



Charter Review Commission

City of San José

MINUTES

<https://sanjoseca.zoom.us/j/94141759036>

5:30 PM

Monday, August 9, 2021

Present: Chair- Frederick Ferrer; Members- Barbara Marshman, Christina Johnson, Elizabeth Monley, Elly Matsumura (5:44 p.m.), Enrico Callender, Frank Maitiski, Garrick Percival, Huy Tran, Jeremy Barousse, Jose Posadas, Lan Diep, Linda LeZotte, Louis Barocio, Magnolia Segol (5:38 p.m.), Maria Fuentes (6:08 p.m.), Sammy Robledo, Sherry Segura, Thi Tran, Tobin Gilman, Veronica Amador, Yong Zhao

Absent: George Sanchez

Staff: Lawrence Grodeska, Consultant; Megan Roche, Legislative Secretary; Toni J. Taber, City Clerk; Mark Vanni, Senior Deputy City Attorney

I. Call to Order & Orders of the Day

The meeting was called to order at 5:35 p.m. Chair Ferrer suggested a motion to modify the Orders of the Day.

Action: Upon motion by Commissioner H. Tran and seconded by Commissioner Diep, the Commission moved to discuss item VII.a “Review Feedback from Public Hearing” during Old Business instead of New Business, and also to table item VII.b “Governance Structure Subcommittee Recommendations” until 8/23/2021. (16-2-4; Noes: Segol, Segura; Absent: Amador, Fuentes, Matsumura, Sanchez)

II. Public Record- N/A

III. Consent Calendar

- a) **Approve Charter Review Commission Minutes.**
- b) **Receive and File Letters from the Public.**

Action: The Commission moved to adopt the Charter Review Commission minutes from the meeting dated 7/26/2021, and to also receive and file the letters from the public. (14-0-3-5; Absent: Fuentes, Matsumura, Sanchez; Abstentions: Callender, Gilman, Monley, Segura, T. Tran)

Public Comment: Tessa Woodmansee expressed disapproval of the Commission’s past meeting agendas because they have not addressed including the issue of global heating in the Charter. Jessi Faust expressed disappointment that a citizen’s review board for police was not the topic of discussion and wished for more consideration of public input. A speaker named “Create a Review Board” echoed the comments of Jessi Faust and called

for increased openness to the public. Blair Beekman wished for the approval of the Consent Calendar to occur after taking public comment and also called attention to the possibility of an upcoming natural disaster. Paul Soto discussed his depth of police knowledge and also the illegitimacy of meetings. Lou Dimes expressed disappointment in the Commission for the way they have represented the public and wished to hear the topic raised of a citizens' police review board. Roland wished for public comment to be taken before voting on the Consent Calendar. Ellina Yin echoed the comments of Roland that public comment should be ordered before Consent Calendar voting. A speaker referred to as "Police Accountability NOW" demanded that public accountability for the police take form as a commented section on the Commission's agenda. Brenda Zendejas highlighted that the community wants and needs a citizens' review committee. Chelsea Allen called for the Commission to create a citizen's review board for the police, to listen to the community and invite their oversight, and to direct funding appropriately. A speaker referred to as "Black Outreach" described the need for a citizens' police review board as the expressed will of the people. Esha stated that the city's response to the uprising against police brutality should be increased accountability to the public and acting on the requests for citizens' review of policing.

IV. Reports & Information- N/A

IV. Public Hearing- N/A

VI. Old Business

1. Discussion and possible action on Charter Review Commission Work Plan.

a) Report from Chair

The Chair highlighted that the Commission's draft recommendations are available to the public. Chair Ferrer also noted that the letters from the public which were received will be considered with the feedback from the public hearing.

b) Report from Clerk

City Clerk Toni Taber noted outreach to the disabled community in efforts to improve the Commission's meeting and material accessibility. Matt Opsal, Senior Executive Analyst in the City of San José's City Manager's Office of Communications, spoke about current efforts to promote accessibility in the City's web posting procedures and management. Ms. Taber noted the various live closed captioning features and interpretation services that are available for Commission meetings. City Clerk Taber welcomed Tobin Gilman to the Commission as the new representative from District 10.

c) Report from Consultant

Consultant Lawrence Grodeska noted that revisions to the promotional toolkit will

include a section on measures taken to improve accessibility. Consultant Grodeska reviewed the July Community Partner Engagement Report. Commissioners asked questions and discussion ensued.

