

# Subcommittee Topics and Assignments FINAL

*Drafted May 11th, 2021; Revised June 30th, 2021*

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### [Subcommittee Topics](#)

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## Subcommittee Assignments

1. Governance Structure	2. Voting & Elections	3. Policing, Municipal Law, Accountability & Inclusion
Barousse	Monley	Amador
Diep	Percival	Segura
Fuentes	Robledo	<b>Segol</b>
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Lezotte	<b>H. Tran</b>	Callender
Maitski	T. Tran	
<i>Barocio</i>	<i>Posadas</i>	
<i>Marshman</i>		
<i>Matsumura</i>		
<b>9</b>	<b>7</b>	<b>5</b>

## Subcommittee Topics

### 1. Governance Structure

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”;***

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

### **Description:**

*Review, evaluate, and provide recommendations to the full Commission on ideas around the structure of our City Government, including mayoral powers, emergency powers, and authority over the City Manager and department directors. In addition to taking up issues relating to directives #1 and 2 from City Council to the Commission, this subcommittee would provide recommendations on any additional issues relating to governance structure and public oversight mechanisms for City Council’s direct appointees.*

### **Topics:**

- Include process for a 10 year review of City Charter
- Expand Mayoral power
  - A stronger role in hiring and firing department heads, maybe more direct authority over the city manager.
  - Expand the budget authority of the Mayor. Right now the Mayor provides board guidelines, Council has to support that, and it goes to the City Manager to expand on the details. The Mayor’s budget office could be expanded to go into more detail on how the budget is put into effect.
- Look at expanding emergency powers of Mayor
  - Think about particular situations that require additional powers (ex: coyote creek flooding)
- **Mayor-Council changes to governance structure** (outlined in a memo by Vice Mayor Jones<sup>1</sup> & CM Jimenez<sup>2</sup> with additions from CM Khamis<sup>3</sup> and CM Diep)
  - A. Section 300 of the City Charter is amended to define the government form as “Mayor Council.”
  - B. The Mayor shall have the authority to appoint, direct and dismiss the City Manager.
    - i. **CM Khamis addition:** “Before appointment of a City Manager takes effect, the appointment of the City Manager must be brought to the next regularly-noticed Closed Session of the City Council. The City Council may reject the proposed appointment by a 7-vote supermajority of the City Council, otherwise the Mayor’s appointment

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<sup>1</sup> [Councilmember Jones’s Memo dated 6/23/2020:](http://sanjose.legistar.com/gateway.aspx?M=F&ID=09e12de7-a976-4732-a724-43cd7b19e878.pdf)

<http://sanjose.legistar.com/gateway.aspx?M=F&ID=09e12de7-a976-4732-a724-43cd7b19e878.pdf>

<sup>2</sup> [Councilmember Jimenez’s memo dated 6/23/2020:](https://sanjose.legistar.com/gateway.aspx?M=F&ID=84bb6825-fd67-4a91-8be0-f862c8386c6b.pdf)

<https://sanjose.legistar.com/gateway.aspx?M=F&ID=84bb6825-fd67-4a91-8be0-f862c8386c6b.pdf>

<sup>3</sup> [Councilmember Khamis’ memo on 6/28/2020:](https://sanjose.legistar.com/View.ashx?M=F&ID=8640999&GUID=A67A9A70-9E0E-401B-AC0A-F46598C3353D)

<https://sanjose.legistar.com/View.ashx?M=F&ID=8640999&GUID=A67A9A70-9E0E-401B-AC0A-F46598C3353D>

## San José Charter Review Commission Subcommittee Topics and Assignments

will take effect and will be announced at that same day's Open Session meeting."<sup>4</sup>

