

2021 Charter Review Commission Recommendations:

- 1) Consideration of the San Juan County Community Values in all Legislative, Executive and Administrative Actions
- 2) Concerning Public Access to County Financial Information
- 3) San Juan County's Personnel Manual (Section 8.20 Exemptions) should apply to all employees of San Juan County whether elected or appointed
- 4) Ensure Transparency and Community Participation on the Law and Justice Council
- 5) Improve the process and transparency for Citizen Appointments
- 6) Creating a more sustainable Tourism model that benefits all residents, communities and the environment
- 7) Concerning making Public Records available
- 8) Non-Discrimination Section of the Charter

Charter Review Commission Recommendation #1

Re: Consideration of the San Juan County Community Values in all Legislative, Executive and Administrative Actions

The CRC recommends that the County Council and all San Juan County elected officials and department heads be mindful of the Declaration of Community Values contained in this Charter, and to consider those values in every legislative, executive, and administrative action they take, and to periodically report to the People of San Juan County how those specific actions comport with the values expressed in the Declaration of Community Values.

Charter Review Commission Recommendation #2

Re: Concerning Public Access to County Financial Information

Timely public access to current, detailed financial information is essential to the proper functioning of democratic governmental institutions. The county's current 2020-2021 biennial budget is difficult to locate on the website according to public feedback to the Charter Review Commission (CRC). The current budget found on the website was only the preliminary budget, which may not be the final budget. The CRC was unable to locate any interim financial reports.

The CRC recommends that the County Council improve public access to county financial information by:

- Immediately replacing the 2020-2021 preliminary budget on the county website with the final budget approved by the County Council and making the most recent 2020-2021 interim financial report available on the same website.
- Beginning with the 2022-2023 budget, placing all future final biennial budgets and interim financial reports on the county website in a timely manner.
- Instructing the department responsible for the county website to create a link on the county's home page entitled Financial Information that will provide access to the most recent final approved biennial budget and interim financial reports.

Charter Review Commission Recommendation #3

Re: San Juan County's Personnel Manual (Section 8.20 Exemptions) should apply to all employees of San Juan County whether elected or appointed

Under the current Charter, individuals considered exempt are neither bound nor protected by basic human resources guidance and non-discrimination practices pertaining to individual conduct and the treatment of others in carrying out County business. The County personnel policy does not apply to all employees per Section 8.20 of the Charter. The State of Washington considers all elected officials exempt from personnel rules because they answer to the voters. As a matter of law, an elected official is generally answerable only to the voters and to their oath of office.

In *Crossler v. Hille*, the Washington State Supreme Court held that a district court judge was not bound by the county employment handbook (136 Vn2nd287 (1998)). However, the Charter Review Commission (CRC) believes the San Juan County's Personnel Manual should apply to all employees of San Juan County whether elected or appointed, but understands as a matter of law, an elected official is generally answerable only to the voters and to their oath of office. In interviews with the CRC, the San Juan County Human Resources Director, James Wolf, and the County Manager, Mike Thomas, indicated that the exemptions clause is too broad in its meaning. Mr. Wolf expressed the view that the Charter could hold all who work for the County to a particular standard of conduct, as is outlined in the personnel policy.

The CRC recommends that the County Council take appropriate action to ensure that the values of Resolution 31-2020 are upheld by developing appropriate language pertaining to the proper conduct of all County employees who fall under the exemptions listed in Section 8.20. The adoption of a County Council ordinance and the inclusion in county code of language like that of Pierce County's Charter would reinforce the importance of the core values stated in Resolution 31/2020 in the performance of duties of all who work in the County Government in a paid or volunteer capacity. For example, the Pierce County Charter Article 7 – Personnel System reads as follows: “Exemptions provided by this Section shall not limit the County's responsibility to fulfill its affirmative action and nondiscrimination policies.”

The CRC recommends the County Council consider the adoption of language as written below in some form that will enable the County to hold exempt individuals accountable for inappropriate conduct.

- Exemptions provided by Section 8.20 of the County Charter should not limit the County's responsibility to uphold county Charter provisions, and county, state and federal legislation and regulations on non-discrimination.

- Exemptions provided by Section 8.20 of the County Charter should also not limit the County's responsibility to ensure that all people working for the County in a paid or volunteer capacity, including on boards, commissions, and committees, treat others and be treated equitably, with dignity and respect. The County Council, department heads, and elected officials should ensure that all meetings conducting County business should be free from behaviors that are considered harassing, abusive, disorderly, or disruptive. This includes, but is not limited to, bullying (verbal, cyber, physical, gesture or exclusion), harassment, discrimination, or workplace violence.

