

San José Charter Review Commission Recommendation Memo - Expansion of Mayoral Powers

Instructions

1. Complete sections 1 -3 below.
2. Rename document. Replace everything after the “ -” in the document name with the proposal name.
 - a. Example: “SJ CRC Recommendations Memo **Ranked Choice Voting**”
3. When ready, email to the Commission Secretary (CharterReview@sanjoseca.gov) for posting to the appropriate subcommittee or full Commission. Final deadline for submitting subcommittee recommendations is 12 noon on the following dates:
 - a. Friday, July 26 for Voting & Elections Subcommittee
 - b. Friday, August 23rd for Governance Structure Subcommittee
 - c. Friday, September 3rd for Policing & Municipal Law, Accountability & Inclusion Subcommittee

1) Proposal Name

Proposal Name:	Expansion of Mayoral Powers
Submitted by:	Christina Johnson
Date submitted:	October 12, 2021

2) Proposal Details

<p>1) What problem(s) are you trying to address? <i>Before suggesting a solution, it is important to be clear about the problem you aim to solve.</i></p>	<p>Per Council, the Charter Review Commission has been tasked with the following directives, specifically the following directives pertain to the Governance subcommittee:</p> <p>(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;</p> <p>(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.”</p> <p>(5) Consider additional measures and potential charter amendments, as needed, that will improve accountability, representation and inclusion at San José City Hall.</p>
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2) How has this problem possibly benefited or burdened people, especially BIPOC, low-income, undocumented and immigrant, those experiencing homelessness, etc.?

Is there data that speaks to the impact of this problem? What does the disaggregated data tell us?

Upon review and research expanding Mayoral Powers under the Mayor-Council Form of Government is in direct conflict of Council directive “5. Consider additional measures and potential charter amendments, as needed, that will improve accountability, representation, and inclusion at San José City Hall.”

This measure will not improve accountability, representation, or inclusion at San José City Hall for the following reasons:

(1) If 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. Residents in the council districts won’t 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 how incredibly diverse 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 District 10, 9, 8, 4. Whereas, low-income households are in District 3, 5 and 7¹. 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

¹ City of San Jose Median Household Income by Census Tract, <https://www.sanjoseca.gov/home/showpublisheddocument/23727/636689372321270000>

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 the 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 knew who their neighbors are, it is not in San José's DNA to centralize power into one seat. We need to enhance what we already have.

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 residents in San Jose.

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, 2021².

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

² April 5th Charter Review Commission Meeting, <https://youtu.be/fMrfZQYlvOI>

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.

3) What change are you proposing?

Describe the revision to [San José's Charter](#) that you are proposing. Include relevant Charter section numbers.

According to Section 700 of the current City of San José Charter, “The Mayor shall nominate one or more candidates for Council consideration for appointment to the position of City Manager.”³

I recommend editing section 700 to increase equitable practices by allowing City Council members also to make nominations: “The Mayor and members of the Council shall have the ability to nominate prospective City Managers for a majority vote approval of City Council (including the Mayor).

Strong political leadership isn’t the only thing needed to build a thriving and equitable community. We also need intentional and thoughtful council members who will work hard to understand their constituencies and their needs, and 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 time⁴. 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 703⁵. 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 a recall election.

³ See Charter Section 700

⁴ See Charter Section 702

⁵ See Charter Section 703

<p>4) Is this change feasible? <i>Think through the revision you are proposing. Is it legally possible? Is it practical? If there are questions you cannot answer, list them here.</i></p>	<p>Yes, it is feasible to empower the council districts to increase representation. I recommend adding “Council” to section 700 to increase equitable practices: “The Mayor and Council shall have the ability to nominate a City Manager for a majority vote (perhaps using Vote Choice Ranking) approval of City Council (including the Mayor).⁶</p> <p>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.</p>
<p>5) Who might benefit from or be burdened by this change? <i>Is there data that speaks to the potential impact of this change? What are the potential unintended consequences of this change?</i></p>	<p>Everyone including the Mayor will benefit from keeping our governance structure the same, as it maintains equity in the process.</p> <p>In this amendment 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.</p>

⁶ See Charter Section 700

6) What are the arguments against this proposal?

