



Memorandum

**TO: HONORABLE MAYOR AND
CITY COUNCIL**

FROM: DENNIS HAWKINS, CMC

**SUBJECT: STRUCTURAL IMPROVEMENTS DATE: October 19, 2012
AND POTENTIAL
CONSOLIDATION OR ELIMINATION
OF BOARDS AND COMMISSIONS**

SUPPLEMENTAL

REASON FOR SUPPLEMENTAL:

To provide additional information and alternatives for the Council's consideration and to clarify other information in the report.

ANALYSIS:

Based upon questions and information received since the memo on this subject was issued on September 14, 2012, the following additional information, clarifications and additional policy alternatives are provided for the City Council's consideration.

A. Commission Membership and the Appointment process:

The composition of the City's Advisory Boards and Commissions is recommended to include members appointed by the Mayor and each Councilmember with additional at-large members. This change is proposed as a way to increase the geographic diversity of the members of each commission. We have compiled data of the Council district residency of Boards and Commissions over the past four years. Based upon the available data, five (5) Council districts are under-represented as a percentage of commission membership compared to population; and five (5) Council districts have a higher percentage of members compared to their percentage of the total City population.

One consideration in making these recommendations for structural improvements and changing the composition of the City's Boards and Commissions is the application of the lessons learned from the Neighborhoods Commission, which had three members appointed from each Council District, and the Redistricting Advisory Commission, which

HONORABLE MAYOR AND CITY COUNCIL

RE: Actions regarding Boards and Commissions (Supplemental)

October 19, 2012

Page 2

included one representative from each district and an at-large member appointed by the Mayor. These commissions benefited by having equal geographic representation and a range of diverse opinions and perspectives from throughout the City. As the Neighborhoods Commission pilot has sunset, there is a need to ensure that neighborhood interests and representation continues on the City's Boards and Commissions. This can be effectively accomplished by ensuring that each board or commission includes district representation as proposed.

In addition, it is recommended that each Commission include at-large representatives such as youth, seniors, persons with disabilities, and those with subject-matter expertise in the Commission's field. This is intended to further increase the diversity of opinions and experiences so that each Commission's work reflects the broader community interests. One policy alternative to consider is providing training and mentoring for youth representatives serving on our Boards and Commissions. For example, a caucus could be developed that would gather youth representatives with resources available to help them acquire the skills necessary to be an effective commissioner as they engage with their adult colleagues and staff.

A part of the recommendation is to refocus and repurpose the Project Diversity Screening Committee, which will still serve the Mayor and City Council in the Commissioner recruitment and appointment process.

Table 1
Number and Percentage of Commissioners by District for FY 08-09 through FY 11-12
Compared to Total Percentage of City Population

District	2010 Census Population	% of City Population	FY 08-09	FY 09-10	FY 10-11	FY 11-12	Total Number of Commission members	Percentage of Commissioners
1	95,817	10.06%	10	13	14	17	54	6.14%
2	91,379	9.59%	12	14	18	19	46	7.16%
3	97,003	10.18%	28	33	35	32	128	14.55%
4	99,892	10.49%	21	19	21	23	84	9.55%
5	97,510	10.24%	8	11	9	9	37	4.20%
6	91,837	9.64%	39	40	36	30	145	16.48%
7	99,030	10.40%	11	13	11	12	47	5.34%
8	97,336	10.22%	26	25	21	23	95	10.80%
9	90,714	9.52%	21	23	22	21	87	9.89%
10	92,094	9.67%	39	33	32	36	140	15.91%
Total	952,612		215	224	219	222	880	

B. Commission Consolidations:

I respectfully suggest that the Disability Advisory Commission be maintained as a separate entity. Following the release of the report to the Rules and Open Government Committee in December 2011, I visited various Commissions and hosted three forums at which over 200 individuals spoke of their concerns regarding the proposed elimination or consolidations. As a result, I modified my original recommendations and have proposed that several Commissions including Arts, Disability Advisory, and Historic Landmarks be maintained as separate bodies. Based upon community feedback and further analysis, I do not recommend the consolidation of the Human Rights and Disability Advisory Commissions. I believe that the Disability Advisory Commission has a unique focus and responsibilities that should be maintained as is.

