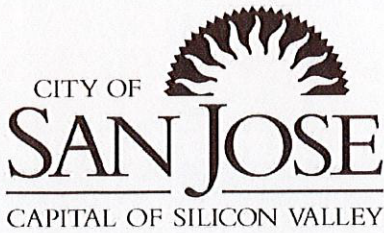


EXHIBIT A



200 E. Santa Clara Street, Tower 14th Floor
San José, CA 95113
(408) 535-1260 (main); (408) 292-6207 (Fax)
Email: city.clerk@sanjoseca.gov

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COMPLAINT FORM

BOARD OF FAIR CAMPAIGN AND POLITICAL PRACTICES

*Name: Joseph Barco

**Your name, address and phone number are required when submitting this form. If you wish to remain anonymous, you may call the Board of Fair Campaign and Political Practices Anonymous Complaint Hotline at 408-975-ANON (2666). (As noted on the instruction sheet, certain restrictions may apply.)*

Street Address: [REDACTED]

City: [REDACTED] State: [REDACTED] Zip: [REDACTED]

Phone: [REDACTED] (Home Work Mobile) Alt. Phone: [REDACTED] (Home Work Mobile)

E-mail: [REDACTED]

Complaint Type (Check all that apply. Specify the applicable Municipal Code section which forms the basis of the alleged violation. Failure to identify the specific section of the Municipal Code will result in the rejection of your Complaint, without prejudice.):

- Municipal Campaign & Officeholder Contributions (12.06): SJMC § 1010A
- Prohibition on Gifts (12.08): SJMC § 1010A
- Revolving Door Restrictions (12.10): SJMC § 1010A
- San José Municipal Lobbying (12.12): SJMC § 1010A
- Disclosure of Fund-raising Solicitations (12.16): SJMC § 1010A
- Income and Time Disclosure (12.19): SJMC § 1010A
- Appearance of Impartiality (12.22): SJMC § 1010A
- Political Sign placement or size violations—please call (408) 535-7770 directly or submit this form.

Political Sign complaints related to placement or size will be forwarded to Code Enforcement and NOT investigated by the Board of Fair Campaign and Political Practices. Only electioneering communication violations related to political signs are under the purview of the Board of Fair Campaign and Political Practices.

1. Who is the person(s) or organization(s)/committee(s) against whom you are filing a complaint (please provide name(s), address(es), phone number(s) and email address(es), if known):

Irene Smith for San José City Council D3 2022, FPPC# 1439434



2. Describe the complaint. State all facts as specifically as possible. (Attach additional pages if necessary)

Smith's campaign uses Medium.com to post campaign-specific materials. Medium.com is a paid membership site, making it an online platform, and posts are therefore advertisements, according to the definition in Cal § 84504.6. This requires disclosure, either directly in text or by hyperlink. Viewers are able to reach at least 8 advertisements without navigating through any disclosures. Several instances where no disclosure is made are appended to the complaint.

3. Provide the names, addresses, phone numbers and e-mail addresses of potential witnesses, if known:

N/A

4. Additional Information:

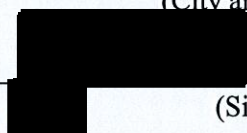
<https://medium.com/@irenesmithd3>

5. Documentation: Please attach copies of any available documentation (e-mails, letters, mailers, photos, etc.) regarding the alleged violation.

VERIFICATION

I certify under penalty of perjury under the law of the State of California that the above statements are true and correct.

Executed on 11/1/22 at San Jose, CA
(Date) (City and State)


(Signature)

CONFIDENTIALITY OF COMPLAINTS

No complaint, investigative file or information contained therein, shall be disclosed by any City Official, city employee, the evaluator or investigator to any person other than a Respondent or Respondent's representative, the City Attorney, District Attorney, a court, a law enforcement agency, or otherwise as necessary to the conduct of an investigation prior to the presentation of the Report and Recommendations to the Board. The Evaluator, however, may communicate with the Chair of the Board on procedural matters relating to a pending complaint during the course of the investigation. After presentation of the Report and Recommendations, complaints, related documents, and investigative files shall not be disclosed except as required by the California Public Records Act. (Resolution 79187 and SJMC 12.04.080 (E))

Persons filing the complaint are requested not to release said complaint to anyone other than the City Clerk or his/her designees before the investigation is completed. When the investigation is completed, the complaint will be agendized for a public meeting.

I have read and understood the above policy on the confidentiality of complaints.



(Signature)

Joseph Barco

(Printed Name)

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Misleading D3 voters in the SJSU Votes debate

From Housing to Crime to Parking, Omar Torres struggled to tell the truth in the final D3 debate. We fact-checked his most dubious comments below.

On parking:

Torres' Claim: "I have no idea where my opponent thinks I am against neighborhood parking". SJSU Votes debate (minutes noted below)

Fact check: False and misleading.

Analysis: Torres is trying to airbrush out his comments at the SJDA debate (9/9/22) when Torres stated he supported the elimination of parking requirements for new buildings. [SJDA Debate](#) At minute 49:13 Torres states "I do not support building more parking structures or building more parking" And at minute 49:34 Torres states again "No I do not support building more parking here in the city of San Jose".

His [SJSU Votes Debate](#) comments at minute 56:43 are a flip flop, stating "I have no idea why my opponent thinks that I am against neighborhood parking". Or at minute 57:13 "my opponent thinks I don't want any more parking in our neighborhoods." And of course at minute 57:22 "parking should be readily available to all our residents". Torres further muddies the situation by saying at minute 57:30 "I am not completely sold on getting rid of the parking requirements in new development because we are not entirely a walkable city."

On passing the Reimagining policy:





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Fact check: Mostly false

Analysis: Council did not pass the recommendations from the Task Force, but gave the recommendations – without any up or down vote – to the City Manager and The City attorney to review. [City Council Agenda 5/10/22](#)

On defunding police:

Torres’ Claim: “I am for the police reimagining...the police reimagining is not going to defund our police department.” 10/28/22 at the [SJSU Votes Debate](#) minutes 19:36, 19:56.

Fact check: Misleading doublespeak.

Analysis: According to Wikipedia: “**Defund the police**’ is a slogan that supports removing funds from police departments and reallocating them to non-policing forms of public safety and community support, such as social services, youth services, housing, education, healthcare and other community resources.” Broadly speaking this type of reallocation is prominent in the recommendations of the San Jose Reimagining The Police Task Force, which Torres claims to support. That Task Force called for the following in order to reduce reliance on the police:

- *Training residents on how to de-escalate potentially violent situations.
- *Training residents on how to de-escalate mental health crisis situations.
- *Putting untrained department of transportation bureaucrats in charge of enforcing traffic stops.

It is possible that Torres defines “Defunding the Police” differently, but his positions appear to align with this most commonly understood meaning.

Six Reasons the San Jose Reimagining Police Task Force Recommendations are Seriously Flawed

The San Jose Reimagining the Police Task Force report was submitted to San Jose City Council on 4/28/22. The Council...

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Torres' Claim: "Her {Smith's} rental voucher is more of a federal issue than a local issue." 10/28/22 at the [SJSU Votes Debate](#) minutes 43:18, 42:50.



Fact check: False.

Analysis: The City of San Jose is already using rental vouchers for rapid rehousing. [SCC housing vouchers](#) and [SJ Rapid rehousing vouchers](#). Other municipalities are also implementing their own housing vouchers. There is nothing about rental vouchers that limits its implementation, funding, or management to the federal government.

On Smith's housing plan:

Torres' Claim: "I am the only candidate in this race supporting permanent and interim solutions to housing our unsheltered." 10/28/22 at the [SJSU Votes Debate](#) minute 13:53.

Fact check: False

Analysis: Since April 2021, Smith has  1  a multi-pronged approach to solving the local housing crisis — and permanent supportive housing has always been a key plank of that plan. Where Smith differs from Torres and others is in her belief that immediate Shelter, Security, and Services should be our housing plan's highest funding priority — not \$1m/unit apartments a decade from now. [Incremental Ladder of Housing Success](#)

On housing providers:

Torres' Claim: "Landlords and slumlords like my opponent were forcing people out of their home(s) during this terrible recession." 10/28/22 at the [SJSU Votes Debate](#) minute 12:48.

Fact check: False

Analysis: Smith has been a landlord for more than 33 years and has never ever filed an eviction, including and during the pandemic and Great Recession. Nor has she had any



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- Manages rent controlled units
- Never flipped a property
- 100% compliance with code enforcement recommendations for older buildings
- Never had any habitability actions brought against her
- Properties are in Naglee Park and SUN neighborhoods, hardly slums.
- Has public support from apartment residents [The building of a resume](#)

Most notable: during the recession and pandemic, and contrary to Torres' claims, Smith had no evictions on her properties.

{Note: Torres' comment recalls similar unprofessional insults he has thrown at other women who are his ideological opponents. [San Jose: Council aide apologizes for remarks about councilman, candidate](#)}

On nonprofits:

Torres' Claim: "My opponent is attacking nonprofits." 10/28/22 at the [SJSU Votes Debate](#) minute 13:20.

Fact check: False.

Analysis: Smith, like Mayor Liccario [San Jose releases withheld Liccario emails — San José Spotlight](#), has called for increased formal accountability of non profits who do business with the City. Smith said at SJS debate: "We need accountability from both our government and any extension of the government like nonprofits. The same rules that apply to government should apply to nonprofits." Smith started a non profit and sits on the board of 2 non profits, and acknowledges the centrality of nonprofits to the City's business.





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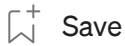
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**Advertisement #2**

SJSU Debate Transcript

Introduction:

A little bit about me and my experience. I've lived in downtown for 33 years.

Housing: I've been a housing provider for 33 years with rent-controlled apartments.

Mental Health: I have a masters' and PhD in Psychology. I've worked in a psychiatric hospital for children with severe mental illness.

Working with Government agencies: I have my law degree from Santa Clara and I've been a pro-tem judge for the past 15 years and also currently an administrative hearing officer for Santa Clara County.

Getting the most out of our budgets: I was a senior financial analyst at IBM for over a decade.

Jumpstarting small businesses: I founded and grew three local businesses in downtown.

Coordinating with nonprofits: I founded and was president of Business and Housing Network — San Jose, for 7 years.

A broad scope of skills like this, is what our next council person needs.

I am running because D3 is in a crisis, we need action, we need a sense of urgency, but



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special interest. And who loses? Little Loses. Our neighbors, small neighborhoods. Small nonprofits. The guy living on the sidewalk being told to stay there just five more years while we build, the mom-and-pop business owners that are struggling to survive. I'm running because I can see solutions clearly without the mandated tinted glasses issued by special interests. I am that new voice that can shake off the muck and my D3 recovery plan is the beginning of our answer.

5-step plan to get D3 back on track

Rebuttals:

Mr. Torres, please stop the name calling. I am not a slumlord. I am not a lobbyist.

Mr. Torres, that is not correct. I am 1000% in favor of affordable housing, of permanent supportive housing, and of new construction. I am against leaving unhoused persons on the sidewalks and parks until housing is built — it's inhumane and we can do something better with the Incremental Ladder of Housing Success.

Mr. Torres that is not correct. Rental vouchers are not a federal only program. San Jose and other cities are already doing their own rental voucher programs; San Jose has vouchers with rapid re-housing but it only lasts two years and it is not sufficient. We can do our own program and stop relying on the federal government.

Mr. Torres previously agreed with no parking requirements for new buildings in the debate at the Tabard Theatre 9/9/22 with the San Jose Downtown Association.

Putting The Car Before The Bus When It Comes To Parking

Q. What responsibility does the City of San Jose have to assist unhoused residents of San Jose? What actions would you recommend that the city take to deal with homelessness in San Jose?

A. I am the only candidate in this race with education and experience in both mental health treatment and actually providing housing. And here's what that expertise tells



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- Put together a smart, effective plan to start treating unhoused persons in a more humane manner
- Spend money wisely to help the most people possible
- Make changes if our strategy isn't working.

We're doing none of those things. City Hall is stuck on a dogmatic embrace of its flawed Housing-First strategy since 2011; we have focused our efforts on building million dollar a unit new housing that will be available a decade from now. It's ridiculous.

Here's what we need to do:

- 1.) Shelter and stability first: My Incremental Ladder of Housing Success Plan.
Incremental Ladder of Housing Success
- 2.) Provide local rental vouchers — an SJ version of Section 8 — that provides a safety net right now for the working poor and prevents homelessness.
3. Placement-First: better use and re-use of existing spaces, housing, and shelter stock.

Here's why the city's approach to homelessness is a failure: it's just a re-traumatizing hamster-wheel of abatements — allowing, and then dismantling homeless encampments. Abatements are not a solution, and the lack of accomplishment is causing severe distress: among the unhoused, on neighborhoods, and on small businesses.

My plan is very similar to San Diego's Community Action Plan on Homelessness, which has been very successful in cost-effectively and quickly addressing the needs of their unhoused neighbors — and Tacoma where encampments are not allowed to start.

We can do this. right. now.



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2021. Mayor Liccardo established a “walking patrol” in downtown and “high-need” areas which added twenty officers to SJPd (and cost \$3.7 million). First, do you support more “walking patrols” and, second, how would this policy improve not only public safety, but also trust between residents and police?

A. There's a lot in that question so let me answer it by talking about the reimagining police report that touches on these issues. I think this an area where Mr. Torres and I see things very differently. The City's Police Reimagining Task Force put together a lot of recommendations which I think Mr. Torres has spoken favorably about — he can clarify that tonight. However, I find many of the Reimagining Task Force's recommendations to be misguided, dangerous, and uninformed.

Here's why: fundamental to the Task Force's approach, is to address crime by replacing badged police officers with citizens from other professions, or just regular community folks.

Some examples: 1. the Task Force envisions mental health professionals, instead of cops, responding to dangerous issues with the mentally ill or on domestic violence calls. 2. It envisions regular community members taking responsibility for de-escalating situations that could lead to violence. 3. It wants to put Department of Transportation bureaucrats in charge of traffic stops.

Honestly. This is terribly misguided. Look, I've been a mental health professional. I worked in a triple-locked psychiatric hospital. And I can tell you definitively that no mental health professional wants to be responsible for handling criminal activity.

So I'm opposed to most of the Reimagine Task Force. I'm for more badged police officers, more foot patrol, more strict citizen oversight, more MCAT. But I am opposed to the deprofessionalization and decentralization of our public safety efforts. It opens the door to huge accountability problems and potentially more crime and violence.

My website has a full list of my disagreements with the Reimagining Police Task Force.



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Pavilion, to help build a new multi-use pavilion, dog park, and playground. As a member of the city council, what would you do to help the revitalization of the park and surrounding neighborhood?

A. As a councilmember, I can't just look at St James Park in isolation and I need to look at the impact on the rest of D3. I have to take a big picture approach, and this is how I would look at it.

This is a good question because it highlights how so many issues in D3 lead back to our housing crisis. St. James is a park. But it's not working as a park because it's really an unhoused living spot.

So that makes it unusable for its stated purpose and designed purpose.

To reclaim the park, as a park, we have to address the unhoused encampment issue; not just move the encampment to another park for a month or so. If we don't have the ILHS we will only be pushing people out much like the constant retraumatizing hamster-wheel of abatements. We need to take a big picture approach and not just force people out. We've seen how that works at the FAA site. They are forced to leave with nowhere to go, and they go somewhere else and then that area will need to be abated and revitalized. It's just cruel.

That's why my incremental ladder of housing success is such a lynchpin idea: by getting people off the parks and creeks and sidewalks now — not ten years from now — we can start to fix the downstream problems caused by rampant street homelessness.

We can't start designing new uses of St. James Park, which is an actual home to so many — until we fix the current crisis there.

Q. If you were given an unlimited budget to promote four of downtown's best assets, what would those assets be and how would you promote them?

A. With all due respect, I'm going to shift the premise of the question just a bit. We



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- 1.) We have a lot of underutilized built space — whether it's empty office buildings, hotels, or older commercial buildings, which would be repurposed to shelter and to housing. We should make it easy to do that.
- 2.) We have a great, calm street layout with lots of existing parks and mature trees: we should make DT SJ the most walkable downtown in California and the #1 downtown for outdoor dining and strolling and music. We could be as vibrant as Barcelona — we've got the layout to do it.
- 3.) We have a world class university with a stunning campus right in our midst: we need to find ways to better integrate the campus and town and make the borders of the university and downtown more permeable.
- 4.) We have a vibrant collection of fantastic small businesses that we need to support more. I believe the city could and should launch a Downtown Shop Local program that rewards for those patronizing downtown small business.

Q. Councilmember Peralez has proposed permanently closing San Pedro Street to traffic to help support bars and restaurants in San Pedro Square. The City Council recently voted to do further study on a permanent closure. What is your view on this? Should San Pedro St. be permanently closed?

A. I want all of downtowns' restaurants and businesses to thrive, not just San Pedro. I want folks to come downtown for a variety of restaurants and a variety of events. We need to promote them all, not just San Pedro.

What I'd like to see is a full plan for all of downtown to explore street closures. Remember though, street closures can sound like a good idea, but they take away parking and drive-by awareness. California is littered with failed street closure programs — from Fresno to Santa Cruz. We need to be careful and make sure that we actually deliver more business, not just a feel-good measure. Not every street is like San Pedro and has a big city-owned parking garage down the street.



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Q. How important is the relationship between the city of San Jose and San Jose State University? What, if anything, should the city council do to strengthen this relationship?

A. Students feel the housing crisis in a unique way. The number one thing we can do is housing. Any student who is sleeping in a car and going to classes and potentially also working is doing an incredible job and should get assistance. First, we need to ease the housing construction permit process. Second, we need to make sure that we have a placement-first strategy in place, just like Milpitas. Milpitas gave a call to action for unhoused teachers in the area and asked homeowners with an extra bedroom to help out. We too can incent owners to open a bedroom for more housing options for students.

In addition to housing San Jose needs to re-evaluate its' traffic safety plans. We have had 28 pedestrian fatalities in San Jose and the number is growing. I would recommend a traffic coalition formed between the city and SJSU to recommend traffic calming and life saving measures that would help both students and neighbors.

A few other thoughts -

I know we have worked on this before, but I would like to see the joint MLK library hours extended even further for the community and students.

And lastly, I'd like to expand Apprenticeship programs at the city level and work with SJSU to overhaul college and high school dropout prevention policies. Because providing jobs for our youth is arguably the most important upstream thing, we can do to solve D3s long term problems and work with SJSU at the same time.

Q. It has been well-documented that downtown has suffered economically during the pandemic. One recent study, as reported by San Jose Spotlight, showed tax receipts had declined by almost 40%. What is your plan to help the downtown economy recover?

A. Let me start off by saying there are two big things we have to STOP doing if we want



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mayor running around with a donation basket to Sacramento and D.C. is not a financial model. We need to build this ourselves from the ground up.

Look, I've founded, run, and struggled to make 3 small businesses work in downtown. Lots of local governments have developed ingenious interventions for small businesses, San Jose is not one of them. In office, here are five things I would pilot:

1. Encourage "Shop local." Akron, Ohio, is actively encouraging shopping online with local businesses by building the [Akronite](#) app. which connects shoppers to local businesses and offers points that lead to discounts. We could do the same thing for D3 small businesses.
2. Streamline internal operations. San Jose can be way more invested in the success of small businesses by walking them through the onerous permitting process and providing outreach and headlights into options that would best serve their business in D3.
3. Help local businesses shift to online sales. For example, some local governments are supporting their businesses to convert to an online presence through tech grants. [Alaska's Kenai Peninsula](#) does this. The SJ downtown association should be linking to all small businesses in D3.
4. Invest in workforce training programs aimed at future economic activity in conjunction with SJSU. Charlotte, North Carolina, has created a workforce training and placement [program](#) that targets fields the city would like to grow in — specifically, advanced tech and renewable energy. We could do this with support from our tech partners and SJSU.
5. Make it easier for small businesses to contract with the government. Local governments contract for all kinds of services — we should be privileging local small business for these opportunities.

Q. Several news outlets have reported on the city auditor's annual report of city



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residents concerned about response time? What should the city do to help the police reduce response time?

A. We have the lowest number of police officers for any large City in the USA and less than San Francisco — even though they have a smaller population and less miles of ground to cover. We need to increase the number of sworn officers back to 2012 levels where we were the safest big City in the US. The mandatory overtime requirement for officers is negatively impacting our ability to attract new officers and is more expensive than getting new officers.

Two key areas need to be addressed while we wait for more officers -

1. Other departments in San Jose need to do their jobs and stop letting SJPd pick up the slack. When I speak with officers, they talk about how many calls they take for vehicle abatement and code enforcement. These departments need to step back up and use their enforcement capabilities so that the police are then freed up to respond to emergency calls more effectively.

2. The police do not make these kinds of reports, — but 22,000 calls came in from encampments fires over the past two years, to the fire department. The strain encampments place on the police and fire department are extraordinary and response times for other emergencies have increased as a result. Once unhoused personas are located in the destination locations for one stop shopping for: services, safety, showers, and sanitation — many of these calls, caused by one-on-one violence in the encampments, will cease and officers will have much better response times for other calls.

Additionally, we have other issues such as — inadequate technologies, burdensome report writing databases, and a shortage of emergency dispatch operators.

And lastly, but importantly — we need to start addressing our mental health crisis. Because mental health is not a crime and should not be the responsibility of police officers.



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Q. How will you incorporate community feedback into your work as a councilmember? Use one of your campaign proposals as an example to explain what your process might look like.

A. I have proposed an Office of Public Listening — too many times residents tell me the city is not listening to them and the frustration is growing. The city doesn't hear them on the need to park, vehicle abatement, encampment fires, safety, and others. By having a department of public listening, we can use cutting edge technology to improve two-way communication.

The way City Hall gets constituent feedback right now is a mess. There's no loop that says, 'we hear you', 'we can do this'. It's all scattershot emanating from separate city departments.

My plan for an Office of Public Listening requires the city to employ cutting edge, customer relations techniques to give us sharper insight into public opinion.

I would model that in my D3 office:

1. Transparent Monthly Polling on Key issues — published continually.
2. Serious transparent analysis of public opinion on key issues.
3. A rolling dashboard of public opinion and feedback on key issues.
4. And of course, regular public meetings and conversations — always summarized and made available for asynchronous viewing.

[An Office of Public Outreach: Improving citizen input, City outreach, and trust in government](#)

Closing:

Thank you. These were great questions and a very well-run forum.



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It's this — Do we go down the same old road or do we turn onto a new road?

We are choosing between following our old habits or consciously choosing a change agent.

My experience in business, mental health and housing leads us forward with the real-world expertise that D3 desperately needs.

Thank you SJSU and thank you for your time, your attention, and your questions.

Q. In March 2022, the city passed the Gun Harm Reduction Ordinance which requires gun owners and those in possession of guns to have a current liability insurance policy for their firearm and requires those who own or are in possession of firearms in the city to pay an annual Gun Harm Reduction Fee to a Nonprofit Organization designated by the city and which would be spent on providing services (such as suicide prevention and gun safety classes). Are you in support of this law? How do you respond to critics who argue that that law is unconstitutional?

A. The law has passed and so we will have to wait and see what the courts themselves say.

This ordinance does nothing to address real violence or reduce gun violence. We need to take a much stronger stand on a wider variety of guns. We must consider illegal ghost guns and 3-D guns and how we can more effectively remove these guns from our environment. And we need to better regulate super-charged automatic weapons.

I would like to see age related gun access restricted to age 22 and over. There are many studies now on brain development and how risk assessment isn't fully formed until about age 22.