Public Comment: Paul Soto requested that the minutes of subcommittee meetings be shared publicly. Lou Dimes highlighted that the community feels unheard and wishes for the Commission to devote time to explore a citizens' review board of police misconduct. Blair Beekman wished for more opportunity for public input in the subcommittee process. Roland noted that closed captioning is available in only English and also that public comment is best taken before the bulk of commissioner discussion and voting. Tessa Woodmansee spoke in favor of permanently holding Commission meetings virtually and also asked for more clarity in public hearing scheduling. Ellina Yin called for investment to fund the facilitation of more equitable processes and noted that the Reimagining Public Safety Commission followed different rules which allowed for more public dialogue. Terrence noted the significant revisions made to the ranked choice voting proposal and suggested additional public input.

2. Discussion on Bylaws.

[This item was discussed out of order, after item VII.a.]

Action: Upon motion by Commissioner Monley and seconded by Commissioner LeZotte, the Commission voted to table the discussion on bylaws until the next Charter Review Commission meeting on 8/23/2021. (20-1-3; Noes: Matsumura; Absent: Amador, Sanchez, Segura)

VII. New Business

a) Review Feedback from Public Hearing.

[This item was discussed out of order, before item VI.2.] The Voting and Elections subcommittee presented each of their four draft recommendations separately and highlighted revisions based on feedback from both the public hearing held on 7/29/2021 and from fellow commissioners. Commissioners discussed the revised recommendations, reflected on public comment, and voted to provisionally move recommendations forward or to direct them elsewhere.

Draft Recommendation #1: Shifting Mayoral Elections

Public Comment: Jeffrey Buchanan, Director of Public Policy with Working Partnerships USA, spoke in favor of moving the mayoral election to presidential years for the increased and representative voter participation it will encourage. Mary Helen Doherty requested the Commission's support to move the mayoral election to presidential years for increased and more representative voter turnout. Tessa Woodmansee wished for clarification in the notifications for public hearings and also for the issue of global heating to be written into the Charter. Paul Soto spoke against the recommendation to

shift the mayoral election because it would potentially allow for one person to remain in office for ten years during a pivotal time. Brenda Zendejas spoke in favor of moving the mayoral election to presidential years for increased voter turnout and also supported ranked choice voting. Roland echoed the comments of Jeffrey Buchanan in support of shifting the mayoral election, and also wished to drop the topics of the strong mayor initiative, ranked choice voting, and policing changes until there is a change within Council. Blair Beekman urged the Commission to publicly share the minutes of the subcommittees' meetings. Krista De La Torre, on behalf of the South Bay Labor Council, supported the fair elections initiative as an explicit commitment to equity, inclusion, and representation which should be included in the City Charter. Terrence did not support the proposal to move the mayoral election timing due to the elimination of historic barriers to voter participation. Michael Hunter noted the anticipated increased voter turnout if the mayoral election timing were to shift, warned of low spring voter turnout if ranked choice voting were to be implemented, and also hoped that extra time would be devoted in order to consider police reform. Roma Dawson urged the Commission to support moving the mayoral election to presidential years.