- C. The City Manager shall continue to appoint, direct and dismiss department heads, with a majority of Council approval required for appointment.
- D. The Mayor shall have the power to direct (amending Charter Section 411):
  - i. The City Manager;
  - ii. all Department heads (a power also shared with the City Manager);
  - iii. any member of the Mayoral office staff; but,
  - iv. not any other city employee, nor any other Council appointee (City Attorney, City Auditor or Independent Police Auditor).
  - v. **CM Khamis Addition:** "The Mayor cannot direct the City Manager or Department Heads to withhold material information from members of the City Council nor direct the City Manager nor Department Heads to de-emphasize material information shared with members of the City Council."<sup>5</sup>
- E. Both the Mayor and the City Manager have the authority to dismiss department heads.
  - i. If a department head is dismissed by the Mayor or City Manager, the Mayor or City Manager will promptly notify the Council, and the dismissal will be agendized at the next Council meeting at least 72 hours following such notification. If a 2/3s supermajority of the Council votes to overturn that dismissal, the department head will be reinstated.
    - 1. **Khamis suggested revision to E.1:** "Before the City Manager or a department head is dismissed by the Mayor, as regards either, or City Manager, as regards department heads, the Mayor or City Manager will promptly notify the Council, and the proposed dismissal will be agendized at the next Closed Session meeting at least 72 hours following such notification.<sup>6</sup> If, by a 7-vote supermajority, the City Council votes against dismissal, the department head will not be terminated."
  - ii. The changes in the Charter giving the Mayor the authority to dismiss the City Manager and department heads shall not take effect until July 1, 2023.
- F. The Office of the City Clerk shall become a department appointed by the City Manager, directed and subject to dismissal by the Mayor and City Manager.

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<sup>4</sup> [Councilmember Khamis' memo on 6/28/2020:](https://sanjose.legistar.com/View.ashx?M=F&ID=8640999&GUID=A67A9A70-9E0E-401B-AC0A-F46598C3353D)

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<sup>5</sup> [Councilmember Khamis' memo on 6/28/2020:](https://sanjose.legistar.com/View.ashx?M=F&ID=8640999&GUID=A67A9A70-9E0E-401B-AC0A-F46598C3353D)

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<sup>6</sup> [Councilmember Khamis' memo on 6/28/2020:](https://sanjose.legistar.com/View.ashx?M=F&ID=8640999&GUID=A67A9A70-9E0E-401B-AC0A-F46598C3353D)

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- G. Consistent with the current provisions in the Charter, the Mayor shall have the authority to propose, and the Mayor and Council shall, through a vote of the majority, have the authority to appoint, direct, and dismiss:
    - a. The City Attorney
    - b. The City Auditor
    - c. The Independent Police Auditor
  - H. Executive staff for the City Manager, such as Deputy City Manager, Assistant City Manager(s), Chief of Staff and other positions directly supporting the City Manager shall continue to be appointed, directed and dismissed by the City Manager.
  - I. Nothing in these reforms alters Charter Section 502(g), in which the Mayor shall continue to have the authority to direct the Public Information Office of the City, which is distinct from regular communications staff and functions that are associated with the mayoral office.
  - J. Nothing in these reforms alters Charter Section 400, in which the determination of all matters of policy is vested with the Council.
- **CM Diep's additions to the Mayor-Council ballot measure proposal memo** authored by Vice Mayor Jones and Councilmember Jimenez:<sup>7</sup>
    - 1. Keep the mayor as a member of the council, but only as a tie-breaking voter;
    - 2. Not require the mayor to attend city council meetings;
    - 3. Designate the Vice Mayor as the person who chairs council meetings;
    - 4. Clarify that the Charter would be amended to adopt the full language of Government Code §84308, which only requires recusal from a vote for contributions valued at over \$250 or more;
    - 5. Require the City Attorney's office to keep track of campaign finance disclosures from the mayor and council members and affirmatively notify them when they must recuse themselves from votes.
  - **CM Diep's separate proposal for a government structure reform ballot measure:**<sup>8</sup>
    - 1. Establish a mayor-council form of government for San José, empowering the mayor's office as a true executive beginning July 1, 2023 with authority to:
      - a. Unilaterally hire and dismiss the city manager and department heads except for the City Attorney, the Independent Auditor, the Independent Police Auditor, the City Clerk, and the director of the Budget Office, who shall be appointed and dismissed by a majority of the City Council;
      - b. Veto legislative actions (not hiring decisions) by the City Council, which may be overridden by a two-thirds council majority;
      - c. Exist as head of the executive branch, separate from the City Council, not entitled to a vote in council deliberations nor required to attend council meetings;

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<sup>7</sup> [Councilmember Diep's Memo dated 6/28/2020:](https://sanjose.legistar.com/View.ashx?M=F&ID=8638966&GUID=CE57D9A0-FE02-4EDC-BE1F-DB92AC760C9E)