And ultimately, what are the underlying causes of violence in our society? We can't just focus on guns — we must focus on mental health and support folks and change lives. I have proposed that we put mental health in the school curriculum starting in kindergarten, in after school programs to support the curriculum, and offer mental



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Q. In your view, what is the least attractive aspect of downtown? Why do you believe this is so, and what would you do to improve it? Would this be an incremental change or an overhaul?

A. #1. Lawlessness.

Take a walk around downtown for ten minutes and you'll see a handful of misdemeanor crimes being committed that go unnoticed. Drugs, Traffic, and property infractions happen all the time.

The downstream impact of this lawlessness creates a negative cycle where fewer businesses open, fewer people come downtown, and it just spirals downward.

The answer is twofold: increase badged police presence so they can enforce the laws. And give our unhoused neighbors a place to go where they get shelter, security, and services.

Downtown will never prosper if it's a lawless zone.

#2. Filth.

Downtown is dirty. Keeping our streets clean also solves the broken window theory. It shows potential illegal dumpers and others thinking of committing crimes that Downtown neighbors and small businesses care about their neighborhood and are paying close attention.





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IreneSmithD3

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I stand by my mailer and will not back down

The petition about my mailer has a long list of inaccuracies, misrepresentations, and deceptive arguments about a very vital issue: racism in local politics. Race-baiting is for real in San Jose, but this group reduces our political culture to one based on belittling, silencing and obfuscation of the issues. And our voters in D3 pay the price.

This letter is meant to silence, like book burnings deciding who can have a voice.

This letter is designed to cloud the real issues and hide the genuine truth about policies the voters so desperately seek.

This letter is about a campaign stunt that can damage a campaign because they feel so threatened by truth.

This letter is not about true racism. For if this letter were about racism, the authors would condemn and ask for the resignations of actual racists who have had actual racist impacts (like the LA-4), as President Biden and I have done.

This group of authors have been utterly silent on any of the other race-baiting issues confronting Silicon Valley politics. But they have chosen to make up charges about this campaign and this mailer — why this one and why now?

Consider the background:

Matt Mahan has been smeared as anti-choice and pro-gun. And they said nothing.



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non-profits, and big special interests. As you look at the signatures and see many leaders of nonprofits — groups I have criticized for unaccountable behavior and as big beneficiaries of the status-quo.

Let's take their claims step by step.

The first charge is that this mailer is similar to:

- GW. Bush accusing J. McCain of fathering a black child,
- or using a photo of black men not associated with the political campaign,
- or darkening the faces of candidates of color.

This is false equivalency. None of these terrible tactics were used in anyway on the flyer. But the authors feel they can make this claim, if that's what you want to see.

The second charge is that by placing a photo of white women next to a photo of men of color it 'literally and metaphorically pits these groups against each other'. The photos were not altered. Everyone is smiling. Mr. Torres' photo was made public by the two participants.

This is a farcical analysis, and the piece does no such thing. There is no graphic or editorial signal of any sort — no words, no jagged lines, no arrows, no anything to suggest adversarial intent. They are just next to each other. Merely because a person of color is next to a white person is not an indication of racism. Unless that is what you want to see.

In the third charge, the authors take words, put them into a word salad, and rearranged them in an order to their liking. The authors contend that the word "dangerous" is a dog whistle — but they fail to mention that we use "dangerous" as an adjective to "partisanship." We are talking about "dangerous partisanship," meaning that Mr. Torres has consistently aligned himself with politics and policies that will be dangerous for D3. It is beyond imagination to suggest that using the words dangerous



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policies, issues, and solutions and I did not use the word dangerous to imply a personal attribute to Mr. Torres.

Here are the main things to remember:

The authors offer no argument that the piece has any explicit racist or racial import. There are no tainted, negative images. Nothing is manipulated. There are no inaccurate claims. No discussion or insinuation of personal life. No wild language, no insults, no derogatory terms.

So it's all in the interpretation and what the reader might want to see. And this is where their analysis utterly falls apart. We've all read postmodern literary analysis and understand that a text can be read a million different ways. Any creative person can come up with basically any narrative, and with a few tricks, work backwards to build a story off any piece of work or art.

The authors are treating these mailers as though they are a Hidden Puzzle game, and it's just unserious and cynical.

We are talking about a political mailer, and the only legitimate way to read it is to talk only about what it actually says and what images it actually uses. Anything else is just wild, cynical, creative make-believe, and has no place in serious political or academic debate.

The mailer is a straight-ahead comparison of policy differences and endorsement networks between Mr. Torres and me. The main headline and the driving thesis is a quote from Spotlight magazine. And attempts to read it otherwise are just fantasy.

The authors can find implications, suggestions, irony, hidden easter eggs all they want — but they're not real. They're making them up to fulfill a political purpose to support Mr. Torres winning the race.

It's intellectually unimpressive and ethically offensive. This petition will sadly detract





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Irene SMITH
San José City Council District 3

P.O. Box 90372, San José CA 95109

SAN JOSÉ CA
PERMIT 5294

Leading, Moderate Women Officeholders Endorse Irene Smith

Defund The Police Candidate Gets Omar Torres' Endorsement



Councilwomen Pam Foley and Dev Davis choose Irene Smith

Sajid Khan, radical anti-police candidate, supported by Omar Torres for DA

“The two candidates running for District 3 couldn't be more different.”

— SJ Spotlight Reporter Jana Kadah, September 9, 2022



Irene SMITH
San José City Council District 3

Smart, Independent Change vs Dangerous Partisanship



Irene Smith

- Supports the police and increasing staffing to “safest city” levels
- Supports more parking and vehicle abatement in neighborhoods
- Opposes new taxes that increase the cost of housing for renters



Omar Torres

- Endorses candidate who says “fire every San Jose police officer and dismantle the police department.”
- Opposes new parking throughout D3
- Favors onerous taxes on new housing developments

“ We need a council member with emotional maturity. We need leaders who will bring San Jose together. Like Cindy Chavez, Irene Smith has these qualities. She is ready for the responsibilities of a council member and will thrive in the position representing downtown D3 for many years to come.” **Dev Davis** | San Jose City Councilmember, District 6





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Not In My Name: an Open Letter from White Women Regarding San Jose Campaign Race-Baiting Mailer

October 14, 2022

A recent mailer sent by the campaign for Irene Smith, a candidate for San Jose City Council District 3, which includes downtown and surrounding neighborhoods, shows that the long tradition of racist dog whistles being used in Santa Clara County campaign mailers is still with us.

For those who benefit from photo descriptions, the mailer depicts a large photo of Ms. Smith, a white woman, flanked by two white female council members on one side of the mailer juxtaposed against a smaller photo of her opponent, Omar Torres, who is standing with Sajid Khan. Mr. Torres and Mr. Khan are men of color. The bottom of the mailer says, "The two candidates running for District 3 couldn't be more different." The back of the mailer says, "Smart, Independent Change vs [sic] Dangerous Partisanship."

This mailer is classic old school race baiting. Race baiting is the incitement of racial resentment and unconscious racial bias for political purposes and it is odious. For example, when the George W. Bush campaign in South Carolina accused rival John McCain of fathering a black child out of wedlock, that's race baiting. When business organizations supporting San Jose City Council Member Dev Davis used a photograph of Black men involved in what appeared to be a riot in South Africa with the caption "Do You Really Want to Sign onto This?" to imply that her opponent's policy positions would lead to riots, that's race baiting. When campaign mailers darken the faces of candidates of color—as has occurred several times in recent years in our County—that's race baiting. These tactics play on racist stereotypes that are recognized by some people looking at the mailer, inciting and reinforcing their conscious resentments and implicit biases.

Scholars like Dr. Apryl Williams have documented the long history, rooted in the slavery era, of racist stereotypes positioning white women as innocent, virtuous, and victimized and men of color as dangerous and predatory. That history includes white women deploying their power and these narratives to directly endanger men of color.

So when a mailer depicts a group of classily-dressed white women on one side and a pair of men of color on the other (one of them in a t-shirt), it literally and metaphorically pits these groups against one another based on apparent race and ethnicity. And, when on the opposite side of the mailer the word "smart" is used to refer to a white woman and the word "dangerous" to a man of color, it engages in racist dog whistling that draws on those centuries of racist imagery suggesting that white women need to be protected from men of color.

If you have heard the term dog-whistle but never been quite sure about what it means, it's a metaphor drawing on the idea that there are whistles that only dogs can hear. Dog-whistling is a term applied to political messages that one particular group is likely to "hear" more clearly (and therefore react to). Again, in our country, to apply the term "dangerous" to a man of color in opposition to white women is to play on associations that go back as far as the origins of white supremacy itself. It is a racist dog whistle to white women (and the white men who position themselves as protecting white women).

We condemn this mailer in the strongest possible terms. We call on Irene Smith as the architect of this offensive message to publicly renounce it, apologize to Omar Torres and communities of color, and cease distribution of the mailer. We further call on others involved in the creation and approval of this mailer to apologize to Omar Torres and communities of color.

Not In My Name: an Open Letter from White Women Regarding San Jose Campaign Race-Baiting Mailer

Page 2

In closing, it is important to make clear that the signatories to this open letter are primarily white women. That is not to center ourselves in the pain this mailer undoubtedly caused to Black and Brown members of our community. It's because we believe we owe a debt. The privilege of white folks is predicated on the oppression and exploitation of Black and Brown people. (Let's not forget that fifty-three percent of white women voted for Trump, perpetuating centuries of internalized oppression coupled with deep collusion with the system of white supremacy.) And perhaps we have some hope that our white sisters will read this piece and take another look at this mailer with open eyes and open heart and also say, as we are saying: Irene, not on our watch, not in our name.

Faith Ackerman
Jessica Anthonis
Hilary Armstrong
Sandra Asher
Louise Auerhahn
Shiloh Ballard
Lani Ballard
Elizabeth Barcelos
S Sayre Batton
Jessica Blitchok
Nichole Boaz
Gayle Boesch
Molly Brennan
Alison Brunner
Dana Bunnett
Catherine Burmeister Loera
Julie Butterfield
Joanna Carson-Young
Chris Carter
Julie Cecilio
Alison Cingolani
Leslye Corsiglia
Pattie Cortese
Gina Dalma
Kathren DeLucchi
Mary Helen Doherty
Kelley Durdella
Susan Ellenberg
Belinda Espino
Diane Fisher
Amie Fishman
Serena Flores
Megan Fluke
Diana Foss
Marc Gerston
Shawn Gerth

Melissa Gilbert
Shelly Glennon
Barbara Goldstein
Darcie Green
Kristine Grim
Kim Guptill
Betsy Hammer Carr
Heather Hartter Kava
Amanda Hawes
Katie Heaney
Kathryn Hedges
Anjee Helstrup-Alvarez
Frances Herbert
Cayce Hill
Jane Holt
Marsha Hovey
Tiffany Howard
Allie Hughes
Lori Katcher
Kyra Kazantzis
Mareese Keane
Claire Kennedy
Elliot Keavane
Jefie Khalsa
Matt King
Randi Kinman
Annette Kirkham
Elisa Koff-Ginsborg
Anna Koski
Dixie Lira Baus
Jennifer Loving
Helen Lutke
Nancy Mager
Wendi Mahaney-Gurahoo
Margie Matthews
Susan McLaughlin

Mollie McLeod
Derecka Mehrens
Matthew Morgan
Julie Mount
Jennifer Myhre
Alexa Nolder
Anne Nourse
Gail Osmer
Rev. Nancy Palmer Jones
Marcia Obsniuk
Julie Quinn
Ashley Raggio
Lindi Ramsden
Amy Randall
Meredith Rohr
Jessica Rosati
Suzanne Sarro
Tamara Schane
Sally Schroeder
Pamela Shure
David Shapiro
Kelly Snider
Lisa Stobie Feller
Rachel Sussman
Jennifer Tonnis
Margaret Tritton
Andrea Urton
Rebecca Voss
Suzanne Wolf
Laura Wolford
Autumn Young
Michele Young

San Jose leaders condemn 'racist' mailer - San José Spotlight

The fight to represent downtown San Jose has taken an ugly turn, with a candidate in hot water over a mailer some are...

sanjosespotlight.com

LETTERS:

Dear D, Thank you for writing your thoughtful email.

I hope you don't mind, but I'm going to give you a longish response because this issue is very important to me and I respect you reaching out to me.



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The critique of my flyer is not accurate. I get what you're saying, but I think it's unfair. Actually quite unfair. And while I am sure your analysis is well-intentioned, I don't think it withstands serious scrutiny.

Have you ever seen the Kurosawa movie *Rashomon*? [Rashomon Effect](#) Great flick. And the core creative point of the movie is that people just see things differently, based upon their personal histories and inclinations (the movie explores how different people see the same crime occurring — but they each see the scene very differently).

You and I are experiencing the same phenomenon with my flyer. But with an important twist.

I don't think you are saying there's anything explicitly questionable about the flyer. The flyer itself is straightforward. It's about the differences between Mr. Torres and me. Differences in endorsements, endorsees, differences in policy.

That is obviously fair game. Nobody is disputing that.

What is happening here is that your critique makes creative interpretations of the flyer, and then claims those interpretations as fact. I think that's an overreach which casts a shadow and distracts voters from getting the truth they seek.

The point I want to make is this: creative interpretations are not fact. They are just interpretations. And while everybody is entitled to their creative read, it's not fair or fair minded to force upon the author or artist your interpretation of their work.

What's glorious about uniqueness is each of us brings a different perspective. And perspectives are just that, they are not facts. Also, just because someone perceives something a certain way doesn't mean it was intended that way or that it is true. And, it doesn't mean others read it that way. And it certainly isn't the last word on the subject because each of us has a unique perspective. [Perception Is Not Reality — Psychology Today](#) (I like how he ends the article with how we can challenge our perceptions).



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single level, they demand diversity, and they want to make decisions based on policy.

That's how we thought about it, that's how we wrote it, that's how we designed it.

You and others may choose to read the flyer differently, that's your prerogative. And I will support your right to your perspective.

But please, please, do not impute your reading onto me when it so clearly doesn't reflect what I intended to say, does not reflect what I did say, and does not reflect what I believe.

With all due respect for a wide variety of perspectives, I think a logical line has been crossed here. I think it's very unfair to me and my supporters, and as a result, I don't buy into this critique.

With compassion, understanding and appreciation of your note; and including — I just don't buy it.

Please feel free to continue this conversation with me and I am happy to discuss this with others as well.

Irene

Hello gals, First, let me take the easy question. Hi J, although my stance on non-profits has nothing to do with the ambush accusation that I and my mailer are racist, let me address it as it seems the majority of women who signed the letter are leaders of non-profits and might speak to a misunderstanding or motivation to see something that is not there. However, let me be clear, the issue of nonprofits should have nothing to do with signing a letter that accuses racism.

I have been on numerous boards of non-profits. I actually started one 7 years ago and although it still thrives, it functions without me as the president due to the campaign. I have volunteered/worked for nonprofits: Special Olympics, Covenant House in NYC, Soup Kitchen. Pro Bono Project of Santa Clara County and many more. And I have



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relationship they have with elected officials.

When I comment that Mr. Torres' experience is 'wanting' it is just that. Compared to a candidate who has training, experience, and education in finance, housing, psychology, small business start-ups, law and legal application, mediation & arbitration — these PLUS non-profit experience is the comparison. If a candidate had XY and the other candidate had XY plus LMNOP — you could consider the candidate with only XY as 'wanting' in comparison.

I am not simply 'a business person'. There is no easy box to check, no easy label to put on me. I am fiercely independent and will not be beholden to outside interests and I am radically inclusive of people and ideas that move D3 forward.

You can read about my creation of the Mediation Project (an article in the SCC Bar Association magazine) [Founding the Mediation Project](#), the formation of Defenders of Clean Air eQuality [Moms on Fire](#), or the work I did with Engine 8 in downtown [Engine-8](#).

[The building of a resume](#) And you can review my resume on the campaign website as well.

Second, **Hi M**. Although in the 60's we were all familiar with SEX being spelt out with ice cubes to get people to buy more Coke. That is not what happened here. I designed the mailer with photos that Mr. Torres had publicly placed on social media. They were unaltered. He endorsed Mr. Kahn. Mr. Kahn endorsed him. They had door knocking events together to symbolize their common policies. They had their election night party together. And currently Mr. Kahn is raising money for Mr. Torres.

The word salad chosen by the authors of the letter selected the singular word 'dangerous' to highlight. That is not my wording. I used 'dangerous partisanship'. I believe that the Re-imaging Police Report that Mr. Torres supports is dangerous for D3. Mr. Torres himself is not dangerous, I can assure you of that. Mr. Kahn clearly supports defunding the police and I disagree with that policy as well. It is not the right choice



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Please take the time to read my response to the attack as it makes very clear what was done to distort the mailer. As with interrogation techniques, suggestion can be very powerful and sway the reader to a particular perspective without the reader knowing of this influence in their decision. The authors of this letter told people what to think before they even saw the mailer.

As you can imagine this letter has been very disruptive to my campaign and the authors may very well have intended to slow down the campaign as evidenced by Twitter comments.

For any further discussion — please let me know when you would like to meet face to face.

[I stand by my mailer and will not back down](#)

Thank you,

Irene

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IreneSmithD3

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What happens in L.A. doesn't stay in L.A.

The recent revelations of racist trash talking by L.A. councilpeople requires a forceful response from Bay Area politicians who care about equity, who care about integrity, and who oppose threats to democracy. [Racist remarks in leaked audio of L.A. council members spark outrage, disgust](#)

There are three reasons why:

First, some of those disgraced L.A. politicians are actively involved in supporting and fundraising for Santa Clara County politicians — their dirty money is already tainting our election.

Second, San Jose is already well down the road of accommodating race-baiting from its own politicians with wild racial accusations made at council meetings by some of our electeds. L.A.'s problem is already our problem — right now.

Third, L.A. is the biggest city in California and its political leaders set the tone for the rest of the state. If we are going to resist the L.A. City Council's drift toward a debased political culture, we need to say "no" immediately.

Apologies are not enough. I call on the L.A. politicians that made those sad comments to resign from their elected positions forthwith. And I invite all San Jose and Santa Clara County politicians and candidates to join me.

Anything else is enabling.





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Children & Mental Health

First off, it was a mistake on my campaign's part not to respond to the survey from Kids in Common. We should have, as it's an important issue for my campaign and D3. In the pressure of literally hundreds of requests for comments, we just missed this, it was not intentional.

So thanks for giving me the opportunity to provide my perspective. When it comes to children's issues around education, nutrition, fitness, and housing, I am in the mainstream of progressive thinking and support free early education and daycare fees based on need. And we certainly have issues close by with unhoused SJSU students.

Where my perspective differs, I believe, is on mental health for children.

As you know I worked at a psychiatric hospital for children with severe mental illness. I also worked at the Institute for Children with Autism and worked with children age 5 and 6 as well as young teenagers; both age groups' needs are radically different. In addition my sister who has Down Syndrome has been a big part of my life starting with volunteering in her early education classrooms.

My education in marriage, family, children counseling — masters and counseling psychology — doctorate, put me in a unique position to offer solutions and insights that other policy makers cannot.

We are in the middle of mental health crisis for our young people in the state and D3, and much of it is attributed to government failure.



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Consider the facts: rates of adolescent suicide and self-harm are on the rise.

As many children returned to in-person learning last year, school districts reported soaring rates of absenteeism and surges in student misbehavior. Even worse, in early 2021 emergency department visits for suspected suicide attempts were almost 51% higher among adolescent girls and 4% higher among adolescent boys compared to the same time period in 2019.

To fix this, govt must name an accountable leader, set clear goals, encourage coordination and employ schools as key sites to help kids. This will ensure the govt uses funds dedicated to children's mental and emotional well-being efficiently and in a way that has the most impact, both short and long term. Newsom's Children and Youth Behavioral Health Initiative — a \$4.4 billion investment in developing a comprehensive system of mental health care for Californians from birth to 25 years of age — is a good start.

So what can we do locally, especially in light of the shortage of mental health professionals? We can bridge the gap with a mental health curriculum in our schools and part of our after-school programs and offered at libraries as a continuum of the programs which will include families. If we had had a standardized curriculum we could have mitigated issues that were exacerbated during the pandemic. We need to integrate social and emotional learning into the classroom directly and involve parents as much as possible into the process.

First we can train teachers in basic simple therapy techniques and mental health identification. Techniques will primarily focus on Cognitive Behavioral Therapy and teachers will be given options to refer students and families to trained counselors if noted issues rise to the level of professional counseling requirements. As part of the curriculum students will be given participation grades and parents and children will work together on homework assignments. Not passing the class will mean the student or the parents did not participate and the child will be referred for professionally counseling. The curriculum will include workbooks, group discussions for support,



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used CBT techniques. Teachers can be excellent guides.

Second we can offer after-school programs that integrate mental health self care and include the family to enhance the support of children while also addressing the impact family systems have on children. These programs can directly compliment the curriculum being offered in the local school.

And **third**, we can offer mental health self-health groups lead by professionals at libraries so that adults, children and families have access to the basics of good mental health and have a resource center that can aid them through the County services labyrinth.

What a difference it would have made to our students if mental health was part of their schooling while doing classes on zoom during covid. This would have been life changing for all the students.

One thing that has not been mentioned is the disparate impact on **public school students vs private school students** as the pandemic progressed. Privates school students were back in the classroom much sooner than public school children and this has caused a widening gap that we must acknowledge. One of the first things we need to do is commit to families and to students that they will not be left out of classrooms longer than is absolutely necessary and that our city will prioritize the health, well being and education of our students.

San Jose's public schools were closed for a longer time period than most other cities, which caused a massive rise in mental health problems for children. And they stayed closed over the protestations of our governor and mayor.

Dr. Jeanne Noble, associate professor of emergency medicine and director of the UCSF emergency department's COVID-19 response, said "The medical evidence is clear that keeping public schools closed is catalyzing a mental health crisis among school-aged children."





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Because now we're playing catch up, and it will take us years to get back to where we were.

I agree with CA Parent Power founder Megan Bacigalupi on Newsom's mental health plan: "School closures didn't cause our student mental health crisis but it was like lighter fluid on a fire. To have zero acknowledgement today about how much harm that caused many CA students is denial."

Santa Clara County candidates sound off on education - San José Spotlight

As ballots start arriving in the mail this week, Santa Clara County education leaders are making it easier for parents...

sanjosespotlight.com

Kids in Common | Children's Advocacy | Santa Clara County California

Kids in Common, advocates for policies, partnerships and investments that improve children's lives in Santa Clara...

www.kidsincommon.org

Discovering New Options: Self-Help Cognitive Behavioral Therapy

If you've wanted to try CBT for anxiety or depression but aren't able to see a CBT therapist, you may not need to. Many...

www.nami.org

Self-Help Book Recommendations - ABCT - Association for Behavioral and Cognitive Therapies

ABCT news and position statements on current events and issues





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League of Women Voters Debate

Introduction

I am running because D3 is in a crisis. We need action. We need a sense of urgency. But city policies remain stuck in the muck and are proven failures for D3. Their response has been to pour in more mud with the same plans and then spend more money trying to get out of the hole they keep digging. With this type of pattern, it's worth looking at who benefits from all this? Big benefits. Big government, big business, big nonprofits, big special interest. Little Loses. Our neighbors, small neighborhoods. Small nonprofits. The guy living on the sidewalk being told to stay there just five more years while we build, the mom-and-pop business owners that are struggling to survive. I'm running because I can see solutions clearly without the mandated tinted glasses issued by special interests. I am that new voice that can shake off the muck and my D3 recovery plan is the beginning of our answer

What's your perception of your role as CM?