Action: Upon motion by Commissioner Percival and seconded by Commissioner H. Tran, the Commission voted to move forward the first draft recommendation from the Voting and Elections subcommittee regarding shifting the mayoral election to the presidential cycle. (20-1-1; Noes: Gilman; Absent: Sanchez)

Draft Recommendation #2: Ranked Choice Voting

Public Comment: Paul Soto spoke in opposition of the ranked choice voting proposal due to a lack of democratic process involved in selecting the victor, who may be chosen by default. Michael Hunter supported ranked choice voting, noting the benefit of a more representative and populous group of people voting for City Council and the Mayor. Ellina Yin shared support for ranked choice voting, noted that the proposal should not be considered "mission creep," and highlighted the possibility of increased civility in the election process. Blair Beekman noted alternative choices to the implementation of ranked choice voting and did not support the recommendation. Jason Spitzer cited the problem with rampant exorbitant campaign spending and voiced support for the ranked choice voting proposal for the ability of less wealthy candidates to fully participate. Roland spoke in opposition of ranked choice voting due to the inadequacy of weighting voter preferences, noted the English-only ranked choice voting video had no captioning, and wished for the recommendations to not be bundled when they appear on the ballot. Sam Gordon, volunteer for Californians for Electoral Reform, agreed with Roland that the recommendations should not be bundled on the ballot and spoke in favor of ranked choice voting for its goal of proportional representation. Carol Watts, President of the League of Women Voters of San José and Santa Clara, supported the ranked choice voting proposal as it would encourage the expansion of voter registration and fair voter participation in the electoral process. Nick Cortez, resident of District 9, supported the proposal to adopt ranked choice voting for its decreased costs, increased accessibility, and increased turnout. Tessa Woodmansee supported the ranked choice voting proposal as it would allow more candidates to run, and it would allow for more public

participation. Terrence spoke in opposition of ranked choice voting and cited the numerous ballots from the City of Santa Fe that were spoiled due to voter error. Brenda Zendejas spoke in support of ranked choice voting because it would encourage more candidates to run who may be discouraged under the current system. Steve Chessin, Co-President of Californians for Electoral Reform, noted that the County does indeed have the equipment to support ranked choice voting and spoke in support of implementing the recommendation in San José.

Action: Upon motion by Commissioner H. Tran and seconded by Commissioner Barousse, the Commission voted to move forward the second draft recommendation from the Voting and Elections subcommittee regarding ranked choice voting. (18-3-1; Noes: Diep, Gilman, Zhao; Absent: Sanchez)

Draft Recommendation #3: Expanding City Council

Public Comment: Tessa Woodmansee wished for more time to be devoted to the topic of addressing climate change within the third prong of the Commission's direction from Council. Paul Soto urged the Commission to consider the Chicano experience and to approach categorizations of communities based on their culture rather than skin color. Roland suggested further study of how large cities approach representation in governing bodies, specifically the example of a two-tiered approach and the City of London's current system. Blair Beekman urged the Commission to approach the proposal of recommendations as an academic process where the Commission may ask the community questions directly. Ellina Yin spoke in support of expanding the size of Council because would increase representation in the ever-growing city of San José. Sam Gordon, volunteer for Californians for Electoral Reform, encouraged the Commission to explore plans to prevent gerrymandering for any future district changes and suggested alternatives to increasing the number of Councilmembers by implementing the idea of multi-winner districts.

Action: Commissioner Posadas proposed a motion to move forward the third draft recommendation from the Voting and Elections subcommittee regarding expanding the City Council, with the modification to the recommendation that the number of Councilmembers expand to a range of between 12 and 14 members, in addition to the Mayor. This motion was seconded by Commissioner T. Tran.

Action: A friendly amendment to Commissioner Posadas' motion was proposed by Commissioner Segol to add that the expansion of Council size be reviewed with an equity lens. Commissioners Posadas and T. Tran accepted the friendly amendment.

