



City of San José

Neighborhoods Commission

March 13, 2015

Honorable Mayor Liccardo and Councilmembers
City of San José
200 East Santa Clara Street
San José, CA 95113

re: Recommendations for the San José Police Department "Unmanned Aerial System" (UAS)

Dear Mayor and Councilmembers,

The San José Neighborhoods Commission, at the request of the San José Police Department, has worked with the community and the Department to develop a recommended set of policies and protocols for your consideration. These are documented in the accompanying report, along with a description of the public process by which they were developed.

The Department procured the UAS for a very limited set of specific purposes. Members of the public heard the words "Police" and "Aerial" and began to fear the Department was implementing an aerial surveillance program, which is far from the reality. By publicly and openly working with the community on the drafting of the rules for a limited one-year Pilot Program, the Department has gone a long way towards reassuring the public and regaining their support. The Commission also recommends that it and the community should be involved in a public review before any changes or extensions in the UAS Program.

We thank San José Police Department Deputy Chief Dave Hober and his team of Officers in supporting the Neighborhoods Commission in the community outreach and in the process of developing the recommended policies and protocols for the Pilot Program.

The Neighborhoods Commission is pleased to have been able to help the City and the San José Police Department on this issue, and we would be pleased to help with other similar community issues in the future.

Dr. Lawrence Ames
Chair, San José Neighborhoods Commission.



City of San José Neighborhoods Commission

Report to San José Mayor and City Council

**PILOT PROGRAM:
THE SAN JOSÉ POLICE
DEPARTMENT'S
UNMANNED AERIAL SYSTEM
("UAS")**

Report Dated: March 13, 2015

Introduction

The San José Neighborhoods Commission has been chartered by the City of San José to represent neighborhood interests and concerns on matters of Public Safety, Transportation, Budget and Quality of Life in neighborhoods of San José.

The San José Police Department recently procured an Unmanned Aerial System (UAS). The Department asked the Commission to work with it and the public to develop recommendations for policies and protocols for the UAS.

The Commission worked with the Department to host a series of public meetings over the period November 2014 to March 2015 to collect community input (see the Appendix). The Commission also received community input by email and an informal on-line survey. The Commission has considered all this public input, as well as input from the Department, and now makes the recommendations given below.

The purpose of this report is to forward these recommendations to the San José City Council for consideration and possible adoption.

Overview

The Department procured the UAS for very specific purposes:

- as a tool to assist the Bomb Disposal Unit, and
- as a tool to assist in the case of an Active Shooter or other “exigent” situation.

While the public overall seems to be accepting of these specific uses as proposed by the Department, it does have concerns about surveillance and personal privacy. The Department appreciates these concerns and affirms that there is no intent to collect surveillance data or to infringe upon the public’s privacy.

By adopting a strict set of policies and protocols for the Department’s use of the UAS, the Council can reassure the public that the Department will only use the UAS for the intended purposes and will not collect surveillance data nor infringe upon the public’s privacy.

Recommendations

The Commission recommends that the City of San José Mayor and Council approve the use of a single Unmanned Aerial System (UAS) by the San José Police Department for a Pilot Program of one year duration, subject to the limitations and conditions listed below. For the purposes of these recommendations, the UAS is considered to be comprised of one aerial unit, a camera (with mount and actuators), communications electronics, a ground-based control unit, and supporting electronics, along with associated spare parts and peripheral equipment.

The Pilot Program is recommended to be for a one-year period, beginning upon letter of the receipt of approval from the Council and from the Federal Aviation Administration (FAA).

The Commission recommends that the Department Chief will designate a Command Officer (CO) who will be responsible for the UAS. If the CO is temporarily unavailable, the Chief may delegate control of the UAS to an acting CO.

The UAS will always be under the control of the CO:

- The CO will be responsible for the operation of the UAS. The UAS may be operated by a properly trained and authorized Officer under the immediate supervision of the CO.
- The UAS will be operated in accordance with all City, State, and Federal regulations, and in accordance with all Constitutional guarantees.
- The UAS will not be lent out to another department or organization.
- Training and demonstration flights of the UAS will only be in or over areas under Department control, such as Departmental Training fields.
- The UAS will only be used in two situations:
 - (1) in support of the Bomb Disposal Unit, or
 - (2) in an “exigent situation”, such as in the case of an “Active Shooter”.
- In the case of use in an “exigent situation”, the Department Chief will notify the Council and the Office of the Independent Police Auditor of the use and the outcome within 5 business days.
- The UAS will not be used for enforcement, pursuit, or any surveillance not directly relating to the situations explicitly listed above.
- The UAS will be transported to the vicinity of its use by the CO by ground transportation (e.g., truck or van): to the extent practical, it will not be flown over people or property not directly associated with the specific purpose.
- The UAS will be configured to be readily identifiable by the public by the appropriate use of markings and identifying lights.
- The UAS will not store imagery: the camera and the receiving system will both be configured for direct imagery only.
- The UAS image downlink will be configured to assure secure communications so that image data is not received by unauthorized parties.
- The UAS command and control will be configured to assure secure communications so that the UAS cannot be hijacked or otherwise controlled by unauthorized parties. Unused communication channels (e.g., IR, RF, or Bluetooth) will be disabled for security.
- When not in use, the UAS will be secured both physically and electronically by the CO.
- The UAS or any component thereof will not be released to any other parties except by Court Order.