My job as CM is to get programs and policies **passed** with my fellow councilmembers that address the **inequities** D3 experiences **every-day**. Which means: decrease crime, quit using D3 as a dumping ground for the city and county's homeless population & affordable housing schemes, clear out inhumane and dangerous homeless encampments, and revitalize our small local businesses. To do this, I will have to be a

Thought Leader — coming up with new ideas



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And a Woman Who Will Say No — to stand firm against the groupthink in City Hall that currently punishes D3. There's a lot of go along and get along and that has been disastrous for D3. I will need to stand firm.

What are your three most urgent goals?

#1 Restaffing the police to 2012 levels and getting San Jose back to the safest big city in America.

#2: Shelter-Stability Now. We are failing our unhoused neighbors by letting them live in dangerous, unhealthy, and unsanitary conditions and degrading the D3 neighborhoods around them. The Solution: My Incremental Ladder of Housing Success is an important first step and puts an emphasis on Shelter-Stabilization, Services, and Treatment — First, instead of waiting for expensive new housing to be built in a decade.

#3: Vouchers Now. The answer is existing subsidized housing right now to prevent further homelessness. And we can do it by expanding the Federal HUD Section 8 Voucher program by creating our own city voucher program to include those who need it most.

If you could only do one goal, what would it be, why?

Clean out the encampments in D3.

Here's why the city's approach to homelessness is a failure: it's just a re-traumatizing hamster-wheel of abatements — allowing, and then dismantling homeless encampments. Abatements are not a solution and the lack of accomplishment is causing severe distress: among the unhoused, on neighborhoods, and on small businesses.

On top of that, there is a complete lack of financial foresight for new buildings — it is an outrage that some new supposedly affordable units' cost \$1M per door.



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We can do this right now.

D7 and D3 have the most affordable housing how would you encourage through the whole city?

Pressure the Housing Dept to do their job.

The housing department refuses to acknowledge all the vast variety of affordable housing which already exists in D3: sororities, dorms, halfway houses, rooming houses, shelters, tiny homes, homekey hotels, rent controlled units, mobile home parks, group home ... different from any other district in San Jose and this refusal negatively impacts the affordable housing distribution to D3 and ignores the cities own Siting Policy. The City must follow their own rules and stop dumping on D3.

Top 3 solutions to solve homelessness

Let me rephrase the question to — what can we do to address homelessness — quickly. Not in a decade

And the answer is: Immediate Shelter-Stabilization. Local Rental Vouchers. Repurposing underused existing housing stock.

Implementing the ILHS will help those who are living on the streets and creeksides to get shelter-stability, safety, showers, services, and security. And we know there are many types of unhoused experiences.

To address other types, the Placement First program takes advantage of unused spaces to repurpose and reimagine how these spaces increase housing. Look at Milpitas, which has made a call for empty bedrooms — to help teachers get housing faster.

We must also look to prevention. My Rental Voucher program assists families in need to keep them in their homes.

Of course, we need new housing, but not in a decade and not at a million dollars a pop.



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I don't believe there is any magic in balancing. These two categories of folks want the same things. Clean parks, safe streets, and a healthy thriving city to raise a family or a small business.

Rent control is only on 25% of the apartments in San Jose and anyone can get one. There is no income means test for entry or application. My Rental Voucher program would address those in need having difficulty with rental payments and work with both short term and long term and is a much better approach to homelessness prevention.

In addition, we should find ways to encourage homeownership working with the County or with the Association of Realtors. If folks have a goal of homeownership we should explore different ways of assistance.

What programs and strategies would you develop to meet the needs youth, low income underserved?

Young Americans are enduring staggeringly high rates of joblessness. The official unemployment rate for 16 to 24 year old's is 14.5 percent, and I bet it's worse in D3. The pandemic exacerbated this problem. And Youth unemployment leads to bad downstream results, so the solution is upstream. More jobs. Here's what I'd suggest:

- 1.) Double-down on community colleges.
- 2.) Work with nonprofits to develop high school and college training programs that meet the needs of high-demand industries.
- 3.) Expand Apprenticeship programs at the city level.
- 4.) Work with schools and nonprofits to overhauling school dropout prevention policies.

Providing jobs for our youth is arguably the most important upstream thing we can do to solve D3s long term problems.



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SJ fell very short of the mayor's goal of building 25,000 units (10,000 of which would be affordable)

I have a realistic plan to streamline the process that includes: a master plan for the permit process, consolidating multi-department permit review processes, consolidating fees, publishing fees in advance, reducing multi-inspection process, consider peer review certification of industry experts to avoid delays, and measuring and adjusting our goals to ensure we hit them.

Doing this right needs the perspective of developers, land use experts, permit policy experts and others because we need to answer questions such as where and how fast. We need to be more inclusive of who helps solve these problems.

I've been on the receiving end of these regulations — and they are onerous.

Public safety — how would you deal with these issues?

Here's how I reimagine the SJ PD in 2023.

Imagine this — a city that has recaptured its position as the safest big city in America.

Imagine this — a PD that can respond to 911 calls; to property crimes; and who keep our sidewalks safe.

Imagine this — officers paid at a rate equal to or higher than neighboring cities.

Imagine this — a county that has a jail with real mental health services.

Imagine this — a police force who can enforce our laws.

I look forward to when families walk downtown, play and have picnics at St James park, and enjoy a vibrant, feeling of safety in D3.

How would you balance district goals with city goals?



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Let me give you an example:

Citywide, there is no budget for towing RVs. D3 is overrun by RVs and abandoned vehicles — it's a critical quality of life issue for residents and small businesses. But D10- and other districts — do not have a RV towing problem, so when it comes to voting for an RV towing budget, it is dismissed.

I believe we need to start the process of creating greater planning, administrative, and financial independence for all our districts, but especially D3. There's more on this on my Website Under my D3 Recovery Plan, section: Liberate D3.

Closing — What did you wish we asked?

Context.

You asked a lot of good questions. But one thing I think is missing from a lot of these fora and local media is historical context. How did we get into this mess? What government decisions contributed to the crisis in D3. These types of questions provide accountability to officeholders and provide useful direction as to how to fix our problems.

Issues I think we would end up talking about would be:

Why did homelessness increase from 2017 (only 4,350 unhoused in 2017)?

Why are re-traumatizing abatements our only answer to cleaning our creeks and parks?

Who on earth decided that keeping a low police force was a good idea?

Why is the Siting Policy enforced in other districts but not D3?

Why does vehicle abatement work in other districts but not D3?

Where is code enforcement?



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Those who don't learn from history are doomed to repeat it.

This highlighted what the race is all about.

It's this — Do we go down the same old road or do we turn onto a new road?

We are choosing between unconsciously following our old habits or consciously choosing a change agent.

My experience in business, mental health and housing leads us forward with the real-world expertise that D3 desperately needs.

So, the question before us in D3, do we want more of the same or do we want a fresh start inspired by the incredible potential of D3?

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IreneSmithD3

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Silicon Valley Nonprofit Coalition Debate

Introduction

Thank you for inviting me.

I'm going to use my intro time to respond to some inaccurate interpretations of my recent comments.

At the last forum, I challenged Omar's claim that he had more experience than I.

Here's why — it's because I have a much broader employment history that includes — and goes beyond — nonprofit and government categories.

- I have deep nonprofit experience which I absolutely value as the founder and 7-year leader of The Business and Housing Network — SJ.

- And as a judge pro tem and an administrative hearing officer for SCC and a teacher at SJSU — I have government experience.

I founded two small businesses in downtown and worked in finance at IBM, and I've worked in mental health — in a psychiatric hospital.

When I said Omar's experience was "**wanting**", I meant that simply that he doesn't have the scope of experience I do, as he has only worked in nonprofits and government.

That is just factually accurate and uncontroversial, and I stand by it.



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Give me a billion dollars over a three-year period and I can guarantee you a better result than an 11% increase in homelessness.

I am not trying to be difficult, but implicit in the question is an assumption that more money always means a better result. It doesn't — especially if we're not spending the money in a smart way. This is one of those lessons that business teaches you in a really ruthless manner. We need to spend the money in a way that delivers the results we want in a cost-effective manner. A negative example of this is our housing department, whose budget skyrocketed from \$298 Million to \$435 Million. That extra money would have been better spent had it been repurposed into my rental voucher program to keep families housed.

So, I am saying we need a complete audit of how we are spending our Housing dollars before we commit to upping the budget. I'm open to it, but I can tell you that I would like to see a spending plan that focuses much more on Treatment Now, Shelter Now, Placement Now, and Prevention Now instead of Million Dollar Units built a decade in the future.

City has meaningful and healthy partnership with nonprofits

Of course, the city/nonprofit partnership is fundamental — but we don't manage it that way.

If you're a big nonprofit with a favor  3  with the Housing Dept, the current system is probably o.k. But if you're a small nonprofit or a new one, not so much. And we are missing out on great new approaches.

I believe we should model our nonprofit relationship along the lines of San Francisco's innovative nonprofit management system, which centralizes city relationships with nonprofits in terms of streamlining their compliance requirements and offering training opportunities.

This generally means more funding for nonprofits and fewer hassles dealing with the



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into more detail.

Homelessness response centered on permanent housing strategies

Permanent Housing is and should be a part of our approach to homelessness, but it should not be the **only** part. And the city — and the Housing Dept's — adamant embrace of Housing First — to the detriment of other more effective, cheaper, and faster solutions has been a big contributor to our inability to put a dent in the wide variety of homelessness.

We need to be more creative and open-minded, and more folks need to be educated in the complexities of the housing problem. That's why my D3 recovery plan focuses on Shelter-Stabilization and Services First for the unhoused living in parks and sidewalks. It also focuses on making much more effective use of existing housing stock to help alleviate our issues — I call it Placement First. We are way behind other cities in making it easy for businesses to convert vacant office and other shelter space into housing: take a look downtown there are lots of see-through buildings. And of course, we need to build more permanent housing, but not at a \$1M a door, that's not a long-term strategy.

Communities need for mental health services

The County recently passed and is planning implementation of Laura's Law — outpatient treatment, and Governor Newsom just signed CARE court for mandatory in-house treatment. Unfortunately, SCC is not part of the pilot program, and our implementation of CARE court is outside of two years. Again, we cannot waste time in responding to the needs of those who are crying out loud for our help.

I am the only candidate in this race with education and experience in mental health treatment. And here's what that expertise tells me:

- Job 1 is shelter-stabilization at destination locations



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· And Job 3 is to verify and validate that everyone is getting help instead of the status quo haphazard approach to drive-by treatment.

Addressing historical inequities in D3

The legacies of internment camps, Jim Crow, redlining, overtly racist codes at the City and State level are impossible to ignore. For D3 at the municipal level, here are four areas I'd like to focus on:

- 1.) Free Transit within the city — or at least for D3 residents. This would neutralize some of the geographical privileging that takes place in a car-based, suburban environment.
- 2.) Crack down on illegal rentals. Because of our constrained housing supply, off-the-book housing can exploit the needs of immigrants and disadvantaged groups. This has to stop.
- 3.) Municipal properties converted to Housing. As I have discussed previously, we need to up our game Placing people in unused empty spaces and converting that property to housing.
- 4.) Enforce the Siting Policy fairly. D3 is the dumping ground for affordable housing in San Jose, and San Jose is the county's dumping ground. This has to stop — affordable housing needs to be allocated equitably and the Housing dept needs to follow its own Siting Policy rules.

Affordable early education and childcare

It's not just the workforce challenges that support the need for early education and childcare — until we start fixing the inequities that force parents in many historically oppressed communities to have 2,3, poorly-paying jobs, we really disadvantage family creation in those groups. And we privilege wealthier workers with one job. So, I'm very much in favor of more investment in this area of early education.



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parks in D3 accessible to all and implementing the ILHS — so that those using the parks for shelter have an alternative for their belongings and for the services and shelter-stability they need.

Prioritize prevention and providing opportunity or policing

That question is framed as a bit of Hobson's choice, and I don't think this is an either/or question. If we lived in a perfect world of course we would only prioritize crime prevention and youth opportunity. However, our residents are demanding more immediate results, so — in city government, we must be non-dogmatic and post ideological. That means we need to focus on what really works for folks — right now — who live and work in D3. I would privilege the programs such as the Mayors Gang Prevention Task Force, and others that can show dramatic visible results — **whether they're upstream or whether they're downstream**. I would push for prevention and opportunity through spending reform. To reappropriate our budget in accordance with many of the cost saving measures our City Auditor has identified over the last several years.

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IreneSmithD3

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Transcript of Irene Smith's comments at September 9, 2023 San Jose Downtown Association Candidate Forum

Introduction

I'm running because our neighborhoods are in crisis. Crime. Homelessness. Blight. Boarded up Downtown. And let's just speak frankly: this decay is happening because the current policies and system at City Hall are just not cutting it. They are slow, expensive, ineffective, and unaccountable. And when we see these patterns we must ask — Who benefits from all this? Big Benefits. Big government, big business, big nonprofits, big special interests. Who loses? Little loses. You, me, our neighborhoods. The guy living on the sidewalk being asked if he can stay there just five more years while we build, the mom-and-pop business owners struggling to survive.

We need radically new voices, and we need to ask ourselves, what experience does D3 need? I have the expertise treating the mentally ill, providing housing, and balancing big budgets. And I am the only one sitting at this table who has these critical skills.

Thank you for inviting me and listening to my ideas and plans.

Q: What is your position on reimagining the San Jose Police Department?

“It's dubious when my opponent says he supports the police, when his political alliances and public endorsements suggest otherwise.”



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- Imagine this — a PD that can respond to 911 calls; to property crimes; and who keep our sidewalks safe.
- Imagine this — officers paid at a rate equal to or higher than neighboring cities.
- Imagine this — a county that has a jail with real mental health services.
- Imagine this — a police force who can enforce our laws.

These positions differ dramatically from my opponent who has publicly and personally aligned himself and endorsed extremists who stated, “fire every police officer in San Jose and dismantle the police department.”

It’s dubious when my opponent says he supports the police, when his political alliances and public endorsements suggest otherwise.

Q: The San Jose City Council has a “business vs. labor divide”.

“I don’t have to reach across the aisle, because I’m not in an aisle.”

I’m an independent. Always have been. And I sure as heck hope that we can keep the baggage of polarizing politics out of San Jose’s city government.

I am radically inclusive. My supporters include people from all across the political spectrum and I am happy to have them on board the bus, Green Party, Liberal Democrats, Independents, Libertarians and Republicans alike. I welcome and include all voices.

I am not constrained in my approach to policy. I will cherry pick the best ideas and the best solutions for D3 wherever they come from and whoever they come from.

And I don’t have to reach across the aisle, because I’m not in an aisle and that makes it easy for me to collaborate and coordinate with everyone.

Q: Should San Jose increase taxes on commercial builders to fund more affordable



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San Jose needs more affordable housing. How do we get there? In speaking to one developer, he talks about needing 6 inspections for one portion of a bathroom wall. I speak to another developer, and he tells me that they never know what the true cost of doing business in San Jose is and their financial model is always in flux.

If we make it harder, if we add to the costs of construction — through time delays and added costs and fees, — then we are the problem and we are adding to the cost of housing.

If we are unwilling to make it easier to build, easier to do business with San Jose then we will continue to suffer with less housing.

And eventually the housing that is provided will be subsidized to the tune of \$1M per door and is unsustainable with our tax base. We need an economic model so that we can accommodate more housing that helps more people, not just a few people. We need more housing, not more housing that simply costs more.

Q:. Homelessness is increasing in San Jose — solutions?

“Housing First is not a prescription for mental illness.”

The city believes that housing first will resolve mental health issues. That’s misguided.

Housing in and of itself, is not a therapeutic treatment prescribed for mental illness.

Of course, we need to build more housing for the mentally ill, but what they need FIRST is Services & Shelter-Stability.

That’s why my Incremental Ladder of Housing Success moves folks to destination locations, to provide safety, shelter, showers, services, and PO boxes. Then move them into housing after it’s been built. Instead of inhumanly asking them to wait and live on the sidewalk.

Look, I have a doctorate in Counseling Psychology and practiced as a counselor in a



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clinically treating the mentally ill. Services & Shelter-Stabilization — First.

Respect, Compassion, and Care — always.

Q: Would you be supportive of involuntary treatment for those unable to accept treatment

“This is a humanitarian disaster.”

Let's not beat around the bush: We have a segment of the unhoused who are unable to take care of themselves. And we are, sadly, not fulfilling our duty. You can see them all day long in the middle of Santa Clara Street directing traffic, no pants, enthusiastically dancing all the while completely oblivious of traffic.

This is a humanitarian disaster. It took the county too long to embrace Laura's Law — AOT, but it's a positive step. Sometimes mental health problems arise because of addiction and sometimes mental health is the precursor as folks attempt to self-medicate with drugs. Drugs like meth are now hugely more powerful and capable of permanently damaging the brain — now measured in months of use, not years of use.

Our current system prioritizes new apartments and does not address addiction nor mental health. Hopefully Governor Newsome will sign CARE court and give us additional tools to mandate help.

So yes: I would support compulsory treatment for some service-resistant mentally ill.

Q: Parking supply is still a major debate downtown — should we build more parking or wait for the day autonomous vehicles arrive?

“We still need parking & parking enforcement — the City isn't listening.”

As I walk through neighborhoods one common complaint is parking and the lack of parking enforcement. Neighbors call in parking violations without any response from the city. In Spartan-Keys cars are double parked along red zones and on sidewalks.



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We must continue to have parking until such time as we have good transportation that people like to use. It's coming but not here yet. We can prepare for planned obsolescence of parking spaces in the future. We can build parking and make it adaptable, flexible for a variety of future uses. Otherwise, the parents with two kids, in two different schools, two different jobs each, will spend 72 hours on mass transit trying to get through a 24-hour day.

Q: Would you support converting office or hotel buildings into housing?

“Placement First — repurpose, reinvent, and redefine empty spaces.”

When our mayor and city staff tell us there's no unused inventory in SJ, they are deceiving us. The truth is we don't know how many unused units, spaces, and shelters there are because the city has been so dogmatic about its housing first strategy that it won't investigate this potential.

What we do know, however, is that cities all across the US, including NY and LA are aggressively repurposing empty bedrooms, houses, apartments, government buildings and office buildings — and SJ isn't. Even Milpitas has made proposals to help house teachers into the communities by sharing empty bedrooms.

We need to reinvent, repurpose and redefine empty spaces that exist and use the resources we already have available for housing. My placement first plan proposes that we develop a program to incentivize owners offer these spaces for housing.

Q: Do you support putting homeless housing anywhere in D3?

“D3 has become the dumping ground of subsidized and affordable housing for the SJ. And SJ is the dumping ground for the County.”

Let's start with the facts: D3 has become the dumping ground of subsidized and affordable housing for the SJ. And SJ is the dumping ground for the County.

Here is an example:



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houses, shelters, tiny homes, homekey hotels, rent controlled units, mobile home parks, group homes ... and this refusal negatively impacts the cities' own Siting Policy on affordable housing allocations to D3.

This has to stop. Neighbors near affordable housing have legit concerns. We need to communicate clearly and work to address those concerns. But D3 should not have to carry more than its fair share of affordable housing, and that means we need to manage the Housing Dept much more closely, because D3 pays the price.

Q: St. James and Guadalupe River Park — have been suffering for years.

“Stop the re-traumatizing hamster-wheel of abatements.”

I am in support of the Levitt Pavilion for St James Park with community input and the revitalization it will bring to the core. To make that happen the park must first be clean, attractive, and inviting for families; that will happen when the unhoused have stabilized shelter.

Guadalupe River Park is now in D6 and I have an excellent working relationship with Dev to join forces as this benefits both districts.

We must avoid the re-traumatizing hamster-wheel of abatements. Because if we abate one park, folks will move to the other. We need whole-picture solution like the Incremental Ladder of Housing Success.

Q: When was the last time you were downtown? Did you feel safe?

“I swerve daily on Santa Clara Street to miss people dancing without some form of clothing.”

I have lived here for 33 years and raised my daughter here and I have never felt less safe. The biggest factor is the mentally ill unhoused who have been abandoned to live on the streets.



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I swerve daily on Santa Clara Street to miss people dancing without some form of clothing. I pray each time that someone doesn't jump in front of my car. They are not safe, — but neither am I.

These are people, individuals that are crying for our help.

This is completely unacceptable, and we need a radical change to get San Jose back to where it has been before — the safest large city in America.

Q: How well did San Jose respond to the Covid pandemic?

“We will need level-heads to create adaptive solutions.”

Here's what we did right — outdoor dining to support small businesses, rent relief programs, and work from home options. Here's where we can do better — schools were closed for too long, mental health and isolation took great tolls on our communities, some city departments were not able to function by working at home and we had disparate impacts on different communities and between different businesses.

We can improve our communication even when events are changing in a crisis and better help businesses and residents adapt. We can respond faster to change. We need thoughtful leadership, who will keep level-headed an urgent situation.

We will have other crises to face, and we need seasoned, quick thinkers who can create more adaptive solutions such as: permit process readiness, hybrid work from home, mental health support, and boldly bolstering those who cannot work from home and are critical to our economy.

Q: How do you work with the mayor's office and is there board assignment?

“I have already worked closely with both Matt and Cindy.”

As a lifelong independent, I am confident that I will be able to work with either Cindy or Matt once elected to office. In fact, I have worked with Cindy through my volunteer



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study that explained children who are exposed to the air quality from encampment fires of plastics, sneakers, computer parts and tires — suffer irreversible permanent IQ damage.

As for assignments — There are several committees I would like to be a part of including the new Office of Public Listening which will gather community input and report back to the community how their feedback has been used. I am also interested in anything to do with housing, and the Neighborhood Services and Education Committee.

Q: What is your position on the Google project and what it means for the future of the city?

“Companies are watching how we treat Google.”

Google is great but it's a field goal, not a touchdown and we are nowhere near spiking the football. Business is what generates tax revenues. And San Jose is 80% residential and 20% business. Our bedroom community model is why other local cities have much bigger budgets than San Jose

So, let's get real: If San Jose is to grow and do all the progressive programs, we want and need — then we will need many more Googles. Companies are watching how we treat Google. We will need to aggressively pursue and make it easy and attractive for more businesses to come here, not make a bunch of demands that chase them away.

At the same time, we can still pay attention to the needs of the surrounding communities. For example, there are only three Japantowns left in the USA, and we will make it a priority to keep that traditional community intact.

Q: What type of policies would you support to compel owners of neglected buildings?

“The cost of blight on the safety and welfare of the public demands action.”

The last thing I want to do as a city councilmember is increase the cost of living for



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Based on tangible research of the cost of blight on the safety and welfare of the public, it is legally defensible for local municipal codes to have strong anti-neglect ordinances — and a growing number of communities have enacted them. Boarding up a building does not bring it into compliance.

Code enforcement needs to be actively involved with buildings such as this, and there are many buildings, vacant houses, and properties just like this in D3. We need an active list of properties which are calling out for help, and we must streamline permits for quicker repairs and faster growth.

Q: How important are arts and culture to the city?

“Recovery of the arts is just like the recovery of downtown businesses — they are inextricable tied to solving street homelessness.”

The existing arts are suffering in downtown because of the uncomfortable, lawless environment. In order for the arts to thrive, we will need stabilized-shelter for those who are unhoused living in parks and sidewalks. Difficult decisions will need to be made regarding funding from the city but until the street-unhoused are in stabilized-shelter, no one will want to come downtown no matter what we build.