Summarize the arguments you expect or data you have found in opposition to this recommendation.

The two main arguments for expanding Mayoral powers is that 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.⁷

Former Mayor Ron Gonzales also shared in our study session on April 5 that under our current governance structure the mayor already has enhanced powers⁸. An example of this is the ability of the mayor to do 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.

⁷ San Jose makes progress on mayor's ambitious green vision, <https://www.mercurynews.com/2008/10/05/san-jose-makes-progress-on-mayors-ambitious-green-vision/>

⁸ April 5th Charter Review Commission Meeting, <https://youtu.be/fMrfZQYlvOI>

<p>7) Must this be a Charter revision? <i>Can this problem be addressed without changing the charter (e.g., Council action, cultural change)? If not, should this be a policy recommendation to be included in the Commission's report?</i></p>	<p>Yes, this would have to be a charter revision.</p>
<p>8) Are there other examples of this change? <i>If you have found other examples of this change, please share them and any outcomes that have been observed.</i></p>	<p>Cities that have considered changing their governance structure to Mayor - Council but ultimately voted against it i.e. Sacramento and Austin</p> <p>Cities that have adopted a strong mayor form of governance i.e. San Diego, Los Angeles, San Francisco, Houston, Chicago, New York, and Philadelphia.</p>

3) Proposal Research & Citations

List below the results of any research conducted to inform this memo.

<p>List of citations <i>All data must be cited so that Commissioners who are not part of the Subcommittee in question may locate the source of information as needed.</i></p>	<p>Svara, James H. “Effective Mayoral Leadership in Council-Manager Cities: Reassessing the Facilitative Model.” <i>National Civic Review</i>, vol. 92, no. 2, 2003, pp. 157–172., doi:10.1002/ncr.14.</p> <p>Gould, Eric D., and Alexander Hijzen. <i>Growing Apart, Losing Trust? The Impact of Inequality on Social Capital</i>. International Monetary Fund ,23 Aug. 2016, www.imf.org/external/pubs/ft/wp/2016/wp16176.pdf.</p>	
<p>Any speakers who presented to the subcommittee must be listed. <i>Include name, title, affiliations, etc., along with a brief summary of the information presented by them.</i></p>	<p>N/A</p>	

<p>Relevant Links</p> <p><i>Provide links or locations of the information in this research as much as possible, otherwise provide attachments.</i></p>	<p>https://icma.org/sites/default/files/Survey%20Research%20Snapshot_MFOG.pdf</p> <p>https://www.dmagazine.com/frontburner/2021/02/could-dallas-reform-its-government-without-going-full-strong-mayor/</p> <p>https://www.bloomberg.com/news/articles/2014-07-31/strong-mayor-weak-mayor-no-mayor-in-terms-of-policy-it-may-not-matter-much</p> <p>https://ctausanovitch.com/Municipal_Representation_140502.pdf</p> <p>https://www.sacbee.com/news/politics-government/election/article246811372.html</p> <p>https://www.nlc.org/resource/forms-of-municipal-government/</p> <p>https://communityimpact.com/austin/central-austin/government/2021/01/12/potential-strong-mayor-system-in-austin-would-be-weakest-of-any-big-city-in-the-country-supporters-say/</p> <p>https://www.mercurynews.com/2008/10/05/san-José-makes-progress-on-mayors-ambitious-green-vision/</p> <p>https://www.capradio.org/articles/2020/08/04/if-strong-mayor-goes-to-sacramento-voters-how-will-it-impact-their-everyday-lives/</p> <p>https://now.tufts.edu/articles/local-governments-favor-white-and-wealthy</p> <p>https://review.law.stanford.edu/wp-content/uploads/sites/3/2017/02/69-Stan-L-Rev-549.pdf</p> <p>https://www.academia.edu/31986476/Effective_mayoral_leadership_in_council_manager_cities_Reassessing_the_facilitative_model</p>	
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<https://www.census.gov/quickfacts/fact/table/sanJosecitycalifornia,US/PST045219>