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<sup>8</sup> [Councilmember Diep's Memo dated 6/28/2020:](https://sanjose.legistar.com/View.ashx?M=F&ID=8638966&GUID=CE57D9A0-FE02-4EDC-BE1F-DB92AC760C9E)

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- d. Propose an annual budget for consideration by the City Council to reconcile with their own proposed budget;
  2. Empower the City Council to pass ordinances and take budgetary actions in accordance with the process already established, without necessitating approval from the Mayor, although the Mayor may exercise a veto over legislation passed by a simple majority;
  3. Create the office of Councilmember-At-Large, to be elected by a majority of the citywide electorate, during midterm election years, beginning in 2022;
  4. Eliminate the ceremonial role of Vice Mayor and create the role of Council Speaker – to be elected by a majority of councilmembers every two years – tasked with chairing council meetings, assigning committee assignments to councilmembers, leading the annual process of authoring a Council-proposed budget to be reconciled with the Mayor’s annual budget proposal;
  5. Limit the maximum campaign contribution candidates running for city council or mayor may receive from a single entity to the equivalent of earnings from 40 hours of work at San José’s minimum wage, rounding up or down to the nearest \$25 increment.
- Checks to expanded Mayoral power
    - With Mayor-Council form of government, consider adding a budget analyst for the Council (ex: San Diego)
    - Look at extending/limiting term limits for Mayor / Council
    - Expand size of Council
      - Think about the size of the Council at some point if there is a move towards a Mayor-Council system - in almost all of those models the Mayor no longer sits and votes as a part of the Council.
    - Options for Mayoral veto power:
      - Maximum veto power is line-item veto power.
      - Veto generally takes a two thirds majority to override.
  - Other:
    - Considerations from public:
      - Would Strong Mayor would reduce representation?
      - Options to get best of both models - representation while being responsive to needs
    - Enough staff resources to City Clerk to ensure translation
    - Continuing virtualized meetings

### Further Resources:

- Memorandum from City Attorney: Consideration of a Ballot Measure to Amend the City Charter (7/17/2020)<sup>9</sup> - Outlines the terms of a proposed ballot measure to amend the City Charter.

## 2. Voting & Elections

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

**Context:** The Fair Elections Initiative sought to increase voter participation by aligning the Mayor's electoral year to a presidential year and give constituents an equal voice in government by limiting campaign contributions from special interests. It aimed to put this measure on the November 2020 ballot and gained 66,776 valid signatures but fell short by 2,248. The next ballot where moving the Mayor's race could be added to the ballot is 2024.

### Description:

*Review, evaluate, and provide recommendations to the full Commission on ideas relating to elections and voting, including the timing of elections as defined in the City Council directives, instant run-off elections, and campaign finance.*

### Topics:

- Amend the City Charter in the manner of the March, 2015 Measure 1 in the City of Los Angeles and move the next mayoral election to the November 2024 general election, and extend the term of the current mayor to December 31, 2024 (*Ballot Measure Language*<sup>10, 11</sup>)
  - "Instead of a two-year extension to the terms, create a special two-year term from 2022 to 2024 that would not count as a "term" for purposes of term limits." (*CM Arenas modification*<sup>12</sup>)
- Move the mayoral election to the 2024 election year, aligning the mayor's race with the presidential election, and extending the current mayoral term by two years. (*Lan Diep Proposal*<sup>13</sup>)
- Look different models to improve candidate turnout (e.g., multi-choice / ranked choice voting systems)

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<sup>10</sup> [Councilmember Jimenez's memo dated 6/23/2020:](https://sanjose.legistar.com/gateway.aspx?M=F&ID=84bb6825-fd67-4a91-8be0-f862c8386c6b.pdf)

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<sup>11</sup> [Councilmember Jones's Memo dated 6/23/2020:](http://sanjose.legistar.com/gateway.aspx?M=F&ID=09e12de7-a976-4732-a724-43cd7b19e878.pdf)

<http://sanjose.legistar.com/gateway.aspx?M=F&ID=09e12de7-a976-4732-a724-43cd7b19e878.pdf>

<sup>12</sup> [Councilmember Arenas's Memo dated 6/26/2020:](https://sanjose.legistar.com/View.ashx?M=F&ID=8638887&GUID=5D86F9D6-F85D-4778-8AE5-A8336A9C830C)