C. Commission composition:

Some departments have expressed concerns with the recommendation to change the basic configuration of City commission membership to a district basis with other at-large members. The concerns include:

- Airport Commission – Airport administration suggests that the commission remain at seven-members and that special eligibility requirements such as knowledge of commercial air service, customer service, airport operations, finance and management be applied for membership. This is a policy alternative that we suggest be considered.
- Bicycle Pedestrian Advisory – The Department of Transportation expressed concerns with codifying BPAC as a commission due to potential increased administrative burden required to manage a formal commission and due to concerns with recruiting sufficient membership.

D. Commission Costs:

One of the questions asked by Councilmembers and the community involves the estimated operating costs for each Commission. The Office of the City Clerk has worked with departmental staff to obtain cost estimates for the current fiscal year. The data summarized below does not include costs for operating Charter-mandated Commissions (Planning, Civil Service, Redistricting, and Council Salary Setting), the Retirement Boards, and a few advisory Commissions which are not proposed for modification.

Overall, the City's Boards and Commissions program costs at least \$600,000 annually. However, in our analysis, we believe that some costs may be understated. For example, staff may have based cost estimates on certain staff attending commission meetings. In comparing Commission minutes, we note that some staff attendees at Commission meetings were not accounted for in the estimates provided, which may result in higher actual costs.

Further, it is important to point out that the estimates provided are after the implementation of MBA #16 adopted by the City Council in June 2010. MBA #16 reduced the number of meetings for most advisory commissions and their subcommittees. These changes resulted in more efficient staff utilization and efficiencies based on reduced commission workload. The estimates shown below are based on a fewer number of Commission meetings per year. Any increase in Commission and subcommittee meetings would result in increased staff support costs.

Table 2
Estimated Commission Operating Costs

Board or Commission	Department Estimated Annual Operating Cost
Advisory Commission on Rents	\$4,087
Airport Commission (including Airport Noise)	\$14,986
Appeals Hearing Board	\$10,757
Arena Authority	Information not provided
Arts	\$63,353
Bicycle and Pedestrian Advisory	\$4,660
Deferred Compensation Advisory	Information not provided
Disability Advisory	\$3,556
Domestic Violence Advisory	\$46,708
Downtown Parking Board	\$65,103
Early Care and Education	\$10,826
Elections	\$54,187
Historic Landmarks	Information not provided
Housing and Community Development	\$8,052
Human Rights	\$15,180
Independent Hearing Panel	Information not provided
Library (including Bond and Parcel Tax Oversight)	\$34,488
Mobilehome Advisory	\$5,723
Neighborhoods	\$46,708
Parks and Recreation (including Bond Oversight)	\$37,109
Project Diversity	\$6,503
Public Safety Bond Oversight	\$14,457
Senior Citizens	\$15,095
Small Business Development	\$8,601
Traffic Appeals	Information not provided
Youth	\$110,577
Total	\$580,176

E. Commission Compliance:

San Jose Municipal Code section 2.08.030 (C) requires each Board or Commission to report its activities to the City Council at least once each year. In addition, MBA #16 requires each Board or Commission to submit an annual workplan and annual report to the Rules and Open Government Committee. As illustrated below in Table 3, compliance with this requirement has yet to be achieved.

**Table 3
 Commission Workplan and Annual Report**

Commission	FY 2010 – 2011		FY 2011 – 2012		FY 2012 - 2013	
	Workplan	Report	Workplan	Report	Workplan	Report
Advisory Commission on Rents	12/1/10	4/4/12			1/4/12 8/1/12	
Airport Commission		12/7/11	12/7/11	8/1/12	8/1/12	
Appeals Hearing Board						
Arena Authority						
Arts	4/20/11	1/11/12	1/11/12			
Bicycle and Pedestrian Advisory Committee		11/2/11	11/2/11			
Deferred Compensation Advisory		5/2/12	5/2/12			
Disability Advisory Commission	10/20/10					
Domestic Violence Advisory						
Historic Landmarks						
Housing & Community Development	10/20/10	8/17/11	8/17/11 1/25/12 (amended)			
Human Rights	2/16/11					
Library	10/27/10	1/4/12	1/4/12			
Mobile Home Advisory	12/15/10	4/4/12	3/23/11		1/4/12 6/13/12	
Neighborhoods						
Parks and Recreation	12/15/10	10/5/11	10/5/11			
Senior Citizens	3/16/11	11/30/11	11/30/11			
Small Business Development		10/19/11	10/19/11			