Charter Review Commission Recommendation #4

Re: Ensure Transparency and Community Participation on the Law and Justice Council

Currently, there is no San Juan County Government body with a law and justice mandate that has representation from community members (not county employees) who can bear witness and provide a community voice and perspective on such matters. This stands in contrast with at least four of the six charter counties in our state (Snohomish, Whatcom, Clark, and Pierce).

The Charter Review Commission (CRC) conducted research, interviews, and deliberations on existing County mechanisms responsible for upholding law and justice, accountability, and transparency. Interviews were conducted with Ms. Lindsey Callahan, Deputy Prosecuting Attorney and the current Chair of the San Juan County Law and Justice Council; Judge Katie Loring of the Superior Court; Ms. Linnea Anderson, Administrator of programs for the Superior Court; and Mr. Randall Gaylord, Prosecuting Attorney. None expressed opposition to the concept of representation by a community member on the Law and Justice Council.

There is precedent for community representation in the counties mentioned above, including representatives of Coast Salish tribes. At the time of the interviews (between March and May 2021) it was also apparent that there had been no substantive discussion of the implementation of San Juan County Resolution 31-2020 by the Council with other parts of the legislative and executive branches of the County Government. Finally, the CRC noted the lack of transparency and accountability in the functioning of the Council in comparison to other counties.

Based on these findings, the CRC recommends that the County Council:

Revise the County Code, Section 2.10.090 (rev. 2008) pertaining to the membership and composition of the Law and Justice Council to add and formalize the participation of the following members:

1. The Chair of the Justice, Equity and Inclusion Commission or their designee, should the amendment for the establishment of this Commission be passed by the voters in the November 2021 election.

2. Two other community members who are eligible voters each representing a different San Juan County District and representing the core value of diversity as stated in SJC Resolution 31/2020.

3. An open seat for a Coast Salish tribal representative who need not be a resident of the County.

The County Council should also ensure that the composition, mandate, and ongoing business of the Law and Justice Council of San Juan County be made available to the public on the County website, and provide opportunities for the public to comment in writing or by presentation to the Law and Justice Council. Finally, the business of this Council should become more formalized with agendas and minutes to ensure transparency and accountability to the public, consistent with the functioning of these bodies in other counties in Washington state.

Charter Review Commission Recommendation #5

Re: Improve the process and transparency for Citizen Appointments

The current Charter indicates that “[t]he County Council by action shall appoint members of all boards and commissions except as otherwise provided in this Charter” but does not provide any additional guidance for the appointment process. Based on first-hand accounts of constituents, the Charter Review Commission (CRC) has concluded that the County Council’s process for appointing people to boards and commissions needs to be more transparent and accountable to those who apply for positions and to the public. The system of notifying applicants of acceptance or rejection of their applications is inadequate. Applicants do not receive notice of the review and/or rejection of their applications by the County Council on a consistent basis, and in at least one instance the CRC was made aware of, an applicant was never officially informed of their appointment to a commission. The public is not informed in a timely and transparent manner of applicants to boards and commissions, or when the County Council will deliberate and make decisions about the applications in public Council meetings. Additionally, the CRC discussed the need for the County to promote the principles of diversity and inclusion in its recruitment of applicants and to establish a more formal onboarding process of appointees to raise awareness of the conduct expected of members with respect to the implementation of San Juan County Resolution 31-2020.

The CRC recommends that the County Council improve the process of appointments to boards and commissions by:

- Disclosing applicants to the public prior to the County Council meeting by including the names and the corresponding board, committee, or commission in the meeting agenda.
- Deliberating and voting in a public session on all applications to boards, committees, and commissions, except as otherwise provided in the Home Rule Charter.
- Notifying all applicants, including those not appointed, in writing of the County Council’s decision in a timely manner.

- Providing appropriate education and training to all applicants regarding their duties and responsibilities including matters of justice, equity, inclusion and diversity as consistent with the Charter and San Juan County Resolution 31-2020, including representation from Coast Salish tribes who may not be residents of the County.