Neighbors don't feel safe. The sidewalks smell of urine. And too many people are suffering by living without services, showers, and safety. We need to advance the arts and help people at the same time. D3 has the most unhoused of any district in San Jose and this has a direct impact of downtown vitality.

Recovery of the arts is just like the recovery of downtown businesses — they are inextricable tied to solving street homelessness.

Q: What initiatives would you support for the recovery of San Jose's small businesses?

“My opponent has zero experience in the risks or operations of starting, running and building a small business.”



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Lots of local governments have developed ingenious interventions for small businesses, San Jose is not one of them. In office, here are two things I would pilot:

1. Encourage “Shop local.” Akron, Ohio, is actively encouraging shopping online with local businesses by building the [Akronite](#) app, which connects shoppers to local businesses and offers points that lead to discounts. We could do the same thing for D3 small businesses.
2. Streamline internal operations. San Jose can be way more invested in the success of small businesses by walking them through the onerous permitting process and providing outreach and headlights into options that would best serve their business in D3.

Q: DISC. Which organization –should be lead on the station?

“The City of San Jose is the most adept to direct the project.”

Electrified Caltrain, BART, and High-Speed Rail service will add to the trains, buses, and light rail at San José Diridon Station and add 1,000s of new jobs. The impact on San Jose and its residents will be tremendous and the organization and leadership provided by DISC will serve to unify our transportation options.

San Jose should be the lead on the project because the City Council is elected by the people and will be in the best position to balance both the positive and negative impacts. Caltrain, VTA, and High-Speed Rail are not elected and do not live here; we can take input from experts, but they are not qualified to represent the best interests of the people and communities of San Jose. Ultimately the City of San Jose is the most adept to direct the project.

Q: What would you do to encourage return to work by City Hall employees?

“For city employees we must attract, retain, inspire.”

While I want to say that I would require employees to return to their jobs, realistically



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hybrid solution would cut down on commutes and carbon footprints. We have a prime opportunity to learn about work from home as a result of COVID. As councilmember, I would seek a study on the efficiency and productivity of City Hall over the last 3 years.

We need to know if remote working is effective and if it will allow us to draw more talented and qualified employees — in order for the city to improve its delivery of services and streamline fees and permitting processes. The priority is getting the best city staff and what can we learn from COVID that will help us do just that. For city employees we must attract, retain, inspire.

Closing

Thank you. These were great questions and a very well-run forum.

This highlighted what the race is all about.

It's this — Do we go down the same old road or do we turn onto a new road? We are choosing between unconsciously following our old habits or consciously choosing a change agent.

Omar's experience in government and nonprofits points us backwards.

On the other hand, my experience in business, mental health and housing leads us forward with the real-world expertise that D3 desperately needs.

So, the question before us in D3, do we want more of the same or do we want a fresh start inspired by the incredible potential of D3?





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EXHIBIT B

STEVEN D. MILLER
PARTNER
DIRECT DIAL [REDACTED]
DIRECT FAX [REDACTED]
E-MAIL [REDACTED]



November 4, 2022

VIA UPS OVERNIGHT
(SATURDAY DELIVERY - SIGNATURE REQUIRED)

Irene Smith
[REDACTED]

Re: Complaint Before the San Jose Board of Fair Campaign and Political Practices

Dear Ms. Smith:

The City of San José has retained our firm pursuant to Chapter 12.04.080 of Title 12 of the San José Municipal Code to serve as Evaluator for the Board of Fair Campaign and Political Practices (formerly the Ethics Commission). We have been assigned the above-referenced Complaint lodged by Joseph Barco naming Irene Smith for San Jose City Council D3 2022 as Respondent.

Pursuant to the Board's policies and procedures, I am writing you to notify you of the Complaint and to provide you with a copy of the Complaint—see attached. We also attach a copy of the Regulations and Procedures of the Board of Fair Campaign and Political Practices (see City of San José Resolution No. 78390).

Please respond to this letter (by email preferred) to confirm receipt and to confirm the best way to contact you in the future. We are conducting a preliminary evaluation of the Complaint and have no specific questions at this time, but will likely want to speak with you later this month. Of course I am happy to answer any questions you may have. You may reach me directly at [REDACTED] or at [REDACTED].

Sincerely yours,

[REDACTED]

Steven D. Miller
Partner

Enclosures

RESOLUTION NO. 78390

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE AMENDING REGULATIONS AND PROCEDURES FOR THE SAN JOSE BOARD OF FAIR CAMPAIGN AND POLITICAL PRACTICES INVESTIGATIONS AND HEARINGS, AND REPEALING RESOLUTION 77879

WHEREAS, the San José Board of Fair Campaign and Political Practices ("Board") is charged, under Chapter 12.04 of the San José Municipal Code, to investigate complaints alleging violations of Title 12 of the San José Municipal Code and take enforcement action where appropriate; and

WHEREAS, formal regulations ensure that all interested parties are apprised of and understand the procedures by which a fair hearing will be conducted; and

WHEREAS, the City Council desires to amend the current regulations and procedures for Board investigations and to reflect the Board's current practice;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSE THAT:

SECTION 1. The following Regulations and Procedures govern all proceedings before the San José Board of Fair Campaign and Political Practices (Board).

REGULATIONS AND PROCEDURES FOR SAN JOSE BOARD OF FAIR CAMPAIGN AND POLITICAL PRACTICES INVESTIGATIONS AND HEARINGS

A. PREAMBLE

Regulations and Procedures of the San José Board of Fair Campaign and Political Practices are promulgated to ensure the fair, just, and timely resolution of complaints presented to the Board that allege violations of City campaign finance, lobbying, conflicts of interest and certain governmental ethics ordinances under Title 12 of the San José Municipal Code, by:

1. Setting and maintaining objective standards for investigating and determining matters brought before the Board;
2. Eliminating improper influence in the investigation of and determinations relating to persons alleged to have violated Title 12 of the San José Municipal Code; and

3. Assuring reasonable time frames for completing enforcement proceedings.

B. DEFINITION OF TERMS

For purposes of these Regulations and Procedures, the following definitions apply:

1. "Alternate Evaluator" means a person who is neutral and impartial, meets the qualifications in Section C, and has been retained for the limited purpose as provided herein because the Evaluator cannot maintain the appearance of neutrality or impartiality in evaluating or investigating a particular Complaint.
2. "Board" means the San José Board of Fair Campaign and Political Practices.
3. "Candidate" means a person who is running for City Office or is a City elected officeholder.
4. "Chair" means the elected Chair of the San José Board of Fair Campaign and Political Practices. If the Chair is not available, the elected Vice-Chair may temporarily assume the duties and responsibilities of the Chair.
5. "Code Enforcement" means the Code Enforcement Division of the Planning, Building, and Code Enforcement Department which provides citywide enforcement service for all reported concerns and violations relating to neighborhood residential properties as well as commercially and industrially zoned properties.
6. "Complainant" means a person or entity that files a complaint.
7. "Complaint" means a complaint alleging a possible violation of Title 12 of the San José Municipal Code that is filed with the Office of the City Clerk on the Board of Fair Campaign and Political Practices Complaint Form, which the Complainant has completed and signed.
8. "Day" means calendar day, unless otherwise stated.
9. "Evaluator" means a person who is neutral and impartial, meets the qualifications in Section C and has been retained as provided herein.
10. "Exculpatory information" means information tending to show that the Respondent has not committed the alleged violations.

11. "Hearing" means a formal meeting of the San José Board of Fair Campaign and Political Practices convened for the purpose of making determinations regarding a Complaint and conducted in accordance with Section G.
12. "Investigator" means a person who is neutral and impartial, meets the qualifications in Section D, and has been retained as provided herein.
13. "Mitigating information or circumstances" means information or circumstances tending to excuse or reduce the significance of the Respondent's conduct.
14. "Preliminary Evaluation" is the initial review of a complaint conducted by the Evaluator to determine whether sufficient cause exists to conduct a full investigation prior to any presentation to the Board.
15. "Respondent" means a person or entity that is alleged in a complaint to have violated a provision of Title 12 of the San José Municipal Code.
16. "Sufficient Cause" means that a complaint identifies specific facts, which if proven, would be a violation of Title 12 of the San José Municipal Code.
17. "Title 12" means the campaign, lobbying, conflicts of interest and ethics ordinances under Title 12 of the San José Municipal Code.

C. HIRING OF THE EVALUATOR

1. The Board will prepare and issue a Request for Qualifications/Quotes for an Evaluator at least six (6) months before the existing contract with the Evaluator expires.
2. The Evaluator must have a legal background and experience with ethics, election, or political law.
3. The Evaluator must be neutral and impartial and may not have or appear to have any bias or favoritism toward any person or entity involved with any complaint or investigation.
4. The Board will select the Evaluator and present the contract with the selected candidate to the Council for approval of the contract on a public agenda.
5. The contract may have up to a four (4) year term and may not end in an odd numbered year.
6. The Board may terminate the contract with the Evaluator at its pleasure.

7. The Board may terminate the contract with the Evaluator if circumstances arise which, in the Board's judgment, would compromise the Evaluator's appearance of neutrality.
8. If circumstances arise where the Evaluator cannot be neutral or impartial, or maintain the appearance of being neutral or impartial, when evaluating or investigating a particular Complaint, the City Attorney, in consultation with the Chair, may enter into an agreement with an Alternate Evaluator for the limited purpose of conducting a Preliminary Evaluation or Investigation of that Complaint. All Regulations and Procedures applicable to the Evaluator are applicable to the Alternative Evaluator.

D. HIRING OF AN INVESTIGATOR

1. When necessary, the Board may hire an Investigator by contract executed by the City Clerk.
2. The Board will prepare and issue a Request for Qualifications/Quotes for the Investigator to conduct or assist with investigations of complaints assigned by the Board, and to monitor compliance with Title 12 as requested by the Board.
3. The Investigator must have experience in conducting investigations such as law enforcement, ethics, or employment related investigations. Familiarity with conflict of interest, campaign finance, and lobbying laws is desirable.
4. The Investigator must be neutral and impartial and may not have or appear to have any bias or favoritism towards any person or entity involved with any complaint or investigation.
5. The Board may terminate the contract with the Investigator at its pleasure.
6. The Board may terminate the contract with the Investigator if any circumstances arise which, in the Board's judgment, would compromise the Investigator's appearance of neutrality.
7. The City Clerk will administer the contract with the Investigator.
8. The Regulations and Procedures applicable to the Evaluator are applicable to the Investigator.

E. COMPLAINTS OF ALLEGED VIOLATIONS

1. Any person may file a complaint alleging possible violations of the campaign finance, lobbying, conflicts of interest and certain governmental ethics ordinances set forth in Title 12.
2. Complaints must be filed with the City Clerk, who serves as the Secretary to the Board. Complaints may be filed with the Office of the City Clerk in person during normal business hours, by mail, by electronic mail, or by facsimile.
3. Complaints must be filed on the complaint form that is approved by the Board, and is available in the Office of the City Clerk or the City Clerk's website. The City Clerk may also accept complaints filed by letter or electronic mail if the complaint provides the specificity and detail, including the identity of the Complainant, as required under this Section.
5. A complaint must provide as much specificity and detail as possible, including facts constituting the alleged violations, the name and address of the person who is alleged to have violated an ordinance, the names and addresses of potential witnesses, and the identity of the Complainant unless there is good cause for anonymity as established in this Section.
6. The City Clerk will forward any written complaint that satisfies the requirements of this Section to the Evaluator.
7. The following matters are outside the Board's jurisdiction, and the Board may not take any action on:
 - a. Complaints against the Board or its members;
 - b. Complaints against the City Clerk;
 - c. Complaints regarding the placement or size of political signs. The City Clerk will forward complaints of this nature to Code Enforcement; or
 - d. Complaints alleging violations that are not under Title 12.
8. A complaint may be submitted anonymously by calling the "Board of Fair Campaign and Political Practices Anonymous Complaint Hotline" at 408-975-ANON (2666). The Complainant must state good cause for anonymity, which is limited to:

- a. an employee of the City or the Successor Agency to the Redevelopment Agency who is not protected by the Civil Service system making a complaint about a supervisor in his or her chain of command; or
 - b. a private sector employee making a complaint about his or her employer.
9. The Chair will assess whether there is good cause for anonymity. The Complainant may provide a telephone number or other contact information for the Chair to contact the Complainant to gather additional information about the cause for anonymity. If the Chair determines there is good cause for anonymity, the City Clerk will forward the complaint to the Evaluator. If the Chair determines that the Complainant does not have good cause for anonymity, the complaint may not be forwarded to the Evaluator.
 10. The City Clerk will promptly notify the Board members that a complaint has been filed, the date the complaint was filed, and the general nature of the complaint.
 11. If a Board member files a complaint, that member's right to participate in the complaint process is the same as any other complaining party. However, that member may not participate in deliberations or vote on a matter concerning such complaint.
 12. Under the circumstances described in Subsection F.8, the Evaluator may file a complaint with the City Clerk alleging possible violations of Title 12 as provided in this Section.

F. REVIEW OF COMPLAINTS BY EVALUATOR

1. Upon receipt of the complaint, the Evaluator must notify the Respondent of the allegations and provide the Respondent with a complete copy of the complaint and the Regulations and Procedures of the Board, unless the Evaluator determines that it is necessary to delay the notification to avoid compromising the investigation.
2. The Evaluator must conduct a preliminary evaluation of every complaint to determine whether sufficient cause exists to conduct a full investigation. The Evaluator may not conduct an investigation if:
 - a. the complaint does not identify specific facts demonstrating a potential violation;

- b. the facts would not amount to a violation of law; or
 - c. identical allegations have already been addressed in a prior complaint.
3. The Board may not consider Complaints filed more than four (4) years after the alleged violations occurred.
4. Any City employee who is a Candidate for City office must be treated like any other Candidate for the purposes of San José Municipal Code Chapter 12.06. However, the Evaluator must refer any complaint where the Respondent is a classified or unclassified employee appointed by a City Council Appointee to the appointing authority for investigation and action. The Board may not take further action on the complaint with regard to the employee.
5. If the Complaint, on its face, does not warrant an investigation, the Evaluator will advise the Chair and schedule a Hearing for the Board to consider the Evaluator's Report and Recommendations.
6. If the Board determines, upon reviewing the Evaluator's determination of lack of sufficient cause, that the complaint identifies specific facts that if proven would be a violation of Title 12, the Board may direct the Evaluator to commence an investigation.
7. When there is sufficient cause, the Evaluator will conduct an investigation, which must include an interview with the Respondent unless the Respondent refuses to cooperate. The Evaluator may also interview the Complainant and any witnesses, as well as review documents and other evidence.
8. In the event the Evaluator uncovers facts and information during an investigation that may implicate possible violations of Title 12 by one or more persons or entities who are not identified as Respondents, the Evaluator will notify the Chair of this discovery and the Chair will schedule a Hearing to consider the Evaluator's Report and Recommendations.
9. If the Board determines that the Evaluator has identified specific facts that if proven would be a violation of Title 12, the Board may direct the Evaluator to investigate. The City Clerk will file an amended complaint against the new Respondent(s) using the complaint form established for such purpose. To the extent the information giving rise to the complaint relates to the circumstances of another complaint under investigation, the City Clerk may reference this in the complaint and indicate that the complaint should be treated as an amendment of the existing complaint. In this event, the Evaluator must notify the new Respondent(s), as well as the Complainant and Respondent(s) of the existing

complaint, of the new allegations. The Evaluator must also provide copies of the subject complaints to all parties and the Board's Regulations and Procedures.

10. If the information giving rise to the new complaint is not related to another complaint and deserves a separate and independent investigation, the Evaluator will notify the Respondent(s) of the allegations and provide a complete copy of the complaint and the Board's Regulations and Procedures, unless the Evaluator determines that it is necessary to delay the notification to not compromise the investigation.
11. When the Evaluator concludes an investigation, the Evaluator will prepare a written Report and Recommendation. The Report must contain a summary of law and evidence gathered through the investigation, including any exculpatory and mitigating information. The Evaluator may consider all relevant facts and evidence, including hearsay evidence, and must include in the Report all facts bearing on the weight given to the evidence considered. The Report must also state whether the Evaluator concludes that Respondent(s) did or did not violate Title 12. Recommendations may include actions to be taken by the Board or further investigation to be conducted by the Evaluator.
12. No complaint, investigative file, or information contained therein, may be disclosed to any person other than a Respondent or Respondent's representative, the City Attorney, District Attorney, a court, a law enforcement agency, or otherwise as necessary to the conduct of an investigation, prior to the presentation of the Report and Recommendations to the Board. The Evaluator, however, may communicate with the Chair during the investigation of a pending complaint in the following circumstances:
 - a. On procedural matters; or
 - b. As required for a determination that a subpoena is essential under the provisions of Section G.
13. When a complaint, investigative file, or information contained therein has been released to the public by any person or entity prior to presentation of the Report and Recommendations to the Board, the City Clerk may acknowledge receipt of the complaint and issue a statement noting that:
 - a. Any given complaint may or may not fall within the purview of the Board;
 - b. A complaint represents unsubstantiated allegations pending the results of an investigation and Hearing; and

- c. Early release of a complaint to the public is a violation of the San José Municipal Code.
14. After presentation of the Report and Recommendations, complaints, related documents, and investigative files may not be disclosed except as required by the California Public Records Act, as amended (Government Code §§ 6250 et seq.).

G. BOARD HEARING

1. The Evaluator must advise the Chair to set a Hearing at the earliest practicable date based on the projected schedule for submittal and distribution of the Evaluator's Report and Recommendations.
2. The City Clerk must notify the Complainant and the Respondent of the date and time of the Hearing at which the Complaint will be reviewed by the Board.
3. The Evaluator will deliver the Report and Recommendations to the Board, the Complainant, the Respondent and all interested parties who request the Report, three (3) business days in advance of the Board Hearing.
4. The Board will consider the Report and Recommendation of the Evaluator as well as any other evidence presented at the Hearing.
5. The Respondent may submit a written response to the Report and Recommendations. The response may contain legal arguments, a summary of evidence, and any mitigating or exculpatory information.
6. The Respondent who chooses to submit a response must deliver the response at least 24 hours in advance of the Board Hearing, if possible. The Respondent must deliver a total of eight copies of the response to the City Clerk for distribution to the Board and the Evaluator.
7. The Respondent may personally appear before the Board or be represented by counsel or any other person.
8. The formal Rules of Evidence do not apply to the Hearing.
9. All testimony presented to the Board must be under oath or affirmation.
10. Board members may ask questions of the Complainant, Respondent, witnesses or the Evaluator when recognized by the Chair.

11. The Board, if necessary, may compel the testimony of witnesses and may compel the production of relevant documents to the Evaluator by subpoena, but this power may be used only as a last resort after good faith efforts to acquire the relevant information have failed and upon a finding that the information or testimony is essential for a determination in the matter.
 - a. The Chair, after consultation with the Evaluator, may subpoena witnesses and compel their attendance and testimony, and may require by subpoena the production of any books, papers, records or other items at a scheduled Board Hearing.
 - b. Use of the subpoena power by the Chair may only be used after a written determination that the information or testimony is essential for a determination in the matter and material to the duties or exercise of the Board's powers and that good faith efforts to acquire the relevant information have failed.
 - c. The City Clerk must promptly notify the Board members that subpoena power has been used and must describe the general basis for the written determination without reference to specific details of the complaint, investigative file or information contained therein.
12. Except as otherwise provided above, individual Board members may not investigate complaints or discuss pending complaints with anyone except during the course of a Hearing.
13. The Complainant is to be treated like any other witness in providing evidence. Any interested person can submit a brief or any written argument to the Board at least 24 hours before the Board Hearing, if possible. The brief or written argument must be simultaneously provided to the Respondent.
14. The Hearing is to be recorded by the City Clerk.
15. The Hearing must be open to the public except that witnesses may be excluded at the Board's discretion.
16. Prior to a final determination on the merits of a complaint, there may be no oral or written communications regarding the merits of a complaint with any person or entity unless the communication is necessary for the conduct of the investigation or except as otherwise provided in these Regulations. After the final determination, the Chair will be the sole contact with the public and media.

H. SCHEDULING

1. This process is to be completed at the earliest possible time. While timeliness cannot be precise because of the nature of an investigation, timeliness is paramount, particularly when an elections-related complaint is filed within two (2) weeks of an election. In all cases, the Evaluator's Report and Recommendations must be submitted to the City Clerk within thirty (30) calendar days after the Evaluator receives the complaint unless an extension has been requested and granted as provided in this section.
2. Whenever an action is required to be completed by a particular time pursuant to these Regulations or an order of the Board, the Evaluator or Respondent may request an extension of time by filing a written request with the City Clerk. The Clerk will promptly forward the request for an extension to the Chair and the City Attorney's Office. In consultation with the City Clerk and the City Attorney's Office, the Chair may grant the request only upon a showing of good cause. The extension granted by the Chair must be in writing and must specify the amount of additional time that has been granted.
3. If the Chair grants an extension to the Evaluator, the Evaluator must submit a progress report on the status of the Evaluator's Report and Recommendations at each regularly scheduled meeting of the Board until the Report has been delivered. The progress report should explain the status of the Report and Recommendations without divulging details about the Complaint or the investigation.
4. If the Chair has denied the Evaluator's request for an extension, the Evaluator must deliver, within three (3) business days, a Report that summarizes the law and evidence gathered through the investigation up to that point, including any exculpatory and mitigating information.

I. ROLE OF THE CHAIR

1. The Chair will make procedural determinations including but not limited to the scheduling of Hearings, time extensions, and order of witnesses.
2. The Chair may consult with the Evaluator and the City Attorney on procedural matters. The Chair may also discuss procedural matters *ex parte* with the Respondent.
3. The Chair is the only contact or spokesperson for interactions with the public, the City Council, and the media. Except for routine administrative matters within their

individual areas of responsibility, the City Clerk, City Attorney, Evaluator, and Investigator will refer all inquiries to the Chair.

J. BOARD FINDINGS

1. If the Board concludes that further investigation is necessary, it will direct the Evaluator to conduct further investigation and to report back to the Board.
2. Upon conclusion of the Hearing, the Board must issue a decision by Resolution.
3. If the Board decides that there is sufficient evidence to establish that a violation occurred, the Board must publicly announce this decision.
4. If the Board decides that there is insufficient evidence to establish that a violation occurred, the Board must publicly announce this decision.
5. A decision that a violation has occurred is based on a preponderance of the evidence from the entire record of the proceedings.
6. The votes of at least three (3) members of the Board are required to decide that a violation of Title 12 occurred. Each Board member voting on the decision must certify on the record that he or she heard (either in person or by listening to a recording) or read the transcript of the testimony at the Hearing on the complaint and reviewed all the evidence in the record.
7. The Board may not impose a penalty if it is presented with clear and convincing evidence that prior to the alleged violation:
 - a. The Respondent requested and obtained a written opinion from the City Attorney or the California Fair Political Practices Commission (FPPC); and
 - b. The Respondent, in requesting the opinion, truthfully disclosed all the material facts pertinent to the case; and
 - c. The Respondent committed the acts or violations alleged in the complaint in good faith reliance upon the formal, written opinion of the City Attorney or the FPPC.
8. The City Clerk must provide a copy of the Resolution of the Board's decision to the Respondent and Complainant. A copy of the Resolution must be posted on the Board's website.

9. The decision of the Board is a final administrative determination of the City, unless the Board makes another decision by Resolution to impose penalties under Section K, in which case that decision is the final administrative determination of the City.