Capabilities of the UAS:

- The UAS will not be armed with weapons, including projectiles, aerosols, jammers, lasers, or sonic devices.
- The UAS will only acquire image data in the visible band.
- The UAS will not be equipped with a telephoto lens.
- The UAS will not be equipped with electronic eavesdropping equipment, cellphone relay simulator, electronic sniffers, biometric identification devices, license-plate readers, or other surveillance equipment.
- The Department will not make any enhancements to the capabilities of the UAS during the Pilot Program.

The Department will keep records of the use of the UAS:

- Indicating whether the use was for training, as a demonstration, or for a situation; and
- Indicating the purpose, location, flight time, operator, authorizing CO, whether the UAS was effective, and the outcome of the event.

The Department will give quarterly reports during the Pilot Program to the Council and the Commission.

After nine months into the Pilot Program, the Department will give timely recommendations to the Commission as to whether the Department wants to extend the Pilot Program and what changes if any it would recommend in the capabilities, policies, or protocols. The Commission will seek additional public comment, discuss the results of the Pilot Program and suggested changes, and then submit the Commission's recommendations to the Council in time for its deliberations on the UAS Pilot Program.

If the Council extends the UAS Pilot Program or makes it permanent, the Commission recommends that the Council require the Department to give an Annual Report on the UAS Program to the Council. Additionally, the Council should require the Department to obtain Council approval prior to making any changes in the UAS program, such as quantity, capability, policies or protocols. The Commission strongly recommends that the Department engage the Commission and the public in both the annual reporting process and in any requested changes in the UAS Program.

Conclusion

The Commission shares the Department's view that the UAS can be a useful tool, one that can help the Department to serve and protect the public.

The Commission also shares the concerns of the public that UAS technology is likely to continue to improve, and that it might be possible to misuse the technology in a manner that could infringe upon the public's privacy or safety.

The Commission believes that if the Department continues to work openly with the Council, the Commission, and the public, the public's concerns can be alleviated and the Department will have a successful UAS Program.

The Commission respectfully requests that the Council adopt these recommendations.

Dr. Lawrence Ames,
Chair, San José Neighborhoods Commission

Appendix

Supporting Materials:

Information on the Unmanned Aerial System (UAS) is available from the city's website: <http://sanjoseca.gov/UAS>

Meetings:

To develop these recommendations, the Neighborhoods Commission worked extensively with the San José Police Department and the Community over an extended period of time and at various locations across the city:

- Neighborhoods Commission monthly meeting, Wednesday, Nov. 12, 2014, 6:30 – 9:00 PM downtown at City Hall, West Wing.
- Special Session hosted by the Commission, Saturday, Dec. 6, 2014, 10 AM – noon downtown at City Hall, West Wing.
- Special Session hosted by the Commission, Saturday, January 17, 2015, 1 – 3 PM, in western San José at the West Valley Branch Library, 1243 San Tomas Aquino Rd.
- Special Session hosted by the Commission, Saturday, Feb. 14, 2015, 10 AM – noon, in eastern San José at Mayfair Community Center, 2039 Kammerer Ave.

Over 200 members of the public participated in person at the above discussions. (Informal notes of the meetings can be found on-line from links given in <http://wgbackfence.net/NC/>)

At the November Commission meeting, Commissioners asked the Department to create a preliminary set of proposed policies and protocols. (In the aerospace industry, such a draft is called a “straw man” – something to take shots at). The Department presented their straw-man document to the Commission (see <http://www.sanjoseca.gov/DocumentCenter/View/38118>), and they shared it with the public.