<https://sanjose.legistar.com/View.ashx?M=F&ID=8638887&GUID=5D86F9D6-F85D-4778-8AE5-A8336A9C830C>

<sup>13</sup> [Councilmember Diep's Memo dated 6/28/2020:](https://sanjose.legistar.com/View.ashx?M=F&ID=8638717&GUID=473A12B0-005D-4299-8AC8-DB99C59711C2)

<https://sanjose.legistar.com/View.ashx?M=F&ID=8638717&GUID=473A12B0-005D-4299-8AC8-DB99C59711C2>

- How to vote after a major earthquake? Shall the vote be postponed? Is there technology that can assist the vote?
- **CMs Carrasco & Esparza comment on which areas are in most need of engagement & representation and what's needed to address the root of the problem:**
  - To ensure equitable representation we have to make sure that the poorest and disenfranchised districts that have been historically redlined and pushed into areas such as Seven Trees, Washington, Mayfair, PocoWay, Monterey, Fair, Santee, and Tropicana that are represented by the odd districts have a higher voter turnout. Civic engagement tools must be designed to encourage voting, particularly for those who have become alienated from the democratic process and do not feel heard or represented by their elected leaders in government.<sup>14</sup>
- Other:
  - Electoral reform to make the elections much more fair and transparent, as wide and broad as it can possibly be
  - Include Ethics Commission / Board of Fair Campaign and Political Practices in Charter
  - Add more City Council districts

### Further Resources:

- Memorandum from City Attorney: Consideration of a Ballot Measure to Amend the City Charter (7/17/2020)<sup>15</sup> - Outlines the terms of a proposed ballot measure to amend the City Charter.

## 3. Policing, Municipal Law, Accountability & Inclusion

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

### Description:

*Review, evaluate, and provide recommendations to the full Commission on ideas relating to equity and accountability at City Hall and in policing and municipal law in San Jose, including the appointment and/or election of City officials, powers and responsibilities of the City Attorney, citizen review commissions, the composition and appointment of Boards/Commissions, a Charter Bill of Rights, and possible auditing and accountability models.*

### Topics:

- Directly elected Chief of Police
- Appointment of Citizen's Review Commission for Police Misconduct
- Directly elected City Attorney
- Include a Community Safety Charter

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<sup>14</sup> [Councilmembers Carrasco & Esparza Memo dated 6/26/2020](#)

<sup>15</sup>

<https://sanjose.legistar.com/View.ashx?M=F&ID=8682163&GUID=4DB3D97D-9DFF-4935-924A-84355DBA8020>



## San José Charter Review Commission Subcommittee Topics and Assignments

- Consider drafting and incorporating a Charter Bill of Rights (community rights, not police - as inspired by Detroit Charter Commission)
- Look at equitable/inclusive appointment of Commissioners, more transparent process with Commission work
  - Training on Board/Commission for prospective members
  - Democratic process for electing Board/Commission Chairs
  - Providing a stipend
  - Racial equity training
  - Ensure funding
- Citizen Technology Review Commission (suggested by Blair Beekman)
- Artificial intelligence (with regards to policing and beyond)
- Add a section around community engagement
- Civics education across city in multiple languages
- Explore “CEQA-like” process to ensure equity in Council decisions (require affirmative statements)
- Greenlining and impact on affordable housing
- Code enforcement accountability (by the numbers, not by equity)
- Slow speed of permitting within City impacts low-income people
- Address climate crisis
- **Recommendations put forth by Mayor Liccardo in a July 27, 2020 memo:**<sup>16</sup>
  - Halt political contributions and gifts to Council candidates from lobbyists, and halting gift-giving from for-profit City contractors;
  - Limit membership of City commissions from persons employed by for-profit entities with City contracts and lobbyists; and
  - Require councilmembers to recuse themselves from voting if they have accepted campaign contributions from individuals and organizations directly benefiting from Council votes within a specified duration;

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<sup>16</sup> [Mayor Liccardo's Memo dated 7/27/2020:](https://drive.google.com/file/d/112LD8riZXO53kYWM5KscnY-PFPCuBiAR/view?usp=sharing)  
<https://drive.google.com/file/d/112LD8riZXO53kYWM5KscnY-PFPCuBiAR/view?usp=sharing>