K. ADMINISTRATIVE ORDERS AND PENALTIES

1. If the Board finds a violation, the Board may:
 - a. Find mitigating circumstances and take no further action;
 - b. Issue a public statement or reprimand;
 - c. Require corrective action by a particular deadline; or
 - d. Impose a penalty in accordance with Chapter 12.04 of the San José Municipal Code.
2. The votes of at least three (3) Board members are required to impose any order, penalty, or both for a violation of Title 12. Each Board member voting to impose any order, penalty, or both for a violation must certify on the record that he or she has heard (either in person or by listening to a recording) or read the transcript of the testimony at the Hearing on the complaint and reviewed all the evidence in the record.
3. In determining if penalties should be imposed for violations of Title 12 and the amount of any such penalties, the Board may consider all the relevant circumstances surrounding the case including:
 - a. The severity of the violation;
 - b. The presence or absence of any intention to conceal, deceive, or mislead;
 - c. Whether the violation was deliberate, negligent or inadvertent;
 - d. Whether the violation was an isolated incident or pervasive enough to indicate a pattern of disregard for Chapter 12.04 of the San José Municipal Code;
 - e. Whether the Respondent has a prior record of violations of City law relating to campaign finance, lobbying, conflicts of interest, or governmental ethics;

- f. The degree to which the Respondent cooperated with the investigation;
- g. Whether or not corrective actions were taken, if appropriate, in accordance with the provisions of Chapter 12.04 of the San José Municipal Code.

- 4. Civil penalties are imposed by Resolution of the Board. The City Clerk must provide a copy of the Resolution imposing a penalty to the Respondent and Complainant, and post a copy of the Resolution on the Board's website.

L. REFERRALS TO OTHER ENFORCEMENT AGENCIES OR OFFICIALS

At any time, the Evaluator or the Board may refer a complaint and, if applicable, any information gathered in investigating the complaint, to another government agency or official if the Board determines that the agency or official may more appropriately resolve the allegations in the complaint or enforce the applicable provisions of law. A copy of all information gathered must be sent by the City Clerk's Office or City Attorney's Office to the agency or official together with the referral.

M. JUDICIAL REVIEW

- 1. The Resolution must advise the Respondent that he or she can seek judicial review of the Board's decision in accordance with Chapter 1.16 of the San José Municipal Code.
- 2. Upon receipt of any complaint filed in Superior Court challenging any decision of the Board, the City Attorney will decide if there is a conflict of interest which precludes the City Attorney's Office from representing the Board in the action.
- 3. If the City Attorney determines that a conflict exists, the City Attorney will retain conflicts counsel to defend the lawsuit.

N. COLLECTION OF CIVIL PENALTIES

- 1. Civil penalties imposed by the Board must be remitted to the City Clerk within 100 days of the date of the Resolution by cashier's check for the specified amount.
- 2. If the civil penalties are not paid within the time specified, the Clerk will refer the debt to the Director of Finance for submission to the City's collection agency.

O. ROLE OF THE CITY ATTORNEY

1. The City Attorney may provide legal advice to the Board on matters unrelated to complaints or on general interpretations of the San José Municipal Code or relevant state or federal law. The City Attorney may not participate in investigations or reviews of complaints. (SJMC § 12.04.080.H)
2. The Chair or the Evaluator may consult with the City Attorney at any time about procedure or an interpretation of the San José Municipal Code, in general, and not as it applies to facts that are the subject of a pending complaint.

SECTION 2. Resolution No. 77879 is hereby repealed.

ADOPTED this 24th day of October, 2017, by the following vote:

AYES: ARENAS, CARRASCO, DAVIS, DIEP, JONES, JIMENEZ,
KHAMIS, NGUYEN, PERALEZ, ROCHA; LICCARDO.

NOES: NONE.

ABSENT: NONE.

DISQUALIFIED: NONE.

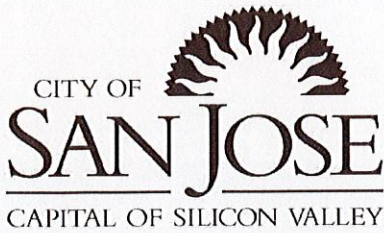


SAM LICCARDO
Mayor

ATTEST



TONI J. TABER, CMC
City Clerk



200 E. Santa Clara Street, Tower 14th Floor
San José, CA 95113
(408) 535-1260 (main); (408) 292-6207 (Fax)
Email: city.clerk@sanjoseca.gov

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COMPLAINT FORM

BOARD OF FAIR CAMPAIGN AND POLITICAL PRACTICES

*Name: Joseph Barco

**Your name, address and phone number are required when submitting this form. If you wish to remain anonymous, you may call the Board of Fair Campaign and Political Practices Anonymous Complaint Hotline at 408-975-ANON (2666). (As noted on the instruction sheet, certain restrictions may apply.)*

Street Address: [REDACTED]

City: [REDACTED] State: [REDACTED] Zip: [REDACTED]

Phone: [REDACTED] (Home Work Mobile) Alt. Phone: [REDACTED] (Home Work Mobile)

E-mail: [REDACTED]

Complaint Type (Check all that apply. Specify the applicable Municipal Code section which forms the basis of the alleged violation. Failure to identify the specific section of the Municipal Code will result in the rejection of your Complaint, without prejudice.):

- Municipal Campaign & Officeholder Contributions (12.06): SJMC § 1010A
- Prohibition on Gifts (12.08): SJMC § 1010A
- Revolving Door Restrictions (12.10): SJMC § 1010A
- San José Municipal Lobbying (12.12): SJMC § 1010A
- Disclosure of Fund-raising Solicitations (12.16): SJMC § 1010A
- Income and Time Disclosure (12.19): SJMC § 1010A
- Appearance of Impartiality (12.22): SJMC § 1010A
- Political Sign placement or size violations—please call (408) 535-7770 directly or submit this form.

Political Sign complaints related to placement or size will be forwarded to Code Enforcement and NOT investigated by the Board of Fair Campaign and Political Practices. Only electioneering communication violations related to political signs are under the purview of the Board of Fair Campaign and Political Practices.

1. Who is the person(s) or organization(s)/committee(s) against whom you are filing a complaint (please provide name(s), address(es), phone number(s) and email address(es), if known):

Irene Smith for San José City Council D3 2022, FPPC# 1439434



2. Describe the complaint. State all facts as specifically as possible. (Attach additional pages if necessary)

Smith's campaign uses Medium.com to post campaign-specific materials. Medium.com is a paid membership site, making it an online platform, and posts are therefore advertisements, according to the definition in Cal § 84504.6. This requires disclosure, either directly in text or by hyperlink. Viewers are able to reach at least 8 advertisements without navigating through any disclosures. Several instances where no disclosure is made are appended to the complaint.

3. Provide the names, addresses, phone numbers and e-mail addresses of potential witnesses, if known:

N/A

4. Additional Information:

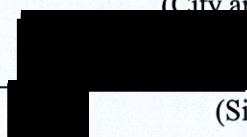
<https://medium.com/@irenesmithd3>

5. Documentation: Please attach copies of any available documentation (e-mails, letters, mailers, photos, etc.) regarding the alleged violation.

VERIFICATION

I certify under penalty of perjury under the law of the State of California that the above statements are true and correct.

Executed on 11/1/22 at San Jose, CA
(Date) (City and State)


(Signature)

CONFIDENTIALITY OF COMPLAINTS

No complaint, investigative file or information contained therein, shall be disclosed by any City Official, city employee, the evaluator or investigator to any person other than a Respondent or Respondent's representative, the City Attorney, District Attorney, a court, a law enforcement agency, or otherwise as necessary to the conduct of an investigation prior to the presentation of the Report and Recommendations to the Board. The Evaluator, however, may communicate with the Chair of the Board on procedural matters relating to a pending complaint during the course of the investigation. After presentation of the Report and Recommendations, complaints, related documents, and investigative files shall not be disclosed except as required by the California Public Records Act. (Resolution 79187 and SJMC 12.04.080 (E))

Persons filing the complaint are requested not to release said complaint to anyone other than the City Clerk or his/her designees before the investigation is completed. When the investigation is completed, the complaint will be agendized for a public meeting.

I have read and understood the above policy on the confidentiality of complaints.



(Signature)

Joseph Barco

(Printed Name)

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Misleading D3 voters in the SJSU Votes debate

From Housing to Crime to Parking, Omar Torres struggled to tell the truth in the final D3 debate. We fact-checked his most dubious comments below.

On parking:

Torres' Claim: "I have no idea where my opponent thinks I am against neighborhood parking". SJSU Votes debate (minutes noted below)

Fact check: False and misleading.

Analysis: Torres is trying to airbrush out his comments at the SJDA debate (9/9/22) when Torres stated he supported the elimination of parking requirements for new buildings. [SJDA Debate](#) At minute 49:13 Torres states "I do not support building more parking structures or building more parking" And at minute 49:34 Torres states again "No I do not support building more parking here in the city of San Jose".

His [SJSU Votes Debate](#) comments at minute 56:43 are a flip flop, stating "I have no idea why my opponent thinks that I am against neighborhood parking". Or at minute 57:13 "my opponent thinks I don't want any more parking in our neighborhoods." And of course at minute 57:22 "parking should be readily available to all our residents". Torres further muddies the situation by saying at minute 57:30 "I am not completely sold on getting rid of the parking requirements in new development because we are not entirely a walkable city."

On passing the Reimagining policy:




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Fact check: Mostly false

Analysis: Council did not pass the recommendations from the Task Force, but gave the recommendations – without any up or down vote – to the City Manager and The City attorney to review. [City Council Agenda 5/10/22](#)

On defunding police:

Torres' Claim: "I am for the police reimagining...the police reimagining is not going to defund our police department." 10/28/22 at the [SJSU Votes Debate](#) minutes 19:36, 19:56.

Fact check: Misleading doublespeak.

Analysis: According to Wikipedia: **"Defund the police"** is a slogan that supports removing funds from police departments and reallocating them to non-policing forms of public safety and community support, such as social services, youth services, housing, education, healthcare and other community resources." Broadly speaking this type of reallocation is prominent in the recommendations of the San Jose Reimagining The Police Task Force, which Torres claims to support. That Task Force called for the following in order to reduce reliance on the police:

*Training residents on how to de-escalate potentially violent situations. *Training residents on how to de-escalate mental health crisis situations. *Putting untrained department of transportation bureaucrats in charge of enforcing traffic stops.

It is possible that Torres defines "Defunding the Police" differently, but his positions appear to align with this most commonly understood meaning.

Six Reasons the San Jose Reimagining Police Task Force Recommendations are Seriously Flawed

The San Jose Reimagining the Police Task Force report was submitted to San Jose City Council on 4/28/22. The Council...

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Torres' Claim: "Her {Smith's} rental voucher is more of a federal issue than a local issue." 10/28/22 at the [SJSU Votes Debate](#) minutes 43:18, 42:50.



Fact check: False.

Analysis: The City of San Jose is already using rental vouchers for rapid rehousing. [SCC housing vouchers](#) and [SJ Rapid rehousing vouchers](#). Other municipalities are also implementing their own housing vouchers. There is nothing about rental vouchers that limits its implementation, funding, or management to the federal government.

On Smith's housing plan:

Torres' Claim: "I am the only candidate in this race supporting permanent and interim solutions to housing our unsheltered." 10/28/22 at the [SJSU Votes Debate](#) minute 13:53.

Fact check: False

Analysis: Since April 2021, Smith has  1  a multi-pronged approach to solving the local housing crisis — and permanent supportive housing has always been a key plank of that plan. Where Smith differs from Torres and others is in her belief that immediate Shelter, Security, and Services should be our housing plan's highest funding priority — not \$1m/unit apartments a decade from now. [Incremental Ladder of Housing Success](#)

On housing providers:

Torres' Claim: "Landlords and slumlords like my opponent were forcing people out of their home(s) during this terrible recession." 10/28/22 at the [SJSU Votes Debate](#) minute 12:48.

Fact check: False

Analysis: Smith has been a landlord for more than 33 years and has never ever filed an eviction, including and during the pandemic and Great Recession. Nor has she had any



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- Manages rent controlled units
- Never flipped a property
- 100% compliance with code enforcement recommendations for older buildings
- Never had any habitability actions brought against her
- Properties are in Naglee Park and SUN neighborhoods, hardly slums.
- Has public support from apartment residents [The building of a resume](#)

Most notable: during the recession and pandemic, and contrary to Torres' claims, Smith had no evictions on her properties.

{Note: Torres' comment recalls similar unprofessional insults he has thrown at other women who are his ideological opponents. [San Jose: Council aide apologizes for remarks about councilman, candidate](#)}

On nonprofits:

Torres' Claim: "My opponent is attacking nonprofits." 10/28/22 at the [SJSU Votes Debate](#) minute 13:20.

Fact check: False.

Analysis: Smith, like Mayor Liccario [San Jose releases withheld Liccario emails — San José Spotlight](#), has called for increased formal accountability of non profits who do business with the City. Smith said at SJS debate: "We need accountability from both our government and any extension of the government like nonprofits. The same rules that apply to government should apply to nonprofits." Smith started a non profit and sits on the board of 2 non profits, and acknowledges the centrality of nonprofits to the City's business.





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IreneSmithD3

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SJSU Debate Transcript

Introduction:

A little bit about me and my experience. I've lived in downtown for 33 years.

Housing: I've been a housing provider for 33 years with rent-controlled apartments.

Mental Health: I have a masters' and PhD in Psychology. I've worked in a psychiatric hospital for children with severe mental illness.

Working with Government agencies: I have my law degree from Santa Clara and I've been a pro-tem judge for the past 15 years and also currently an administrative hearing officer for Santa Clara County.

Getting the most out of our budgets: I was a senior financial analyst at IBM for over a decade.

Jumpstarting small businesses: I founded and grew three local businesses in downtown.

Coordinating with nonprofits: I founded and was president of Business and Housing Network — San Jose, for 7 years.

A broad scope of skills like this, is what our next council person needs.

I am running because D3 is in a crisis, we need action, we need a sense of urgency, but



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special interest. And who loses? Little Loses. Our neighbors, small neighborhoods. Small nonprofits. The guy living on the sidewalk being told to stay there just five more years while we build, the mom-and-pop business owners that are struggling to survive. I'm running because I can see solutions clearly without the mandated tinted glasses issued by special interests. I am that new voice that can shake off the muck and my D3 recovery plan is the beginning of our answer.

5-step plan to get D3 back on track

Rebuttals:

Mr. Torres, please stop the name calling. I am not a slumlord. I am not a lobbyist.

Mr. Torres, that is not correct. I am 1000% in favor of affordable housing, of permanent supportive housing, and of new construction. I am against leaving unhoused persons on the sidewalks and parks until housing is built — it's inhumane and we can do something better with the Incremental Ladder of Housing Success.

Mr. Torres that is not correct. Rental vouchers are not a federal only program. San Jose and other cities are already doing their own rental voucher programs; San Jose has vouchers with rapid re-housing but it only lasts two years and it is not sufficient. We can do our own program and stop relying on the federal government.

Mr. Torres previously agreed with no parking requirements for new buildings in the debate at the Tabard Theatre 9/9/22 with the San Jose Downtown Association.

Putting The Car Before The Bus When It Comes To Parking

Q. What responsibility does the City of San Jose have to assist unhoused residents of San Jose? What actions would you recommend that the city take to deal with homelessness in San Jose?

A. I am the only candidate in this race with education and experience in both mental health treatment and actually providing housing. And here's what that expertise tells



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- Put together a smart, effective plan to start treating unhoused persons in a more humane manner
- Spend money wisely to help the most people possible
- Make changes if our strategy isn't working.

We're doing none of those things. City Hall is stuck on a dogmatic embrace of its flawed Housing-First strategy since 2011; we have focused our efforts on building million dollar a unit new housing that will be available a decade from now. It's ridiculous.

Here's what we need to do:

- 1.) Shelter and stability first: My Incremental Ladder of Housing Success Plan.
Incremental Ladder of Housing Success
- 2.) Provide local rental vouchers — an SJ version of Section 8 — that provides a safety net right now for the working poor and prevents homelessness.
3. Placement-First: better use and re-use of existing spaces, housing, and shelter stock.

Here's why the city's approach to homelessness is a failure: it's just a re-traumatizing hamster-wheel of abatements — allowing, and then dismantling homeless encampments. Abatements are not a solution, and the lack of accomplishment is causing severe distress: among the unhoused, on neighborhoods, and on small businesses.

My plan is very similar to San Diego's Community Action Plan on Homelessness, which has been very successful in cost-effectively and quickly addressing the needs of their unhoused neighbors — and Tacoma where encampments are not allowed to start.

We can do this. right. now.



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2021. Mayor Liccardo established a “walking patrol” in downtown and “high-need” areas which added twenty officers to SJPd (and cost \$3.7 million). First, do you support more “walking patrols” and, second, how would this policy improve not only public safety, but also trust between residents and police?

A. There's a lot in that question so let me answer it by talking about the reimagining police report that touches on these issues. I think this an area where Mr. Torres and I see things very differently. The City's Police Reimagining Task Force put together a lot of recommendations which I think Mr. Torres has spoken favorably about — he can clarify that tonight. However, I find many of the Reimagining Task Force's recommendations to be misguided, dangerous, and uninformed.

Here's why: fundamental to the Task Force's approach, is to address crime by replacing badged police officers with citizens from other professions, or just regular community folks.

Some examples: 1. the Task Force envisions mental health professionals, instead of cops, responding to dangerous issues with the mentally ill or on domestic violence calls. 2. It envisions regular community members taking responsibility for de-escalating situations that could lead to violence. 3. It wants to put Department of Transportation bureaucrats in charge of traffic stops.

Honestly. This is terribly misguided. Look, I've been a mental health professional. I worked in a triple-locked psychiatric hospital. And I can tell you definitively that no mental health professional wants to be responsible for handling criminal activity.

So I'm opposed to most of the Reimagine Task Force. I'm for more badged police officers, more foot patrol, more strict citizen oversight, more MCAT. But I am opposed to the deprofessionalization and decentralization of our public safety efforts. It opens the door to huge accountability problems and potentially more crime and violence.

My website has a full list of my disagreements with the Reimagining Police Task Force.



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Pavilion, to help build a new multi-use pavilion, dog park, and playground. As a member of the city council, what would you do to help the revitalization of the park and surrounding neighborhood?

A. As a councilmember, I can't just look at St James Park in isolation and I need to look at the impact on the rest of D3. I have to take a big picture approach, and this is how I would look at it.

This is a good question because it highlights how so many issues in D3 lead back to our housing crisis. St. James is a park. But it's not working as a park because it's really an unhoused living spot.

So that makes it unusable for its stated purpose and designed purpose.

To reclaim the park, as a park, we have to address the unhoused encampment issue; not just move the encampment to another park for a month or so. If we don't have the ILHS we will only be pushing people out much like the constant retraumatizing hamster-wheel of abatements. We need to take a big picture approach and not just force people out. We've seen how that works at the FAA site. They are forced to leave with nowhere to go, and they go somewhere else and then that area will need to be abated and revitalized. It's just cruel.

That's why my incremental ladder of housing success is such a lynchpin idea: by getting people off the parks and creeks and sidewalks now — not ten years from now — we can start to fix the downstream problems caused by rampant street homelessness.

We can't start designing new uses of St. James Park, which is an actual home to so many — until we fix the current crisis there.

Q. If you were given an unlimited budget to promote four of downtown's best assets, what would those assets be and how would you promote them?

A. With all due respect, I'm going to shift the premise of the question just a bit. We



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- 1.) We have a lot of underutilized built space — whether it's empty office buildings, hotels, or older commercial buildings, which would be repurposed to shelter and to housing. We should make it easy to do that.
- 2.) We have a great, calm street layout with lots of existing parks and mature trees: we should make DT SJ the most walkable downtown in California and the #1 downtown for outdoor dining and strolling and music. We could be as vibrant as Barcelona — we've got the layout to do it.
- 3.) We have a world class university with a stunning campus right in our midst: we need to find ways to better integrate the campus and town and make the borders of the university and downtown more permeable.
- 4.) We have a vibrant collection of fantastic small businesses that we need to support more. I believe the city could and should launch a Downtown Shop Local program that rewards for those patronizing downtown small business.

Q. Councilmember Peralez has proposed permanently closing San Pedro Street to traffic to help support bars and restaurants in San Pedro Square. The City Council recently voted to do further study on a permanent closure. What is your view on this? Should San Pedro St. be permanently closed?

A. I want all of downtowns' restaurants and businesses to thrive, not just San Pedro. I want folks to come downtown for a variety of restaurants and a variety of events. We need to promote them all, not just San Pedro.

What I'd like to see is a full plan for all of downtown to explore street closures. Remember though, street closures can sound like a good idea, but they take away parking and drive-by awareness. California is littered with failed street closure programs — from Fresno to Santa Cruz. We need to be careful and make sure that we actually deliver more business, not just a feel-good measure. Not every street is like San Pedro and has a big city-owned parking garage down the street.



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Q. How important is the relationship between the city of San Jose and San Jose State University? What, if anything, should the city council do to strengthen this relationship?

A. Students feel the housing crisis in a unique way. The number one thing we can do is housing. Any student who is sleeping in a car and going to classes and potentially also working is doing an incredible job and should get assistance. First, we need to ease the housing construction permit process. Second, we need to make sure that we have a placement-first strategy in place, just like Milpitas. Milpitas gave a call to action for unhoused teachers in the area and asked homeowners with an extra bedroom to help out. We too can incent owners to open a bedroom for more housing options for students.

In addition to housing San Jose needs to re-evaluate its' traffic safety plans. We have had 28 pedestrian fatalities in San Jose and the number is growing. I would recommend a traffic coalition formed between the city and SJSU to recommend traffic calming and life saving measures that would help both students and neighbors.

A few other thoughts -

I know we have worked on this before, but I would like to see the joint MLK library hours extended even further for the community and students.

And lastly, I'd like to expand Apprenticeship programs at the city level and work with SJSU to overhaul college and high school dropout prevention policies. Because providing jobs for our youth is arguably the most important upstream thing, we can do to solve D3s long term problems and work with SJSU at the same time.

Q. It has been well-documented that downtown has suffered economically during the pandemic. One recent study, as reported by San Jose Spotlight, showed tax receipts had declined by almost 40%. What is your plan to help the downtown economy recover?

A. Let me start off by saying there are two big things we have to STOP doing if we want



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mayor running around with a donation basket to Sacramento and D.C. is not a financial model. We need to build this ourselves from the ground up.

Look, I've founded, run, and struggled to make 3 small businesses work in downtown. Lots of local governments have developed ingenious interventions for small businesses, San Jose is not one of them. In office, here are five things I would pilot:

1. Encourage "Shop local." Akron, Ohio, is actively encouraging shopping online with local businesses by building the [Akronite](#) app. which connects shoppers to local businesses and offers points that lead to discounts. We could do the same thing for D3 small businesses.
2. Streamline internal operations. San Jose can be way more invested in the success of small businesses by walking them through the onerous permitting process and providing outreach and headlights into options that would best serve their business in D3.
3. Help local businesses shift to online sales. For example, some local governments are supporting their businesses to convert to an online presence through tech grants. [Alaska's Kenai Peninsula](#) does this. The SJ downtown association should be linking to all small businesses in D3.
4. Invest in workforce training programs aimed at future economic activity in conjunction with SJSU. Charlotte, North Carolina, has created a workforce training and placement [program](#) that targets fields the city would like to grow in — specifically, advanced tech and renewable energy. We could do this with support from our tech partners and SJSU.
5. Make it easier for small businesses to contract with the government. Local governments contract for all kinds of services — we should be privileging local small business for these opportunities.