Table 3 (continued)
Commission Workplan and Annual Report

Commission	FY 2010 – 2011		FY 2011 – 2012		FY 2012 - 2013	
	Workplan	Report	Workplan		Workplan	Report
Traffic Appeals		11/2/11	11/2/11			
Youth	12/15/10	11/30/11	11/30/11			

F. Meeting Frequency:

One of the key concerns among many commissioners is meeting frequency. It is recommended is that meeting frequency be determined by the Commission’s Workplan, not an arbitrary schedule. In adopting Workplans, the Commission’s Workplan should be aligned with that of the Department, which is aligned to the City Service Area (CSA), and the Council Committee responsible for those departments and services. Workplans should pursue the common objectives and assignments. Commission meetings should be scheduled in order to achieve its workplan objectives and meet its milestones.

G. Subcommittees:

Generally, standing subcommittees would not be allowed in the model bylaws. Standing subcommittees are Brown Act bodies and require additional staff support. Utilization of ad hoc committees, which are created for a specified time and purpose, would be permitted. However, the existence, scope, and functions of any ad hoc committees would be determined by the Commission’s workplan.

H. Staffing Efficiencies:

The memorandum from Councilmembers Pyle, Rocha, Liccardo and Kalra suggests that commissioners take on certain roles currently filled by staff. The City’s Boards and Commissions are legislative bodies required to follow the Brown Act, the City’s Sunshine requirements, and other regulations. If Commissioners are assigned these critical duties, despite the diligence of our Commissioners, I have a concern about potential violations. For example, we have had multiple Brown Act and Sunshine violations over the past years, some involving inappropriate Commissioner communications. Staff plays an important role in assuring compliance with these requirements and, in my opinion; the risk of delegating those tasks to Commissioners – volunteers already dedicating time to serve the City - is too great and invites problems and violations. I would not recommend this model.

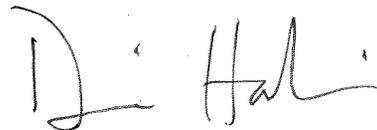
I. Commissioner Fundraising and Resource Development:

The memorandum from Councilmembers Pyle, Rocha, Liccardo, and Kalra suggests that some commissions should be encouraged to raise funds to support their work and to explore

the use of fiscal agents for these purposes. I am concerned with the potential for conflicts of interest and other ethical issues arising from Commissioners pursuing fundraising activities. Further, I recommend that the Council consider the fiscal transparency and accountability for any funds raised to support City programs and services. Just as Council special event resources come through the City fiscal system, similar accountability should be applied to boards and commissions. Lastly, the recommendation that staff identify potential partners and funding opportunities may place additional workload on staff which may not be practical or advisable.

J. Advisory Role to the Council

As established in the Municipal Code, Commissions serve as advisory bodies to the Mayor and City Council. Commissions also play a vital role in advising the City Administration on a variety of programs, services, and policies as well as providing a valuable vehicle for civic engagement. Council Policy 0-4 provides the methodology for Commissions to present their advice and recommendations to the Council. Additionally, in developing Commission, Department, CSA, and Council Committee Workplans, issues that may be referred to Commissions for their formal input may be identified and included in the Workplans. As an example, in considering the Minimum Wage initiative, the Council specifically referred the matter to several Commissions for their input. The process currently exists within policy for the Council and the Administration to seek Commission input on various issues. Therefore, I do not recommend any additional reporting requirements.



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City Clerk

For questions, please contact Dennis Hawkins, City Clerk, at 408-535-1275.

