Education through libraries.</p> <p>SB225.</p> <p>See below for additional topics.</p>

**Notices or
Questions for
Commission**

Can we present at the end of November since we were given such little time to study on our own, and we only formed on July 2, 2021, despite this Commission starting in January of 2021? Can we make our final recs and have the CRC vote in the middle of December, out of equity, due to such little time we have had to pursue the ideas for a charter change that have come from the public, as compared to the other two subcommittee topics, which had predetermined topics? Our topics are not predetermined and come from the residents of San Jose.

Remmended Meeting Agenda (90 mins)

- I. Roll call
- II. Brief update from each Commissioner on work since last Subcommittee meeting *(5 mins)*
- III. Review of public comment received via City Clerk's office *(10 mins)*
- IV. Review of new potential topics (from Commission assignment or public comment) and revision of topic list *(10 mins)*
- V. Discussion of topics *(45 mins)*
- VI. Review of draft Recommendation Memos (if any) *(15 mins)*
- VII. Next steps *(5 mins)*
 - A. Assignment of additional research
 - B. Drafting of Recommendation Memos

Meeting Notes

In attendance:

- **Guest Speaker Mark Vanni, Deputy City Attorney.**
- **Commissioners Rick Callender, Zhao, Segura, Amador, and Segol**
- **Guest Speaker Elina Yin.**

Commissioner updates:

- **Many community members want us to focus on climate change and mitigation.**
- **LGBTBQ+ topics not yet addresses by this Commission, and members of public would like gender neutral language in charter.**

Public comments received:

- **Climate action is needed.**

Topic list review and revision:

- **Measure G**

- **Collective bargaining with Police Officers Association (POA)**
- **Ballot Measure off 96,000 people gets around requirements that constrict a city trying to make a Charter change.**
- **LBGTQ+ equitable, gender-neutral language in the Charter.**
- **Civic education through libraries,**
- **Election of chair for all boards and commission, rather than appointment of chair,**
- **Providing a stipend for all board and commission members to promote equity in age and class distribution of board and commission positions.**
- **SB 225 and other topics.**

Topic discussion / review of draft

Recommendation Memos:

- **City Attorney Mark Vanni discusses how Independent Police Auditor can be removed. 10 members of the 11 member council are needed to remove the Independent Police**

Auditor. The Mayor counts as 1 council member vote.

- **Current IPA just appointed for a 4 year term, she also finished out Aaron Sizzer's term and Judge Cordell's term, as the interim or acting Independent Police Auditor. The City Council Members have the authority to appoint interim/acting IPA. The position comes up for a council vote every 4 years and Shivaun Nurre's term was approved in January.**
- **No Term Limits**
- **Mark Vanni advises the IPA. It is one of his departments. The office of the City Attorney resolves conflict of interest by having a different attorney advice the police department, and a different attorney(s) negotiate with the police union.**
- **Walter Katz was the IPA, but then left for Chicago. He served the second shortest.**
- **Discussion of the duties of the IPA. She has to maintain confidentiality under municipal code and state law, as regards to the**

information she does get. This has to do with POBAR (Police Officers Bill of Rights).

- **CNA group is a consultant that is evaluating the Independent Police Auditor's Role. We should look at what is happening there. The Mayor and Council in January 2021 brought forward some reform measures regarding the IPA.**
- **There are things happening with respect to OER (Office of Employee Relations)**
- **Aaron Sizzer had the shortest term. He resigned. Some say because he took a picture with Silicon Valley Debug, a group that wants to divert discretionary City funds from being sent to the police and used instead for community based programs. It is claimed that because of this picture, the police union argued that he cannot be a truly independent police auditor,. This is not anything verified by Mr. Mark Vanni.**
- **The City Council can vote to give the IPA access to all the records of OER, and other**

documents she requests, if they want to give her the authority to review all records she thinks are important. Right now she is limited by the side letter between her office and the police union, granting her only limited access to documents.

- **The current system has been this way since the 1990s. Other proposals were made at the time, but this what everyone settled on after bargaining with the police union. Any change to this model would require a meet and confer with the police union before implementing the change. There is no way around it, unless you can get a ballot measure to amend the charter.**
- **If you can get a measure on the ballot to amend the charter, then you can bypass the collective bargaining requirement with the police union.**
- **If the City as an entity is going to make this decision, it as to comply with the Meyers-Millian-Brown Act.**

- **Anything that affects a term and condition of employment would trigger a meet and confer requirement. Even adding a community policing review board, because the board would be gaining access to personnel records that has information in it, like where officers live. Things that may not be relevant, but are there.**
- **If something theoretically leads to discipline, or changes of work conditions, then it triggers meet and confer requirement with police union.**
- **If we want to propose a change to the office of the IPA or to create a Community Policing Oversight Commission, that would have to comply with the current labor union contract. If it comes from a Ballot Measure, with signatures collected, that can override any existing city/labor union contract.**
- **The threshold to get a ballot measure on the Charter is 15% of registered voters in the last election. This is about 97,000 voters that would have to sign a petition. This does**

bypass a number of requirements under state law. (Comm. Zhao and Segura's clarification).

- **A ballot election can only amend a charter. It cannot revise a charter. Revise means: a really big change, like you are replacing 2/3 of the charter. Amend the charter means piecemeal- one thing at a time.**
- **The only way that a citizen's initiative can revise a charter is through appointing a Charter Review Commission, that can then revise a charter on the voter's behalf.**
- **Under the elections code, if you anything that affects an employment right, a vested interest, then you can only bring such a thing forward in a November election, not in the June primary. Here, any recommendation would go forward in June if this Commission and City Council vote for it.**
- **Office of Employee Relations is currently negotiating with the POA (Police Officers Association).**

- **The side letter does not change the agreement. We are agreeing to something on the side, so it is incorporated in the Memo of Understanding. This is available to the public. The MOU is the big agreement with the Labor Union, and lasts for a number of years.**
- **Elina Yin spoke on equity issues for LBGTQ+, civic education through libraries, election of chair for all boards and commission, rather than appointment of chair, and a stipend for all board and commission members to promote equity is age and class distribution of board and commission positions.**
- **SB 225 and other topics.**