Q. Several news outlets have reported on the city auditor's annual report of city



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residents concerned about response time? What should the city do to help the police reduce response time?

A. We have the lowest number of police officers for any large City in the USA and less than San Francisco — even though they have a smaller population and less miles of ground to cover. We need to increase the number of sworn officers back to 2012 levels where we were the safest big City in the US. The mandatory overtime requirement for officers is negatively impacting our ability to attract new officers and is more expensive than getting new officers.

Two key areas need to be addressed while we wait for more officers -

1. Other departments in San Jose need to do their jobs and stop letting SJPd pick up the slack. When I speak with officers, they talk about how many calls they take for vehicle abatement and code enforcement. These departments need to step back up and use their enforcement capabilities so that the police are then freed up to respond to emergency calls more effectively.

2. The police do not make these kinds of reports, — but 22,000 calls came in from encampments fires over the past two years, to the fire department. The strain encampments place on the police and fire department are extraordinary and response times for other emergencies have increased as a result. Once unhoused personas are located in the destination locations for one stop shopping for: services, safety, showers, and sanitation — many of these calls, caused by one-on-one violence in the encampments, will cease and officers will have much better response times for other calls.

Additionally, we have other issues such as — inadequate technologies, burdensome report writing databases, and a shortage of emergency dispatch operators.

And lastly, but importantly — we need to start addressing our mental health crisis. Because mental health is not a crime and should not be the responsibility of police officers.



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Q. How will you incorporate community feedback into your work as a councilmember? Use one of your campaign proposals as an example to explain what your process might look like.

A. I have proposed an Office of Public Listening — too many times residents tell me the city is not listening to them and the frustration is growing. The city doesn't hear them on the need to park, vehicle abatement, encampment fires, safety, and others. By having a department of public listening, we can use cutting edge technology to improve two-way communication.

The way City Hall gets constituent feedback right now is a mess. There's no loop that says, 'we hear you', 'we can do this'. It's all scattershot emanating from separate city departments.

My plan for an Office of Public Listening requires the city to employ cutting edge, customer relations techniques to give us sharper insight into public opinion.

I would model that in my D3 office:

1. Transparent Monthly Polling on Key issues — published continually.
2. Serious transparent analysis of public opinion on key issues.
3. A rolling dashboard of public opinion and feedback on key issues.
4. And of course, regular public meetings and conversations — always summarized and made available for asynchronous viewing.

[An Office of Public Outreach: Improving citizen input, City outreach, and trust in government](#)

Closing:

Thank you. These were great questions and a very well-run forum.



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It's this — Do we go down the same old road or do we turn onto a new road?

We are choosing between following our old habits or consciously choosing a change agent.

My experience in business, mental health and housing leads us forward with the real-world expertise that D3 desperately needs.

Thank you SJSU and thank you for your time, your attention, and your questions.

Q. In March 2022, the city passed the Gun Harm Reduction Ordinance which requires gun owners and those in possession of guns to have a current liability insurance policy for their firearm and requires those who own or are in possession of firearms in the city to pay an annual Gun Harm Reduction Fee to a Nonprofit Organization designated by the city and which would be spent on providing services (such as suicide prevention and gun safety classes). Are you in support of this law? How do you respond to critics who argue that that law is unconstitutional?

A. The law has passed and so we will have to wait and see what the courts themselves say.

This ordinance does nothing to address real violence or reduce gun violence. We need to take a much stronger stand on a wider variety of guns. We must consider illegal ghost guns and 3-D guns and how we can more effectively remove these guns from our environment. And we need to better regulate super-charged automatic weapons.

I would like to see age related gun access restricted to age 22 and over. There are many studies now on brain development and how risk assessment isn't fully formed until about age 22.

And ultimately, what are the underlying causes of violence in our society? We can't just focus on guns — we must focus on mental health and support folks and change lives. I have proposed that we put mental health in the school curriculum starting in kindergarten, in after school programs to support the curriculum, and offer mental



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Q. In your view, what is the least attractive aspect of downtown? Why do you believe this is so, and what would you do to improve it? Would this be an incremental change or an overhaul?

A. #1. Lawlessness.

Take a walk around downtown for ten minutes and you'll see a handful of misdemeanor crimes being committed that go unnoticed. Drugs, Traffic, and property infractions happen all the time.

The downstream impact of this lawlessness creates a negative cycle where fewer businesses open, fewer people come downtown, and it just spirals downward.

The answer is twofold: increase badged police presence so they can enforce the laws. And give our unhoused neighbors a place to go where they get shelter, security, and services.

Downtown will never prosper if it's a lawless zone.

#2. Filth.

Downtown is dirty. Keeping our streets clean also solves the broken window theory. It shows potential illegal dumpers and others thinking of committing crimes that Downtown neighbors and small businesses care about their neighborhood and are paying close attention.





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IreneSmithD3

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I stand by my mailer and will not back down

The petition about my mailer has a long list of inaccuracies, misrepresentations, and deceptive arguments about a very vital issue: racism in local politics. Race-baiting is for real in San Jose, but this group reduces our political culture to one based on belittling, silencing and obfuscation of the issues. And our voters in D3 pay the price.

This letter is meant to silence, like book burnings deciding who can have a voice.

This letter is designed to cloud the real issues and hide the genuine truth about policies the voters so desperately seek.

This letter is about a campaign stunt that can damage a campaign because they feel so threatened by truth.

This letter is not about true racism. For if this letter were about racism, the authors would condemn and ask for the resignations of actual racists who have had actual racist impacts (like the LA-4), as President Biden and I have done.

This group of authors have been utterly silent on any of the other race-baiting issues confronting Silicon Valley politics. But they have chosen to make up charges about this campaign and this mailer — why this one and why now?

Consider the background:

Matt Mahan has been smeared as anti-choice and pro-gun. And they said nothing.



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non-profits, and big special interests. As you look at the signatures and see many leaders of nonprofits — groups I have criticized for unaccountable behavior and as big beneficiaries of the status-quo.

Let's take their claims step by step.

The first charge is that this mailer is similar to:

- GW. Bush accusing J. McCain of fathering a black child,
- or using a photo of black men not associated with the political campaign,
- or darkening the faces of candidates of color.

This is false equivalency. None of these terrible tactics were used in anyway on the flyer. But the authors feel they can make this claim, if that's what you want to see.

The second charge is that by placing a photo of white women next to a photo of men of color it 'literally and metaphorically pits these groups against each other'. The photos were not altered. Everyone is smiling. Mr. Torres' photo was made public by the two participants.

This is a farcical analysis, and the piece does no such thing. There is no graphic or editorial signal of any sort — no words, no jagged lines, no arrows, no anything to suggest adversarial intent. They are just next to each other. Merely because a person of color is next to a white person is not an indication of racism. Unless that is what you want to see.

In the third charge, the authors take words, put them into a word salad, and rearranged them in an order to their liking. The authors contend that the word "dangerous" is a dog whistle — but they fail to mention that we use "dangerous" as an adjective to "partisanship." We are talking about "dangerous partisanship," meaning that Mr. Torres has consistently aligned himself with politics and policies that will be dangerous for D3. It is beyond imagination to suggest that using the words dangerous



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policies, issues, and solutions and I did not use the word dangerous to imply a personal attribute to Mr. Torres.

Here are the main things to remember:

The authors offer no argument that the piece has any explicit racist or racial import. There are no tainted, negative images. Nothing is manipulated. There are no inaccurate claims. No discussion or insinuation of personal life. No wild language, no insults, no derogatory terms.

So it's all in the interpretation and what the reader might want to see. And this is where their analysis utterly falls apart. We've all read postmodern literary analysis and understand that a text can be read a million different ways. Any creative person can come up with basically any narrative, and with a few tricks, work backwards to build a story off any piece of work or art.

The authors are treating these mailers as though they are a Hidden Puzzle game, and it's just unserious and cynical.

We are talking about a political mailer, and the only legitimate way to read it is to talk only about what it actually says and what images it actually uses. Anything else is just wild, cynical, creative make-believe, and has no place in serious political or academic debate.

The mailer is a straight-ahead comparison of policy differences and endorsement networks between Mr. Torres and me. The main headline and the driving thesis is a quote from Spotlight magazine. And attempts to read it otherwise are just fantasy.

The authors can find implications, suggestions, irony, hidden easter eggs all they want — but they're not real. They're making them up to fulfill a political purpose to support Mr. Torres winning the race.

It's intellectually unimpressive and ethically offensive. This petition will sadly detract





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Irene SMITH
San José City Council District 3

P.O. Box 90372, San José CA 95109

SAN JOSE CA
PERMIT 5204

Leading, Moderate Women Officeholders Endorse Irene Smith

Defund The Police Candidate Gets Omar Torres' Endorsement



Councilwomen Pam Foley and Dev Davis choose Irene Smith

Sajid Khan, radical anti-police candidate, supported by Omar Torres for DA

“The two candidates running for District 3 couldn't be more different.”

— SJ Spotlight Reporter Jana Kadah, September 9, 2022



Irene SMITH
San José City Council District 3

Smart, Independent Change vs Dangerous Partisanship



Irene Smith

- Supports the police and increasing staffing to “safest city” levels
- Supports more parking and vehicle abatement in neighborhoods
- Opposes new taxes that increase the cost of housing for renters



Omar Torres

- Endorses candidate who says “fire every San Jose police officer and dismantle the police department.”
- Opposes new parking throughout D3
- Favors onerous taxes on new housing developments

“ We need a council member with emotional maturity. We need leaders who will bring San Jose together. Like Cindy Chavez, Irene Smith has these qualities. She is ready for the responsibilities of a council member and will thrive in the position representing downtown D3 for many years to come.” **Dev Davis** | San Jose City Councilmember, District 6





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Not In My Name: an Open Letter from White Women Regarding San Jose Campaign Race-Baiting Mailer

October 14, 2022

A recent mailer sent by the campaign for Irene Smith, a candidate for San Jose City Council District 3, which includes downtown and surrounding neighborhoods, shows that the long tradition of racist dog whistles being used in Santa Clara County campaign mailers is still with us.

For those who benefit from photo descriptions, the mailer depicts a large photo of Ms. Smith, a white woman, flanked by two white female council members on one side of the mailer juxtaposed against a smaller photo of her opponent, Omar Torres, who is standing with Sajid Khan. Mr. Torres and Mr. Khan are men of color. The bottom of the mailer says, "The two candidates running for District 3 couldn't be more different." The back of the mailer says, "Smart, Independent Change vs [sic] Dangerous Partisanship."

This mailer is classic old school race baiting. Race baiting is the incitement of racial resentment and unconscious racial bias for political purposes and it is odious. For example, when the George W. Bush campaign in South Carolina accused rival John McCain of fathering a black child out of wedlock, that's race baiting. When business organizations supporting San Jose City Council Member Dev Davis used a photograph of Black men involved in what appeared to be a riot in South Africa with the caption "Do You Really Want to Sign onto This?" to imply that her opponent's policy positions would lead to riots, that's race baiting. When campaign mailers darken the faces of candidates of color—as has occurred several times in recent years in our County—that's race baiting. These tactics play on racist stereotypes that are recognized by some people looking at the mailer, inciting and reinforcing their conscious resentments and implicit biases.

Scholars like Dr. Apryl Williams have documented the long history, rooted in the slavery era, of racist stereotypes positioning white women as innocent, virtuous, and victimized and men of color as dangerous and predatory. That history includes white women deploying their power and these narratives to directly endanger men of color.

So when a mailer depicts a group of classily-dressed white women on one side and a pair of men of color on the other (one of them in a t-shirt), it literally and metaphorically pits these groups against one another based on apparent race and ethnicity. And, when on the opposite side of the mailer the word "smart" is used to refer to a white woman and the word "dangerous" to a man of color, it engages in racist dog whistling that draws on those centuries of racist imagery suggesting that white women need to be protected from men of color.

If you have heard the term dog-whistle but never been quite sure about what it means, it's a metaphor drawing on the idea that there are whistles that only dogs can hear. Dog-whistling is a term applied to political messages that one particular group is likely to "hear" more clearly (and therefore react to). Again, in our country, to apply the term "dangerous" to a man of color in opposition to white women is to play on associations that go back as far as the origins of white supremacy itself. It is a racist dog whistle to white women (and the white men who position themselves as protecting white women).

We condemn this mailer in the strongest possible terms. We call on Irene Smith as the architect of this offensive message to publicly renounce it, apologize to Omar Torres and communities of color, and cease distribution of the mailer. We further call on others involved in the creation and approval of this mailer to apologize to Omar Torres and communities of color.

Not In My Name: an Open Letter from White Women Regarding San Jose Campaign Race-Baiting Mailer Page 2

In closing, it is important to make clear that the signatories to this open letter are primarily white women. That is not to center ourselves in the pain this mailer undoubtedly caused to Black and Brown members of our community. It's because we believe we owe a debt. The privilege of white folks is predicated on the oppression and exploitation of Black and Brown people. (Let's not forget that fifty-three percent of white women voted for Trump, perpetuating centuries of internalized oppression coupled with deep collusion with the system of white supremacy.) And perhaps we have some hope that our white sisters will read this piece and take another look at this mailer with open eyes and open heart and also say, as we are saying: Irene, not on our watch, not in our name.

Faith Ackerman
Jessica Anthonis
Hilary Armstrong
Sandra Asher
Louise Auerhahn
Shiloh Ballard
Lani Ballard
Elizabeth Barcelos
S Sayre Batton
Jessica Blitchok
Nichole Boaz
Gayle Boesch
Molly Brennan
Alison Brunner
Dana Bunnett
Catherine Burmeister Loera
Julie Butterfield
Joanna Carson-Young
Chris Carter
Julie Cecilio
Alison Cingolani
Leslye Corsiglia
Pattie Cortese
Gina Dalma
Kathren DeLucchi
Mary Helen Doherty
Kelley Durdella
Susan Ellenberg
Belinda Espino
Diane Fisher
Amie Fishman
Serena Flores
Megan Fluke
Diana Foss
Marc Gerston
Shawn Gerth

Melissa Gilbert
Shelly Glennon
Barbara Goldstein
Darcie Green
Kristine Grim
Kim Guptill
Betsy Hammer Carr
Heather Hartter Kava
Amanda Hawes
Katie Heaney
Kathryn Hedges
Anjee Helstrup-Alvarez
Frances Herbert
Cayce Hill
Jane Holt
Marsha Hovey
Tiffany Howard
Allie Hughes
Lori Katcher
Kyra Kazantzis
Mareese Keane
Claire Kennedy
Elliot Keavane
Jefie Khalsa
Matt King
Randi Kinman
Annette Kirkham
Elisa Koff-Ginsborg
Anna Koski
Dixie Lira Baus
Jennifer Loving
Helen Lutke
Nancy Mager
Wendi Mahaney-Gurahoo
Margie Matthews
Susan McLaughlin

Mollie McLeod
Derecka Mehrens
Matthew Morgan
Julie Mount
Jennifer Myhre
Alexa Nolder
Anne Nourse
Gail Osmer
Rev. Nancy Palmer Jones
Marcia Obsniuk
Julie Quinn
Ashley Raggio
Lindi Ramsden
Amy Randall
Meredith Rohr
Jessica Rosati
Suzanne Sarro
Tamara Schane
Sally Schroeder
Pamela Shure
David Shapiro
Kelly Snider
Lisa Stobie Feller
Rachel Sussman
Jennifer Tonnis
Margaret Tritton
Andrea Urton
Rebecca Voss
Suzanne Wolf
Laura Wolford
Autumn Young
Michele Young

San Jose leaders condemn 'racist' mailer - San José Spotlight

The fight to represent downtown San Jose has taken an ugly turn, with a candidate in hot water over a mailer some are...

sanjosespotlight.com

LETTERS:

Dear D, Thank you for writing your thoughtful email.

I hope you don't mind, but I'm going to give you a longish response because this issue is very important to me and I respect you reaching out to me.



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The critique of my flyer is not accurate. I get what you're saying, but I think it's unfair. Actually quite unfair. And while I am sure your analysis is well-intentioned, I don't think it withstands serious scrutiny.

Have you ever seen the Kurosawa movie Rashomon? [Rashomon Effect](#) Great flick. And the core creative point of the movie is that people just see things differently, based upon their personal histories and inclinations (the movie explores how different people see the same crime occurring — but they each see the scene very differently).

You and I are experiencing the same phenomenon with my flyer. But with an important twist.

I don't think you are saying there's anything explicitly questionable about the flyer. The flyer itself is straightforward. It's about the differences between Mr. Torres and me. Differences in endorsements, endorsees, differences in policy.

That is obviously fair game. Nobody is disputing that.

What is happening here is that your critique makes creative interpretations of the flyer, and then claims those interpretations as fact. I think that's an overreach which casts a shadow and distracts voters from getting the truth they seek.

The point I want to make is this: creative interpretations are not fact. They are just interpretations. And while everybody is entitled to their creative read, it's not fair or fair minded to force upon the author or artist your interpretation of their work.

What's glorious about uniqueness is each of us brings a different perspective. And perspectives are just that, they are not facts. Also, just because someone perceives something a certain way doesn't mean it was intended that way or that it is true. And, it doesn't mean others read it that way. And it certainly isn't the last word on the subject because each of us has a unique perspective. [Perception Is Not Reality — Psychology Today](#) (I like how he ends the article with how we can challenge our perceptions).



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single level, they demand diversity, and they want to make decisions based on policy.

That's how we thought about it, that's how we wrote it, that's how we designed it.

You and others may choose to read the flyer differently, that's your prerogative. And I will support your right to your perspective.

But please, please, do not impute your reading onto me when it so clearly doesn't reflect what I intended to say, does not reflect what I did say, and does not reflect what I believe.

With all due respect for a wide variety of perspectives, I think a logical line has been crossed here. I think it's very unfair to me and my supporters, and as a result, I don't buy into this critique.

With compassion, understanding and appreciation of your note; and including — I just don't buy it.

Please feel free to continue this conversation with me and I am happy to discuss this with others as well.

Irene

Hello gals, First, let me take the easy question. Hi J, although my stance on non-profits has nothing to do with the ambush accusation that I and my mailer are racist, let me address it as it seems the majority of women who signed the letter are leaders of non-profits and might speak to a misunderstanding or motivation to see something that is not there. However, let me be clear, the issue of nonprofits should have nothing to do with signing a letter that accuses racism.

I have been on numerous boards of non-profits. I actually started one 7 years ago and although it still thrives, it functions without me as the president due to the campaign. I have volunteered/worked for nonprofits: Special Olympics, Covenant House in NYC, Soup Kitchen. Pro Bono Project of Santa Clara County and many more. And I have



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relationship they have with elected officials.

When I comment that Mr. Torres' experience is 'wanting' it is just that. Compared to a candidate who has training, experience, and education in finance, housing, psychology, small business start-ups, law and legal application, mediation & arbitration — these PLUS non-profit experience is the comparison. If a candidate had XY and the other candidate had XY plus LMNOP — you could consider the candidate with only XY as 'wanting' in comparison.

I am not simply 'a business person'. There is no easy box to check, no easy label to put on me. I am fiercely independent and will not be beholden to outside interests and I am radically inclusive of people and ideas that move D3 forward.

You can read about my creation of the Mediation Project (an article in the SCC Bar Association magazine) [Founding the Mediation Project](#), the formation of Defenders of Clean Air eQuality [Moms on Fire](#), or the work I did with Engine 8 in downtown [Engine-8](#).

[The building of a resume](#) And you can review my resume on the campaign website as well.

Second, **Hi M**. Although in the 60's we were all familiar with SEX being spelt out with ice cubes to get people to buy more Coke. That is not what happened here. I designed the mailer with photos that Mr. Torres had publicly placed on social media. They were unaltered. He endorsed Mr. Kahn. Mr. Kahn endorsed him. They had door knocking events together to symbolize their common policies. They had their election night party together. And currently Mr. Kahn is raising money for Mr. Torres.

The word salad chosen by the authors of the letter selected the singular word 'dangerous' to highlight. That is not my wording. I used 'dangerous partisanship'. I believe that the Re-imaging Police Report that Mr. Torres supports is dangerous for D3. Mr. Torres himself is not dangerous, I can assure you of that. Mr. Kahn clearly supports defunding the police and I disagree with that policy as well. It is not the right choice



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Please take the time to read my response to the attack as it makes very clear what was done to distort the mailer. As with interrogation techniques, suggestion can be very powerful and sway the reader to a particular perspective without the reader knowing of this influence in their decision. The authors of this letter told people what to think before they even saw the mailer.

As you can imagine this letter has been very disruptive to my campaign and the authors may very well have intended to slow down the campaign as evidenced by Twitter comments.

For any further discussion — please let me know when you would like to meet face to face.

[I stand by my mailer and will not back down](#)

Thank you,

Irene

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What happens in L.A. doesn't stay in L.A.

The recent revelations of racist trash talking by L.A. councilpeople requires a forceful response from Bay Area politicians who care about equity, who care about integrity, and who oppose threats to democracy. [Racist remarks in leaked audio of L.A. council members spark outrage, disgust](#)

There are three reasons why:

First, some of those disgraced L.A. politicians are actively involved in supporting and fundraising for Santa Clara County politicians — their dirty money is already tainting our election.

Second, San Jose is already well down the road of accommodating race-baiting from its own politicians with wild racial accusations made at council meetings by some of our electeds. L.A.'s problem is already our problem — right now.

Third, L.A. is the biggest city in California and its political leaders set the tone for the rest of the state. If we are going to resist the L.A. City Council's drift toward a debased political culture, we need to say "no" immediately.

Apologies are not enough. I call on the L.A. politicians that made those sad comments to resign from their elected positions forthwith. And I invite all San Jose and Santa Clara County politicians and candidates to join me.

Anything else is enabling.





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Children & Mental Health

First off, it was a mistake on my campaign's part not to respond to the survey from Kids in Common. We should have, as it's an important issue for my campaign and D3. In the pressure of literally hundreds of requests for comments, we just missed this, it was not intentional.

So thanks for giving me the opportunity to provide my perspective. When it comes to children's issues around education, nutrition, fitness, and housing, I am in the mainstream of progressive thinking and support free early education and daycare fees based on need. And we certainly have issues close by with unhoused SJSU students.

Where my perspective differs, I believe, is on mental health for children.

As you know I worked at a psychiatric hospital for children with severe mental illness. I also worked at the Institute for Children with Autism and worked with children age 5 and 6 as well as young teenagers; both age groups' needs are radically different. In addition my sister who has Down Syndrome has been a big part of my life starting with volunteering in her early education classrooms.

My education in marriage, family, children counseling — masters and counseling psychology — doctorate, put me in a unique position to offer solutions and insights that other policy makers cannot.

We are in the middle of mental health crisis for our young people in the state and D3, and much of it is attributed to government failure.



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Consider the facts: rates of adolescent suicide and self-harm are on the rise.

As many children returned to in-person learning last year, school districts reported soaring rates of absenteeism and surges in student misbehavior. Even worse, in early 2021 emergency department visits for suspected suicide attempts were almost 51% higher among adolescent girls and 4% higher among adolescent boys compared to the same time period in 2019.

To fix this, govt must name an accountable leader, set clear goals, encourage coordination and employ schools as key sites to help kids. This will ensure the govt uses funds dedicated to children's mental and emotional well-being efficiently and in a way that has the most impact, both short and long term. Newsom's Children and Youth Behavioral Health Initiative — a \$4.4 billion investment in developing a comprehensive system of mental health care for Californians from birth to 25 years of age — is a good start.