Action: A substitute motion was proposed by Commissioner H. Tran and seconded by Commissioner Amador to transfer the topic of expanding the City Council size to the Governance Structure subcommittee. The Commission voted to accept the substitute motion. (19-1-2; Noes: LeZotte; Absent: Segura, Sanchez)

Draft Recommendation #4: Elevating the Board of Fair Campaign and Political

Practices (BFCPP)

Public Comment: Robert Brownstein expressed reservations that the people appointed to the BFCPP are not allowed to have any political affiliation, going on to say that the members of the board potentially should have some political background in order to complete their task most effectively. Paul Soto appreciated Commissioner Monley's addressal of the City's historical injustices, and he also highlighted the need to address institutionalized racism within policy. Roland opposed campaign funding from the City's General Fund and proposed that a checkbox be placed on Federal tax returns, allowing individuals to choose if they would like to donate to elections. Blair Beekman appreciated that elevating the BFCPP ties into the future of open public policies and open democratic ideals which would help everyday citizens from the community run for office. Tessa Woodmansee appreciated the proposed financial transparency for future campaigning and also the idea of public campaign financing.

Action: Commissioner T. Tran proposed a motion, which was seconded by Commissioner Monley, to move forward the fourth draft recommendation from the Voting and Elections subcommittee regarding the elevation of the Board of Fair Campaign and Political Practices.

Action: A friendly amendment to Commissioner T. Tran's motion was proposed by Commissioner Matsumura for the subcommittee to specifically address the concerns raised by Bob Brownstein and Roland. Commissioners T. Tran and Monley accepted the friendly amendment. The Commission voted to move the fourth draft recommendation of the Voting and Elections subcommittee forward. (16-3-3; Noes: Diep, Gilman, Maitski; Absent: Amador, Sanchez, Segura)

b) Governance Structure Subcommittee Recommendations.

[This item was tabled until the next Charter Review Commission meeting on 8/23/2021.]

c) Subcommittee Reports.

Action: Commissioner Segol proposed that during the next four meetings, the Commission designate educational speaker time for the Policing, Municipal Law, Accountability, and Inclusion (PMLAI) subcommittee's topics. The distinction was made that the time equivalent to four speaker days shall be dedicated to the PMLAI topics. If other topics arise that require the Commission's attention, the time in the next four meetings may be shared with other business, as long as the time equivalent to four speaker days is dedicated.

Public Comment: Paul Soto urged the Commission to operate from the position that it does not understand the lived experiences of the community and must listen more in order to process democratic expression effectively. Blair Beekman complimented the Commission's addressal of progressive topics and prioritization of good community practices in its work. Robert Brownstein expressed the belief that the Policing, Municipal

Law, Accountability, and Inclusion subcommittee should be allotted additional time. Ellina Yin agreed that additional educational days are needed for the Policing, Municipal Law, Accountability, and Inclusion subcommittee. Roland stated that the more time the Commission spends on the additional topics, the more likely they are to provide the best possible recommendations; he also wished for public comment to be taken before any items are tabled in the future.

Action: A friendly amendment to Commissioner Segol's motion was proposed by Vice Chair Johnson to donate the time currently allotted to the Governance Structure subcommittee in the coming meetings to the PMLAI subcommittee. Commissioners Segol and Callender accepted the friendly amendment. The Commission voted to accept Commissioner Segol's motion. (18-2-2; Noes: Gilman, LeZotte; Absent: Sanchez, Segura)

VIII. Public Comment/Open Forum

1. Paul Soto spoke of the Police Department's history in San José, highlighting the importance of appealing to the community for constructive feedback.
2. Blair Beekman hoped for the Commission to include ideas of reimagined equity and open democratic processes in its upcoming educational phase, and also wished for subcommittee meeting minutes to be made public.
3. Roland appreciated the manner in which the latter half of the meeting was conducted and highlighted that consensus among numerous commissioners was just achieved, serving as an example of how consensus could also be achieved in an expanded City Council.

IX. Meeting Schedule and Agenda Items

The next meeting is scheduled for August 23, 2021.

X. Adjournment

The Commission adjourned at 11:01 p.m.