Outreach:

Video Outreach:

Videos were made of the public meetings that showed the Department's presentation and the subsequent Q&A sessions. These videos were placed on YouTube and they have been viewed by roughly 600 individuals:

- 11/12/15 Commission Meeting: <https://www.youtube.com/watch?v=3liS6B3vnJ4>
- 12/6/15 Community Meeting: <https://www.youtube.com/watch?v=lqRkr90YtE0>

On-line Survey:

An informal online survey was launched shortly after the Department made its introductory presentation to the Commission in November, 2014. The survey questions were based on the discussion and public comments from that Commission meeting. The community was informed of survey and encouraged to participate. The survey was announced at Commission meetings, at neighborhood outreach events, and via email to community networks throughout the city.

Note: at the first Special Session public outreach meeting in December, 2014, the Department presented the draft Pilot Program (straw-man) policy, clarifying that they had no intent to use the UAS for monitoring or surveillance. The survey remained open during this time and for the next two months, but the questions remained unchanged.

The results of the 10 week long poll:

1. Should the San Jose Police Department use a drone?

Yes 340 (56%) No 177 (29%) Undecided or Unsure 83 (13%) Total: 600

2. Should the San Jose Police Department use the drone for bomb threat situations?

Yes 435 (71%) No 130 (21%) Undecided or Unsure 43 (7%) Total: 608

3. Should the San Jose Police Department use the drone for "active shooter" situations? An active shooter is defined by the U.S. Department of Homeland Security as "an individual actively engaged in killing or attempting to kill people in a confined and populated area; in most cases, active shooters use firearm[s] and there is no pattern or method to their selection of victims."

Yes 439 (71%) No 133 (21%) Undecided or Unsure 39 (6%) Total: 611

4. Should the San Jose Police Department use the drone to monitor protests or mass demonstrations?

Yes 244 (40%) No 307 (50%) Undecided or Unsure 58 (9%) Total: 609

5. Should the San Jose Police Department use the drone for surveillance purposes?

Yes 185 (30%) No 329 (53%) Undecided or Unsure 97 (15%) Total: 611

6. I am a: Business Owner 98 (11%) Homeowner 479 (53%) Renter 75 (8%)
Parent 200 (22%) Student 38 (4%) Total: 890

District Outreach:

Individual Commissioners held various local discussions. For example, the District 6 Neighborhood Leaders Group (D6NLG) discussed the topic at their Winter 2015 meeting, Thursday, Jan. 29, 2015, at the Bascom Community Center, 1000 S. Bascom Ave. (Charts and meeting notes are online at <http://wgbackfence.net/NC/>)

Discussion Process:

At the November 2014 Commission meeting, Commissioners asked the Department to

create a preliminary set of recommendations. The Commission has incorporated many of these “straw-man” points into the set of recommendations presented here. However, as some of the items listed in the straw-man pertain more to FAA regulations (e.g., limitations on height of flight, the need for line-of-sight control) or to capabilities of the particular instrument (e.g., duration of flight, maximum acceptable wind speeds) and so do not address the public’s concerns about privacy, the Commission did not see the need to include them in our set of recommendations.

The Neighborhoods Commission discussed the UAS program internally at the monthly Commission meeting, Wednesday, Feb. 11, 2015, 6:30 – 9:00 PM at City Hall, West Wing. At that meeting, an ad-hoc committee was selected to begin drafting the Commission’s Recommendations and Cover Letter. This committee, comprised of Larry Ames, Juan Estrada, David Dearborn, Gary Cunningham, and Norma Callender, all met in person on Saturday, Feb. 21st, to review all the collected data, survey results, etc., and to begin the drafting process. Communications within the ad-hoc committee continued afterwards via the exchange of email.

This final document was approved by the Commission at the Neighborhoods Commission monthly meeting, Wednesday, March 11, 2015, 6:30 – 9:00 PM, downtown at City Hall, West Wing.

Final Thoughts:

We believe the proposed policy for the limited use of the UAS is reasonable, and also that the public outreach has been of value. Many of the recommendations presented here were in the Department’s straw-man Draft Policy of December 2014. Public comment from the discussions and Q&A, both at the monthly Commission meetings and at the Special Session Public Outreach meeting, have informed our discussion and have been included in the final recommendations presented here.

This discussion on the policies and protocols for the UAS pilot program has provided an opportunity for the Department and community to develop trust in the prudent and lawful use of the UAS.

We feel that the Neighborhoods Commission has fulfilled its purpose by collecting public comment and melding it into a concrete set of recommendations for Council’s consideration. We look forward to providing comparable service under future similar circumstances.

As Chair, I wish to thank the Department for working with the Commission and the public, the public for their participation and support, and the Commission and the ad-hoc Committee for a job well done.

We look forward to addressing any questions you may have, and to working with you on future issues of neighborhood interest.