So what can we do locally, especially in light of the shortage of mental health professionals? We can bridge the gap with a mental health curriculum in our schools and part of our after-school programs and offered at libraries as a continuum of the programs which will include families. If we had had a standardized curriculum we could have mitigated issues that were exacerbated during the pandemic. We need to integrate social and emotional learning into the classroom directly and involve parents as much as possible into the process.

First we can train teachers in basic simple therapy techniques and mental health identification. Techniques will primarily focus on Cognitive Behavioral Therapy and teachers will be given options to refer students and families to trained counselors if noted issues rise to the level of professional counseling requirements. As part of the curriculum students will be given participation grades and parents and children will work together on homework assignments. Not passing the class will mean the student or the parents did not participate and the child will be referred for professionally counseling. The curriculum will include workbooks, group discussions for support,



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used CBT techniques. Teachers can be excellent guides.

Second we can offer after-school programs that integrate mental health self care and include the family to enhance the support of children while also addressing the impact family systems have on children. These programs can directly compliment the curriculum being offered in the local school.

And **third**, we can offer mental health self-health groups lead by professionals at libraries so that adults, children and families have access to the basics of good mental health and have a resource center that can aid them through the County services labyrinth.

What a difference it would have made to our students if mental health was part of their schooling while doing classes on zoom during covid. This would have been life changing for all the students.

One thing that has not been mentioned is the disparate impact on **public school students vs private school students** as the pandemic progressed. Privates school students were back in the classroom much sooner than public school children and this has caused a widening gap that we must acknowledge. One of the first things we need to do is commit to families and to students that they will not be left out of classrooms longer than is absolutely necessary and that our city will prioritize the health, well being and education of our students.

San Jose's public schools were closed for a longer time period than most other cities, which caused a massive rise in mental health problems for children. And they stayed closed over the protestations of our governor and mayor.

Dr. Jeanne Noble, associate professor of emergency medicine and director of the UCSF emergency department's COVID-19 response, said "The medical evidence is clear that keeping public schools closed is catalyzing a mental health crisis among school-aged children."





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Because now we're playing catch up, and it will take us years to get back to where we were.

I agree with CA Parent Power founder Megan Bacigalupi on Newsom's mental health plan: "School closures didn't cause our student mental health crisis but it was like lighter fluid on a fire. To have zero acknowledgement today about how much harm that caused many CA students is denial."

Santa Clara County candidates sound off on education - San José Spotlight

As ballots start arriving in the mail this week, Santa Clara County education leaders are making it easier for parents...

sanjosespotlight.com

Kids in Common | Children's Advocacy | Santa Clara County California

Kids in Common, advocates for policies, partnerships and investments that improve children's lives in Santa Clara...

www.kidsincommon.org

Discovering New Options: Self-Help Cognitive Behavioral Therapy

If you've wanted to try CBT for anxiety or depression but aren't able to see a CBT therapist, you may not need to. Many...

www.nami.org

Self-Help Book Recommendations - ABCT - Association for Behavioral and Cognitive Therapies

ABCT news and position statements on current events and issues





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League of Women Voters Debate

Introduction

I am running because D3 is in a crisis. We need action. We need a sense of urgency. But city policies remain stuck in the muck and are proven failures for D3. Their response has been to pour in more mud with the same plans and then spend more money trying to get out of the hole they keep digging. With this type of pattern, it's worth looking at who benefits from all this? Big benefits. Big government, big business, big nonprofits, big special interest. Little Loses. Our neighbors, small neighborhoods. Small nonprofits. The guy living on the sidewalk being told to stay there just five more years while we build, the mom-and-pop business owners that are struggling to survive. I'm running because I can see solutions clearly without the mandated tinted glasses issued by special interests. I am that new voice that can shake off the muck and my D3 recovery plan is the beginning of our answer

What's your perception of your role as CM?

My job as CM is to get programs and policies **passed** with my fellow councilmembers that address the **inequities** D3 experiences **every-day**. Which means: decrease crime, quit using D3 as a dumping ground for the city and county's homeless population & affordable housing schemes, clear out inhumane and dangerous homeless encampments, and revitalize our small local businesses. To do this, I will have to be a

Thought Leader — coming up with new ideas



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And a Woman Who Will Say No — to stand firm against the groupthink in City Hall that currently punishes D3. There's a lot of go along and get along and that has been disastrous for D3. I will need to stand firm.

What are your three most urgent goals?

#1 Restaffing the police to 2012 levels and getting San Jose back to the safest big city in America.

#2: Shelter-Stability Now. We are failing our unhoused neighbors by letting them live in dangerous, unhealthy, and unsanitary conditions and degrading the D3 neighborhoods around them. The Solution: My Incremental Ladder of Housing Success is an important first step and puts an emphasis on Shelter-Stabilization, Services, and Treatment — First, instead of waiting for expensive new housing to be built in a decade.

#3: Vouchers Now. The answer is existing subsidized housing right now to prevent further homelessness. And we can do it by expanding the Federal HUD Section 8 Voucher program by creating our own city voucher program to include those who need it most.

If you could only do one goal, what would it be, why?

Clean out the encampments in D3.

Here's why the city's approach to homelessness is a failure: it's just a re-traumatizing hamster-wheel of abatements — allowing, and then dismantling homeless encampments. Abatements are not a solution and the lack of accomplishment is causing severe distress: among the unhoused, on neighborhoods, and on small businesses.

On top of that, there is a complete lack of financial foresight for new buildings — it is an outrage that some new supposedly affordable units' cost \$1M per door.



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We can do this right now.

D7 and D3 have the most affordable housing how would you encourage through the whole city?

Pressure the Housing Dept to do their job.

The housing department refuses to acknowledge all the vast variety of affordable housing which already exists in D3: sororities, dorms, halfway houses, rooming houses, shelters, tiny homes, homekey hotels, rent controlled units, mobile home parks, group home ... different from any other district in San Jose and this refusal negatively impacts the affordable housing distribution to D3 and ignores the cities own Siting Policy. The City must follow their own rules and stop dumping on D3.

Top 3 solutions to solve homelessness

Let me rephrase the question to — what can we do to address homelessness — quickly. Not in a decade

And the answer is: Immediate Shelter-Stabilization. Local Rental Vouchers. Repurposing underused existing housing stock.

Implementing the ILHS will help those who are living on the streets and creeksides to get shelter-stability, safety, showers, services, and security. And we know there are many types of unhoused experiences.

To address other types, the Placement First program takes advantage of unused spaces to repurpose and reimagine how these spaces increase housing. Look at Milpitas, which has made a call for empty bedrooms — to help teachers get housing faster.

We must also look to prevention. My Rental Voucher program assists families in need to keep them in their homes.

Of course, we need new housing, but not in a decade and not at a million dollars a pop.



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I don't believe there is any magic in balancing. These two categories of folks want the same things. Clean parks, safe streets, and a healthy thriving city to raise a family or a small business.

Rent control is only on 25% of the apartments in San Jose and anyone can get one. There is no income means test for entry or application. My Rental Voucher program would address those in need having difficulty with rental payments and work with both short term and long term and is a much better approach to homelessness prevention.

In addition, we should find ways to encourage homeownership working with the County or with the Association of Realtors. If folks have a goal of homeownership we should explore different ways of assistance.

What programs and strategies would you develop to meet the needs youth, low income underserved?

Young Americans are enduring staggeringly high rates of joblessness. The official unemployment rate for 16 to 24 year old's is 14.5 percent, and I bet it's worse in D3. The pandemic exacerbated this problem. And Youth unemployment leads to bad downstream results, so the solution is upstream. More jobs. Here's what I'd suggest:

- 1.) Double-down on community colleges.
- 2.) Work with nonprofits to develop high school and college training programs that meet the needs of high-demand industries.
- 3.) Expand Apprenticeship programs at the city level.
- 4.) Work with schools and nonprofits to overhauling school dropout prevention policies.

Providing jobs for our youth is arguably the most important upstream thing we can do to solve D3s long term problems.



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SJ fell very short of the mayor's goal of building 25,000 units (10,000 of which would be affordable)

I have a realistic plan to streamline the process that includes: a master plan for the permit process, consolidating multi-department permit review processes, consolidating fees, publishing fees in advance, reducing multi-inspection process, consider peer review certification of industry experts to avoid delays, and measuring and adjusting our goals to ensure we hit them.

Doing this right needs the perspective of developers, land use experts, permit policy experts and others because we need to answer questions such as where and how fast. We need to be more inclusive of who helps solve these problems.

I've been on the receiving end of these regulations — and they are onerous.

Public safety — how would you deal with these issues?

Here's how I reimagine the SJ PD in 2023.

Imagine this — a city that has recaptured its position as the safest big city in America.

Imagine this — a PD that can respond to 911 calls; to property crimes; and who keep our sidewalks safe.

Imagine this — officers paid at a rate equal to or higher than neighboring cities.

Imagine this — a county that has a jail with real mental health services.

Imagine this — a police force who can enforce our laws.

I look forward to when families walk downtown, play and have picnics at St James park, and enjoy a vibrant, feeling of safety in D3.

How would you balance district goals with city goals?



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Let me give you an example:

Citywide, there is no budget for towing RVs. D3 is overrun by RVs and abandoned vehicles — it's a critical quality of life issue for residents and small businesses. But D10- and other districts — do not have a RV towing problem, so when it comes to voting for an RV towing budget, it is dismissed.

I believe we need to start the process of creating greater planning, administrative, and financial independence for all our districts, but especially D3. There's more on this on my Website Under my D3 Recovery Plan, section: Liberate D3.

Closing — What did you wish we asked?

Context.

You asked a lot of good questions. But one thing I think is missing from a lot of these fora and local media is historical context. How did we get into this mess? What government decisions contributed to the crisis in D3. These types of questions provide accountability to officeholders and provide useful direction as to how to fix our problems.

Issues I think we would end up talking about would be:

Why did homelessness increase from 2017 (only 4,350 unhoused in 2017)?

Why are re-traumatizing abatements our only answer to cleaning our creeks and parks?

Who on earth decided that keeping a low police force was a good idea?

Why is the Siting Policy enforced in other districts but not D3?

Why does vehicle abatement work in other districts but not D3?

Where is code enforcement?



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Those who don't learn from history are doomed to repeat it.

This highlighted what the race is all about.

It's this — Do we go down the same old road or do we turn onto a new road?

We are choosing between unconsciously following our old habits or consciously choosing a change agent.

My experience in business, mental health and housing leads us forward with the real-world expertise that D3 desperately needs.

So, the question before us in D3, do we want more of the same or do we want a fresh start inspired by the incredible potential of D3?

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Silicon Valley Nonprofit Coalition Debate

Introduction

Thank you for inviting me.

I'm going to use my intro time to respond to some inaccurate interpretations of my recent comments.

At the last forum, I challenged Omar's claim that he had more experience than I.

Here's why — it's because I have a much broader employment history that includes — and goes beyond — nonprofit and government categories.

- I have deep nonprofit experience which I absolutely value as the founder and 7-year leader of The Business and Housing Network — SJ.

- And as a judge pro tem and an administrative hearing officer for SCC and a teacher at SJSU — I have government experience.

I founded two small businesses in downtown and worked in finance at IBM, and I've worked in mental health — in a psychiatric hospital.

When I said Omar's experience was "**wanting**", I meant that simply that he doesn't have the scope of experience I do, as he has only worked in nonprofits and government.

That is just factually accurate and uncontroversial, and I stand by it.



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Give me a billion dollars over a three-year period and I can guarantee you a better result than an 11% increase in homelessness.

I am not trying to be difficult, but implicit in the question is an assumption that more money always means a better result. It doesn't — especially if we're not spending the money in a smart way. This is one of those lessons that business teaches you in a really ruthless manner. We need to spend the money in a way that delivers the results we want in a cost-effective manner. A negative example of this is our housing department, whose budget skyrocketed from \$298 Million to \$435 Million. That extra money would have been better spent had it been repurposed into my rental voucher program to keep families housed.

So, I am saying we need a complete audit of how we are spending our Housing dollars before we commit to upping the budget. I'm open to it, but I can tell you that I would like to see a spending plan that focuses much more on Treatment Now, Shelter Now, Placement Now, and Prevention Now instead of Million Dollar Units built a decade in the future.

City has meaningful and healthy partnership with nonprofits

Of course, the city/nonprofit partnership is fundamental — but we don't manage it that way.

If you're a big nonprofit with a favor  3  with the Housing Dept, the current system is probably o.k. But if you're a small nonprofit or a new one, not so much. And we are missing out on great new approaches.

I believe we should model our nonprofit relationship along the lines of San Francisco's innovative nonprofit management system, which centralizes city relationships with nonprofits in terms of streamlining their compliance requirements and offering training opportunities.

This generally means more funding for nonprofits and fewer hassles dealing with the



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into more detail.

Homelessness response centered on permanent housing strategies

Permanent Housing is and should be a part of our approach to homelessness, but it should not be the **only** part. And the city — and the Housing Dept's — adamant embrace of Housing First — to the detriment of other more effective, cheaper, and faster solutions has been a big contributor to our inability to put a dent in the wide variety of homelessness.

We need to be more creative and open-minded, and more folks need to be educated in the complexities of the housing problem. That's why my D3 recovery plan focuses on Shelter-Stabilization and Services First for the unhoused living in parks and sidewalks. It also focuses on making much more effective use of existing housing stock to help alleviate our issues — I call it Placement First. We are way behind other cities in making it easy for businesses to convert vacant office and other shelter space into housing: take a look downtown there are lots of see-through buildings. And of course, we need to build more permanent housing, but not at a \$1M a door, that's not a long-term strategy.

Communities need for mental health services

The County recently passed and is planning implementation of Laura's Law — outpatient treatment, and Governor Newsom just signed CARE court for mandatory in-house treatment. Unfortunately, SCC is not part of the pilot program, and our implementation of CARE court is outside of two years. Again, we cannot waste time in responding to the needs of those who are crying out loud for our help.

I am the only candidate in this race with education and experience in mental health treatment. And here's what that expertise tells me:

- Job 1 is shelter-stabilization at destination locations



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· And Job 3 is to verify and validate that everyone is getting help instead of the status quo haphazard approach to drive-by treatment.

Addressing historical inequities in D3

The legacies of internment camps, Jim Crow, redlining, overtly racist codes at the City and State level are impossible to ignore. For D3 at the municipal level, here are four areas I'd like to focus on:

- 1.) Free Transit within the city — or at least for D3 residents. This would neutralize some of the geographical privileging that takes place in a car-based, suburban environment.
- 2.) Crack down on illegal rentals. Because of our constrained housing supply, off-the-book housing can exploit the needs of immigrants and disadvantaged groups. This has to stop.
- 3.) Municipal properties converted to Housing. As I have discussed previously, we need to up our game Placing people in unused empty spaces and converting that property to housing.
- 4.) Enforce the Siting Policy fairly. D3 is the dumping ground for affordable housing in San Jose, and San Jose is the county's dumping ground. This has to stop — affordable housing needs to be allocated equitably and the Housing dept needs to follow its own Siting Policy rules.

Affordable early education and childcare

It's not just the workforce challenges that support the need for early education and childcare — until we start fixing the inequities that force parents in many historically oppressed communities to have 2,3, poorly-paying jobs, we really disadvantage family creation in those groups. And we privilege wealthier workers with one job. So, I'm very much in favor of more investment in this area of early education.



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parks in D3 accessible to all and implementing the ILHS — so that those using the parks for shelter have an alternative for their belongings and for the services and shelter-stability they need.

Prioritize prevention and providing opportunity or policing

That question is framed as a bit of Hobson's choice, and I don't think this is an either/or question. If we lived in a perfect world of course we would only prioritize crime prevention and youth opportunity. However, our residents are demanding more immediate results, so — in city government, we must be non-dogmatic and post ideological. That means we need to focus on what really works for folks — right now — who live and work in D3. I would privilege the programs such as the Mayors Gang Prevention Task Force, and others that can show dramatic visible results — **whether they're upstream or whether they're downstream**. I would push for prevention and opportunity through spending reform. To reappropriate our budget in accordance with many of the cost saving measures our City Auditor has identified over the last several years.

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Transcript of Irene Smith's comments at September 9, 2023 San Jose Downtown Association Candidate Forum

Introduction

I'm running because our neighborhoods are in crisis. Crime. Homelessness. Blight. Boarded up Downtown. And let's just speak frankly: this decay is happening because the current policies and system at City Hall are just not cutting it. They are slow, expensive, ineffective, and unaccountable. And when we see these patterns we must ask — Who benefits from all this? Big Benefits. Big government, big business, big nonprofits, big special interests. Who loses? Little loses. You, me, our neighborhoods. The guy living on the sidewalk being asked if he can stay there just five more years while we build, the mom-and-pop business owners struggling to survive.

We need radically new voices, and we need to ask ourselves, what experience does D3 need? I have the expertise treating the mentally ill, providing housing, and balancing big budgets. And I am the only one sitting at this table who has these critical skills.

Thank you for inviting me and listening to my ideas and plans.

Q: What is your position on reimagining the San Jose Police Department?

“It's dubious when my opponent says he supports the police, when his political alliances and public endorsements suggest otherwise.”



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- Imagine this — a PD that can respond to 911 calls; to property crimes; and who keep our sidewalks safe.
- Imagine this — officers paid at a rate equal to or higher than neighboring cities.
- Imagine this — a county that has a jail with real mental health services.
- Imagine this — a police force who can enforce our laws.

These positions differ dramatically from my opponent who has publicly and personally aligned himself and endorsed extremists who stated, “fire every police officer in San Jose and dismantle the police department.”

It’s dubious when my opponent says he supports the police, when his political alliances and public endorsements suggest otherwise.

Q: The San Jose City Council has a “business vs. labor divide”.

“I don’t have to reach across the aisle, because I’m not in an aisle.”

I’m an independent. Always have been. And I sure as heck hope that we can keep the baggage of polarizing politics out of San Jose’s city government.

I am radically inclusive. My supporters include people from all across the political spectrum and I am happy to have them on board the bus, Green Party, Liberal Democrats, Independents, Libertarians and Republicans alike. I welcome and include all voices.

I am not constrained in my approach to policy. I will cherry pick the best ideas and the best solutions for D3 wherever they come from and whoever they come from.

And I don’t have to reach across the aisle, because I’m not in an aisle and that makes it easy for me to collaborate and coordinate with everyone.

Q: Should San Jose increase taxes on commercial builders to fund more affordable



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San Jose needs more affordable housing. How do we get there? In speaking to one developer, he talks about needing 6 inspections for one portion of a bathroom wall. I speak to another developer, and he tells me that they never know what the true cost of doing business in San Jose is and their financial model is always in flux.

If we make it harder, if we add to the costs of construction — through time delays and added costs and fees, — then we are the problem and we are adding to the cost of housing.

If we are unwilling to make it easier to build, easier to do business with San Jose then we will continue to suffer with less housing.

And eventually the housing that is provided will be subsidized to the tune of \$1M per door and is unsustainable with our tax base. We need an economic model so that we can accommodate more housing that helps more people, not just a few people. We need more housing, not more housing that simply costs more.

Q:. Homelessness is increasing in San Jose — solutions?

“Housing First is not a prescription for mental illness.”

The city believes that housing first will resolve mental health issues. That’s misguided.

Housing in and of itself, is not a therapeutic treatment prescribed for mental illness.

Of course, we need to build more housing for the mentally ill, but what they need FIRST is Services & Shelter-Stability.

That’s why my Incremental Ladder of Housing Success moves folks to destination locations, to provide safety, shelter, showers, services, and PO boxes. Then move them into housing after it’s been built. Instead of inhumanly asking them to wait and live on the sidewalk.

Look, I have a doctorate in Counseling Psychology and practiced as a counselor in a



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clinically treating the mentally ill. Services & Shelter-Stabilization — First.

Respect, Compassion, and Care — always.

Q: Would you be supportive of involuntary treatment for those unable to accept treatment

“This is a humanitarian disaster.”

Let's not beat around the bush: We have a segment of the unhoused who are unable to take care of themselves. And we are, sadly, not fulfilling our duty. You can see them all day long in the middle of Santa Clara Street directing traffic, no pants, enthusiastically dancing all the while completely oblivious of traffic.

This is a humanitarian disaster. It took the county too long to embrace Laura's Law — AOT, but it's a positive step. Sometimes mental health problems arise because of addiction and sometimes mental health is the precursor as folks attempt to self-medicate with drugs. Drugs like meth are now hugely more powerful and capable of permanently damaging the brain — now measured in months of use, not years of use.

Our current system prioritizes new apartments and does not address addiction nor mental health. Hopefully Governor Newsome will sign CARE court and give us additional tools to mandate help.

So yes: I would support compulsory treatment for some service-resistant mentally ill.

Q: Parking supply is still a major debate downtown — should we build more parking or wait for the day autonomous vehicles arrive?

“We still need parking & parking enforcement — the City isn't listening.”

As I walk through neighborhoods one common complaint is parking and the lack of parking enforcement. Neighbors call in parking violations without any response from the city. In Spartan-Keys cars are double parked along red zones and on sidewalks.



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We must continue to have parking until such time as we have good transportation that people like to use. It's coming but not here yet. We can prepare for planned obsolescence of parking spaces in the future. We can build parking and make it adaptable, flexible for a variety of future uses. Otherwise, the parents with two kids, in two different schools, two different jobs each, will spend 72 hours on mass transit trying to get through a 24-hour day.

Q: Would you support converting office or hotel buildings into housing?

“Placement First — repurpose, reinvent, and redefine empty spaces.”

When our mayor and city staff tell us there's no unused inventory in SJ, they are deceiving us. The truth is we don't know how many unused units, spaces, and shelters there are because the city has been so dogmatic about its housing first strategy that it won't investigate this potential.

What we do know, however, is that cities all across the US. including NY and LA are aggressively repurposing empty bedrooms, houses, apartments, government buildings and office buildings — and SJ isn't. Even Milpitas has made proposals to help house teachers into the communities by sharing empty bedrooms.

We need to reinvent, repurpose and redefine empty spaces that exist and use the resources we already have available for housing. My placement first plan proposes that we develop a program to incent owners offer these spaces for housing.

Q: Do you support putting homeless housing anywhere in D3?

“D3 has become the dumping ground of subsidized and affordable housing for the SJ. And SJ is the dumping ground for the County.”

Let's start with the facts: D3 has become the dumping ground of subsidized and affordable housing for the SJ. And SJ is the dumping ground for the County.

Here is an example:



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houses, shelters, tiny homes, homekey hotels, rent controlled units, mobile home parks, group homes ... and this refusal negatively impacts the cities' own Siting Policy on affordable housing allocations to D3.

This has to stop. Neighbors near affordable housing have legit concerns. We need to communicate clearly and work to address those concerns. But D3 should not have to carry more than its fair share of affordable housing, and that means we need to manage the Housing Dept much more closely, because D3 pays the price.

Q: St. James and Guadalupe River Park — have been suffering for years.

“Stop the re-traumatizing hamster-wheel of abatements.”

I am in support of the Levitt Pavilion for St James Park with community input and the revitalization it will bring to the core. To make that happen the park must first be clean, attractive, and inviting for families; that will happen when the unhoused have stabilized shelter.

Guadalupe River Park is now in D6 and I have an excellent working relationship with Dev to join forces as this benefits both districts.

We must avoid the re-traumatizing hamster-wheel of abatements. Because if we abate one park, folks will move to the other. We need whole-picture solution like the Incremental Ladder of Housing Success.

Q: When was the last time you were downtown? Did you feel safe?

“I swerve daily on Santa Clara Street to miss people dancing without some form of clothing.”

I have lived here for 33 years and raised my daughter here and I have never felt less safe. The biggest factor is the mentally ill unhoused who have been abandoned to live on the streets.



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I swerve daily on Santa Clara Street to miss people dancing without some form of clothing. I pray each time that someone doesn't jump in front of my car. They are not safe, — but neither am I.

These are people, individuals that are crying for our help.

This is completely unacceptable, and we need a radical change to get San Jose back to where it has been before — the safest large city in America.

Q: How well did San Jose respond to the Covid pandemic?

“We will need level-heads to create adaptive solutions.”

Here's what we did right — outdoor dining to support small businesses, rent relief programs, and work from home options. Here's where we can do better — schools were closed for too long, mental health and isolation took great tolls on our communities, some city departments were not able to function by working at home and we had disparate impacts on different communities and between different businesses.

We can improve our communication even when events are changing in a crisis and better help businesses and residents adapt. We can respond faster to change. We need thoughtful leadership, who will keep level-headed an urgent situation.

We will have other crises to face, and we need seasoned, quick thinkers who can create more adaptive solutions such as: permit process readiness, hybrid work from home, mental health support, and boldly bolstering those who cannot work from home and are critical to our economy.

Q: How do you work with the mayor's office and is there board assignment?

“I have already worked closely with both Matt and Cindy.”

As a lifelong independent, I am confident that I will be able to work with either Cindy or Matt once elected to office. In fact, I have worked with Cindy through my volunteer



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study that explained children who are exposed to the air quality from encampment fires of plastics, sneakers, computer parts and tires — suffer irreversible permanent IQ damage.

As for assignments — There are several committees I would like to be a part of including the new Office of Public Listening which will gather community input and report back to the community how their feedback has been used. I am also interested in anything to do with housing, and the Neighborhood Services and Education Committee.

Q: What is your position on the Google project and what it means for the future of the city?

“Companies are watching how we treat Google.”

Google is great but it's a field goal, not a touchdown and we are nowhere near spiking the football. Business is what generates tax revenues. And San Jose is 80% residential and 20% business. Our bedroom community model is why other local cities have much bigger budgets than San Jose

So, let's get real: If San Jose is to grow and do all the progressive programs, we want and need — then we will need many more Googles. Companies are watching how we treat Google. We will need to aggressively pursue and make it easy and attractive for more businesses to come here, not make a bunch of demands that chase them away.

At the same time, we can still pay attention to the needs of the surrounding communities. For example, there are only three Japantowns left in the USA, and we will make it a priority to keep that traditional community intact.

Q: What type of policies would you support to compel owners of neglected buildings?

“The cost of blight on the safety and welfare of the public demands action.”

The last thing I want to do as a city councilmember is increase the cost of living for



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Based on tangible research of the cost of blight on the safety and welfare of the public, it is legally defensible for local municipal codes to have strong anti-neglect ordinances — and a growing number of communities have enacted them. Boarding up a building does not bring it into compliance.

Code enforcement needs to be actively involved with buildings such as this, and there are many buildings, vacant houses, and properties just like this in D3. We need an active list of properties which are calling out for help, and we must streamline permits for quicker repairs and faster growth.

Q: How important are arts and culture to the city?

“Recovery of the arts is just like the recovery of downtown businesses — they are inextricable tied to solving street homelessness.”

The existing arts are suffering in downtown because of the uncomfortable, lawless environment. In order for the arts to thrive, we will need stabilized-shelter for those who are unhoused living in parks and sidewalks. Difficult decisions will need to be made regarding funding from the city but until the street-unhoused are in stabilized-shelter, no one will want to come downtown no matter what we build.

Neighbors don't feel safe. The sidewalks smell of urine. And too many people are suffering by living without services, showers, and safety. We need to advance the arts and help people at the same time. D3 has the most unhoused of any district in San Jose and this has a direct impact of downtown vitality.

Recovery of the arts is just like the recovery of downtown businesses — they are inextricable tied to solving street homelessness.

Q: What initiatives would you support for the recovery of San Jose's small businesses?

“My opponent has zero experience in the risks or operations of starting, running and building a small business.”



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Lots of local governments have developed ingenious interventions for small businesses, San Jose is not one of them. In office, here are two things I would pilot:

1. Encourage “Shop local.” Akron, Ohio, is actively encouraging shopping online with local businesses by building the [Akronite](#) app, which connects shoppers to local businesses and offers points that lead to discounts. We could do the same thing for D3 small businesses.
2. Streamline internal operations. San Jose can be way more invested in the success of small businesses by walking them through the onerous permitting process and providing outreach and headlights into options that would best serve their business in D3.

Q: DISC. Which organization –should be lead on the station?

“The City of San Jose is the most adept to direct the project.”

Electrified Caltrain, BART, and High-Speed Rail service will add to the trains, buses, and light rail at San José Diridon Station and add 1,000s of new jobs. The impact on San Jose and its residents will be tremendous and the organization and leadership provided by DISC will serve to unify our transportation options.

San Jose should be the lead on the project because the City Council is elected by the people and will be in the best position to balance both the positive and negative impacts. Caltrain, VTA, and High-Speed Rail are not elected and do not live here; we can take input from experts, but they are not qualified to represent the best interests of the people and communities of San Jose. Ultimately the City of San Jose is the most adept to direct the project.

Q: What would you do to encourage return to work by City Hall employees?

“For city employees we must attract, retain, inspire.”

While I want to say that I would require employees to return to their jobs, realistically



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hybrid solution would cut down on commutes and carbon footprints. We have a prime opportunity to learn about work from home as a result of COVID. As councilmember, I would seek a study on the efficiency and productivity of City Hall over the last 3 years.

We need to know if remote working is effective and if it will allow us to draw more talented and qualified employees — in order for the city to improve its delivery of services and streamline fees and permitting processes. The priority is getting the best city staff and what can we learn from COVID that will help us do just that. For city employees we must attract, retain, inspire.

Closing

Thank you. These were great questions and a very well-run forum.

This highlighted what the race is all about.

It's this — Do we go down the same old road or do we turn onto a new road? We are choosing between unconsciously following our old habits or consciously choosing a change agent.

Omar's experience in government and nonprofits points us backwards.

On the other hand, my experience in business, mental health and housing leads us forward with the real-world expertise that D3 desperately needs.

So, the question before us in D3, do we want more of the same or do we want a fresh start inspired by the incredible potential of D3?





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Ship Request #: 022531



Sender

Name: Jameelah R. Hoskins

Account #:

Phone:

Email:

Mail Stop:

Building

Floor:

Department:

Recipient

Attn To: Irene Smith

Company: San Jose City Council D3

Address:

City:

State:

Zip:

Country:

Shipping Instructions

Special Services: SATURDAY DELIVERY

Items

Units	Description	Code	Origin	Unit Value	Total Value
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EXHIBIT C



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
1102 Q Street • Suite 3000 • Sacramento, CA 95811

September 29, 2021

Bianca Pirayou
o/b/o Jeff Rosen for District Attorney 2022
Via email at: [REDACTED]

Warning Letter Re: FPPC No. 21/832; Jeff Rosen for District Attorney 2022

Dear Bianca Pirayou:

The Enforcement Division of the Fair Political Practices Commission enforces the provisions of the Political Reform Act (the “Act”).¹ This letter is in response to a complaint filed against your client which alleged that Jeff Rosen for District Attorney 2022 (“the Committee”) violated the advertisement disclosure requirements of the Act.

The Enforcement Division has completed its review of the facts in this case. The Enforcement Division found that the Committee failed to include the complete committee name in the disclosure on a Facebook sponsored advertisement as stated in the statement of organization (Form 410). Specifically, the Committee was missing the year 2022 in the advertisement disclosure.

The Act defines an online platform as a public-facing internet website, web application, or digital application, including a social network, ad network, or search engine, that sells advertisements directly to advertisers.² The Act requires that a committee that disseminates an online platform disclosed advertisement, such as a Facebook sponsored advertisement, to notify the online platform that the advertisement is an advertisement defined in Section 84501 and provide the online platform with the disclosure name of the committee as it appears on the most recent statement of organization filed pursuant to Section 84101.³

Your client’s actions violated the Act because your client’s Committee failed to provide the committee name as it appears in the statement of organization (Form 410) to the online platform for a sponsored Facebook advertisement disclosure statement. However, mitigating factors exist such that the Enforcement Division has decided to close this case with this warning letter rather

¹ The Political Reform Act is contained in Government Code sections 81000 through 91014, and all statutory references are to this code. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations, and all regulatory references are to this source.

² Section 84504.6(a)(1).

³ Sections 84504.6(b)(1) and 84504.6(2)(A)(B).

than issue a fine. First, the Committee immediately corrected the advertisement disclosure to include the complete committee name after receipt of the complaint. Additionally, the amended disclosure was made well in advance of the June 2022 Primary Election. While the Committee failed to provide Facebook with the required information, it was clear that the Committee disseminated the advertisement and it included a link to the Committee's website. Finally, neither your client nor the Committee have a prior history of violating the Act.

This letter serves as a written warning. The information in this matter will be retained and may be considered should an enforcement action become necessary based on newly discovered information or future conduct. Failure to comply with the provisions of the Act in the future will result in monetary penalties of up to \$5,000 for each violation.

A warning letter is an Enforcement Division case resolution without administrative prosecution or fine. The Commission has adopted Regulation 18360.1 to authorize the Enforcement Division to issue warning letters to conclude cases in specified circumstances. However, the warning letter resolution does not provide you with the opportunity for a probable cause hearing or hearing before an Administrative Law Judge or the Commission. If you wish to avail yourself of these proceedings by requesting that your case proceed with prosecution rather than a warning, please notify us within ten (10) days from the date of this letter. Upon this notification, the Enforcement Division will rescind this warning letter and proceed with administrative prosecution of this case. If we do not receive such notification, this warning letter will be posted on the Commission's website ten (10) days from the date of this letter

If you need forms or a manual, or guidance regarding your obligations, please call the Commission's Toll-Free Advice Line at 1-866-275-3772 or visit our website at www.fppc.ca.gov.

Please feel free to contact Chloe Hackert at [REDACTED] or [REDACTED] with any questions you may have regarding this letter.

Sincerely,

Angela J. Brereton

Angela J. Brereton, Chief
Enforcement Division

AJB/ ch

EXHIBIT D



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Ad-Free Medium

We've been putting our energy at Medium into improving quality — hosting more thoughtful and carefully written content, and improving the reading experience. We want to eliminate distractions that get in the way of reading flow and reduce distortions that could undermine your trust in what you read on Medium.

To that end, we're adjusting our policies related to commercial content.

Ads, Promotions, and Marketing

First, we'll be restricting some kinds of commercial activity that have been allowed in the past, such as sponsorships and links that are mainly promotional. Medium's business has been ad-free for more than a year now. But some "ad-like" remnants that had value in the past are now less aligned with Medium's model of using subscriptions and a metered paywall to provide the best quality user experience. This means eliminating certain features that are superficially free, but for which you pay with attention.

So, as of September 1, 2018, our policies will include:

- **First-party promotion is allowed.** You can promote your own work or goods and services you provide, like a link to your website or your book. For posts or publications run by a company (like company blogs), you can promote goods or services provided by your company.



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publications, or letters. This includes images that indicate brand sponsorship in a post or letter, or as part of a publication name or logo.

- **Images functioning as third-party ads are not allowed.** Inline images or embeds that link out and function as banner ads for third-party brands will no longer be allowed.
- **You must disclose affiliate links or payment for a post.** Affiliate links, such as link out to Amazon with your code, or any other link out where you will receive a commission or other value, are allowed in posts. But, you must disclose somewhere in the post that it includes affiliate links. If you have received payment, goods or services, or something else of value in exchange for writing a post, you must still disclose this fact in writing within your post (as [FTC Rules and Guides](#), and [Medium Rules](#) require).

Embedded Content

Second, in preparing to comply with GDPR (the European Union's new General Data Protection Regulation), it led us to step back, take a fresh look at our privacy practices, and renew our efforts to make Medium trustworthy. It raised questions about what types of data collection we should and should not allow through Medium. And in other cases, it led us to think about how to channel third-party data collection on Medium to make sure our users understand as clearly as possible what information about them is captured, by whom, where it winds up, and how it might be used.

As of September 1, 2018:

- Embeds that directly collect data through form fields will no longer be allowed.

This includes embeds that facilitate the submission of email addresses and other personally identifying information through forms (such as Upscribe or Rabbut) and the submission of credit card information (such as Gumroad). We understand that this might make life harder for writers and publications who want to collect information directly from users. But, we believe this change is necessary to ensure that Medium



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Going forward, if you want to collect information from your users, you will need to link out from your post on Medium to a form hosted elsewhere that makes it clear to a user that they are no longer in the Medium network. We are working with Upscribe, Rabbut, and Gumroad so that their services function in line with these Medium policies.

We will continue to allow embeds that display content, such as YouTube, Vimeo, Soundcloud, GitHub, and others, as explained in our [Help Center](#). Our [Privacy Policy](#) discusses in more detail how we treat this type of embed.

Thank you. We're grateful for your continued use of Medium and appreciate your working with us to make Medium a place for thoughtful, high-quality stories.



EXHIBIT E



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Medium Rules

Medium is an open platform that exists to share ideas and perspectives from the world's most insightful writers, thinkers, and storytellers.

We welcome thoughtful and civil discussion from a broad spectrum of viewpoints. Nevertheless, to maintain a safe and welcoming environment for a wide range of people to engage in meaningful conversations, we prohibit certain conduct.

Each participant in our community is responsible for maintaining these standards.

In deciding whether someone has violated the rules, we will take into account things like newsworthiness, the context and nature of the posted information, the likelihood and severity of actual or potential harms, and applicable laws.

Violations of our rules may result in consequences such as account restrictions, limited distribution of your posts, and suspension of your account. Medium has the sole authority and final decision as to whether content or behavior violates our rules.

If you find a post or account on Medium that you believe violates these rules, please report it. You can use this form to provide more detail or to report other conduct you believe violates our rules. Additionally, you can send an email to

Capitalized terms here have the same meaning as defined in the Medium Terms of Service.



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Threats of violence and incitement

We do not allow content or actions that threaten, encourage, or incite violence against anyone, directly or indirectly.

Hateful content

We do not allow content that constitutes or promotes violence, harassment, or hatred against people based on characteristics like race, ethnicity, national origin, religion, caste, disability, disease, age, sexual orientation, gender, or gender identity.

We do not allow posts or accounts that glorify, celebrate, downplay, or trivialize violence, suffering, abuse, or deaths of individuals or groups. This includes the use of scientific or pseudoscientific claims or misleading statistics to pathologize, dehumanize, or disempower others. We do not allow calls for intolerance, exclusion, or segregation based on protected characteristics, nor do we allow the glorification of groups which do any of the above.

We do not allow hateful text, images, symbols, or other content, including in your username, profile, or bio.

Harassment

Medium exists to share and discuss ideas. We don't tolerate harassment, which includes:

- Bullying, threatening, mocking, or shaming someone, or posting things likely to encourage others to do so
- Engaging in a repetitive or targeted campaign of harassment against someone or a group of people
- Using derogatory language, racial slurs, or obscenities to disparage or attack someone or a group of people
- Using Medium features like responses, private notes, mentions, follows, story requests, or writer requests in a way that attempts to or does annoy or harass



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Privacy and Reputation

We do not allow the following:

- Posting images of, transcripts of, copies of, or links to private communications between private individuals without the explicit consent of all parties to the communication. Redacting names or other information does not supplant the need to secure permissions
- Doxing, which includes not only private or obscure personal information but also the aggregation of publicly available information to target, shame, blackmail, harass, intimidate, threaten, or endanger a person or group of people
- Posting intimate or explicit images taken or posted without the subject's express consent
- Content that violates others' privacy or personal safety, including sensitive or confidential information such as credit card numbers, social security numbers, non-public phone numbers, physical addresses, email addresses, or other similar information

Restricted categories

We do not allow posts or accounts that engage in the following restricted categories of activity:

- Promotion of controversial, suspect, or extreme content
- Facilitation of gambling or betting
- Facilitation of buying or selling social media interactions, including off-platform
- Facilitation of sexual services
- Facilitation of copyright or other intellectual property violation
- Facilitation or evidence of violating the terms of service of Medium or third



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- We do not allow the use of pseudoscience, disinformation, or other content that is contrary to public health or safety

Related conduct

We do not allow content or accounts that engage in on-platform, off-platform, or cross-platform campaigns of targeting, harassment, hate speech, violence, or disinformation. We may consider off-platform actions in assessing a Medium account, and restrict access or availability to that account.

Graphic content

We do not allow posting, linking to, or otherwise promoting pornographic images or videos. We do allow erotic writing and non-graphic erotic images.

We do not allow gratuitously graphic or disturbing media, regardless of subject matter.

Exploitation of minors

We do not allow content promoting the sexual, violent, or other exploitation of minors, including the sexualization of fictional minors.

Promotion and glorification of self-harm

We do not allow content or activities that encourage, promote or glorify acts of self-harm, such as cutting, eating disorders like anorexia or bulimia, and suicide. If you encounter users contemplating or threatening self-harm, please report it to us via the form or email address linked below.

Duplicate Content

We do not allow posting duplicate copies of the same content to Medium, whether from a single account or across multiple accounts, either publicly or as an unlisted story. (You are allowed to cross-post content from your blog to Medium, provided you own the rights for the content.)

Spam or Site Misuse

We do not allow spam or misuse of Medium. All spam or misuse will be immediately



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- Scraping and reposting content from other sources for the primary purpose of generating revenue or other personal gains
- Posting duplicate content, whether from a single account or across multiple accounts
- Stories where the content is clipped with the purpose of linking to the rest of the article on a different website
- Performing a disproportionately large number of interactions, particularly by automated means. This includes bulk or indiscriminate interactions, such as following of other accounts (follow spam) clapping, highlighting, or leaving notes
- Repeatedly using responses or other interactions as a method of promotion or marketing
- Participating in bounty campaigns or brigades to artificially inflate rankings for posts, accounts, businesses, or products
- Use or re-use content templates with slight modifications across multiple posts and accounts

For each of these behaviors, when we talk about “content,” we mean not only posts but also any other feature that allows you to add your own text or media. When we talk about “interactions,” we mean any feature that allows one user to interact with another person or post.

Copyright and trademark infringement

Respect the copyrights and trademarks of others. Per our [Terms of Service](#), we require users to have permission to post the content they publish on Medium. Additionally, we have [specific policies](#) around plagiarism, to which all Medium accounts are held. Users found in violation of our copyright rules are not eligible for appeal or restoration.

We respond to notices of alleged infringement as described in our [Terms of Service](#), [Copyright and DMCA Policy](#), and [Trademark Policy](#).



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- Posting content or impersonating a person or organization in a way likely to deceive people. Parody and satire are fine, but make clear that is what you're doing. Our [Username Policy](#) has specific requirements for parody accounts
- Using Medium for phishing or fraud. Don't use tags, links, titles, or other metadata in a misleading way. Don't link to or embed malicious or harmful code or software in your posts
- Don't use deception to generate revenue or traffic
- If you have received free goods or services, or anything of value in connection with the topic of a post, you must make this clear.

Ads, Promotions, and Marketing

- Third-party advertising and sponsorships are not allowed. While you may promote your own business, you may not advertise or promote third-party products, services, or brands through Medium posts, publications, or letters. This includes images that indicate brand sponsorship in a post or letter, or as part of a publication name or logo.
- Images functioning as third-party ads are not allowed. Inline images or embeds that link out and function as banner ads for third-party brands are not allowed.
- You must disclose affiliate links. Affiliate links, such as link out to Amazon with your code, or any other link out where you will receive a commission or other value, are allowed in posts. But, you must disclose somewhere in the post that it includes affiliate links. If you have received payment, goods or services, or something else of value in exchange for writing a post, you must still disclose this fact in writing within your post (as per [FTC Rules and Guides](#)).
- Multi-level or affiliate marketing content is not allowed.

Embedded Content and Collection of Personal Information

To ensure the data privacy and security of our users, embedded content must comply



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Embeds directly collecting data through Medium form fields, comments or other onsite means are not allowed. This includes embeds that facilitate the submission of email addresses, credit card information or other personal information. If you want to collect information from your readers, you will need to follow these requirements:

- If you link out from your post on Medium to a form hosted elsewhere, that form must make it clear to a user that they are no longer in the Medium network and the information they disclose is subject to the third-party's Terms of Use and Privacy Policy,
- If the link directs users to your own platform to subscribe to your newsletter, blog or other content you create, then in your Medium content immediately next to the link you must disclose that the link will take the user offsite outside of Medium
- If your content includes a form that sends user information to you or a third-party, immediately next to or within the form you must disclose that the form will send the user's information to an offsite third-party outside of Medium that is subject to that offsite third-party's Terms of Use and Privacy Policy, or offsite outside of Medium, to you directly.

Cryptocurrency Accounts, Posts, and Publications

Posts and accounts that focus on cryptocurrencies which do not meet the following requirements may be considered spam and are subject to suspension, depending on context. Medium does not endorse or verify any coin, token, or similar announcement.

To prevent fraud and abuse, you must:

- Include a link to your active project domain in your user account bio.
- Use an email address from that domain as your verified Medium account email, and maintain that email account actively.
- Link at least one consistently-branded social media account (Facebook or Twitter) to your Medium account. That social account should also link out prominently to



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You may not:

 30K | ...

- Use an anonymous email address which is not linked to your project domain (e.g., gmail, protonmail, mail.ru, etc.)
- Advertise or participate in bounty campaigns, pump and dumps, reviewing for reward, or other forms of brigading or inauthentic activity
- Include shortened URLs in your posts

Paid, automatic, bulk, or non-genuine interactions

Medium depends on various user behaviors — like follows and claps — to determine what content to feature and make the site work well for everyone. We don't allow artificial behaviors that skew this system and as a result degrade or distort other users' experiences.

This includes:

- Buying, selling, or trading in accounts or account interactions — including views, reads, follows, claps, highlights, responses or other traffic
- Using services, apps, or arrangements that offer you more views, reads, follows, claps, or other interactions on your Medium account or content
- Registering accounts, posting content, or interacting with users or content automatically, systematically, or programmatically

General Use of the Services

You may not do, try to do, or cause a third party to do the following:

(1) access or tamper with non-public areas of the Services, our computer systems, or the systems of our technical providers;



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identifying information;

(4) interfere with, or disrupt, the access of any user, host, or network, including sending a virus, overloading, flooding, spamming, mail-bombing the Services, scraping, or by scripting the creation of content or accounts in such a manner as to interfere with or create an undue burden on the Services

Use of custom domain features

Medium provides the ability to point a domain name that you control to a publication on Medium. If you use this custom domain feature, you understand that your publication will still be hosted on Medium and will still be subject to Medium's Terms of Service. If you use this custom domain feature, you may not do, try to do, or cause a third party to do the following:

- (1) Alter the look and feel or transform the content of the webpage, including by injecting ads, inserting tracking code, or altering the Medium look or feel;
- (2) Use proxy servers or any other means to short-circuit our rules or circumvent user protections; or
- (3) Mislead users about what site they are on or what their actions will do.

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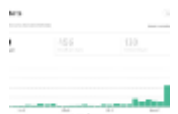


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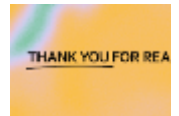


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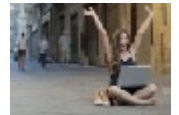


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