Charter Review Commission Recommendation #6

Re: Creating a more sustainable Tourism model that benefits all residents, communities and the environment

Residents have expressed concern about the negative impact of tourism on our islands. The Charter Review Commission (CRC) has concluded that it is the responsibility of the San Juan County Council to address the need to balance interests favoring the stewardship of our fragile environment, scarce resources, and limited infrastructure with interests favoring the expansion of the tourist sector of our economy. The CRC recommends that the Council encourages the County to: 1) develop a Tourism Management Plan (TMP); 2) move funding for promotion from the San Juan Islands Visitors Bureau (SJIVB) to the County; and 3) increase the use of Lodging Tax Funds (LTF) applied to redress seasonal housing shortages and the protection of existing tourism infrastructure.

1) A Tourism Management Plan

The CRC recommends that the Council expedite the request for proposals for a consultant/agency to develop a Tourism Management Plan (TMP) for the County. In 2020, the SJIVB submitted a grant for \$100,000 in additional lodging tax funding to pay for a San Juan County Tourism Management Master Plan. The grant was approved but put on hold because of COVID.

In addition, the CRC advises the Council that the community needs to know how tourism affects the County. The TMP should develop baseline metrics to measure the impact of tourism on our economy (ie: average spending per visitor, overall revenues), as well as impacts to the natural environment, resources (such as freshwater reserves), waste management, and infrastructure. The TMP must also take into account feedback from a broad spectrum of stakeholders, not just business interests invested in the tourism sector.

2) Move Tourism Promotion/Management into County Government

The CRC recommends moving tourism promotion funding from an external marketing entity (currently the San Juan Islands Visitors Bureau) to the County government. The County needs to

take responsibility for implementing the TMP. It is not a prudent or reasonable use of lodging tax dollars to develop a TMP and then hand it off to an outside entity that lacks the capacity to implement the plan and is not subject to oversight by the County.

The contract with the SJI Visitors Bureau expires in December 2022, allowing more than a year to develop a Tourism Management Plan and tourism promotion to County government. The recommendations and conclusions of the TMP should define the extent of promotion by the county.

To the extent possible, the Council will employ the most qualified candidates living in the county who have extensive experience in the field of tourism promotion and management.

3) Use of Lodging Tax Funds

The County Council should increase the spending of Lodging Tax Funds toward: 1) seasonal worker housing¹ and 2). the protection and maintenance of existing tourism infrastructure such as County Parks.¹

¹ Beginning in 2015, cities and counties may use lodging tax revenues to repay general obligation bonds (RCW 67.28.150) or revenue bonds (RCW 67.28.160) issued for affordable workforce housing within a half-mile of a transit station. While these two statutes do not specifically define “transit station,” a definition is provided in RCW 67.28.180 (3)(d)(ii)(A) discussing the requirements for King County. The definition references RCW 9.91.025 , which is very broad and includes any bus stops or zones.

Charter Review Commission Recommendation #7

Re: Concerning making Public Records available

The public wants transparency in government and open and honest contact between the Council and their constituents. Public accessibility to records should be a County value and goal. The County should make more records available online in order to restore citizen confidence, in particular Council proceedings and Planning Department records. These records were scanned but not uploaded as anticipated, in spite of funding for the project.

The CRC recommends that the Council adopt the following language in the County Charter:

- “San Juan County shall follow the Local Government Records Retention Schedules as required by state law. Records with long term retention value that do not contain information exempt from public disclosure shall be made available online to the public to the extent allowed by state and federal law. The County shall maintain a means to store and maintain, in perpetuity, records that can be accessed in a prompt and retrievable manner. The Public Records Clerk will continue to make records available for inspection and copying according to the SJC policies and fee schedule. San Juan County values transparency in government. County departments shall strive to obtain maximum accessibility of their records and shall prioritize assisting citizens in accessing those records. To the extent feasible, frequently accessed records shall be available in an online format.”

Charter Review Commission Recommendation #8

Re: Non-Discrimination Section of the Charter

In the recent election of November 2021, the voters of San Juan County approved *Proposition #5 on Non-Discrimination* which was put forward as an amendment to the charter by the Charter Review Commission. This amendment formally establishes a section on “Non-Discrimination” in the San Juan County Charter making San Juan County the sixth of seven charter counties in Washington State to adopt such a provision in its local constitution.

This is a tremendous victory for those who believe that everyone who resides in San Juan County should be free from discrimination and marginalization. This amendment goes beyond federal and state non-discrimination legislation and prohibits discrimination based on body type, status as a veteran who was discharged solely because of sexual orientation, gender identity, or expression, and status as a care provider for dependents. This section of the Charter also obligates the County to ensure that entities contracted by the county for the provision of professional services adhere to the non-discrimination provisions in this section.

The onus now falls upon the County to uphold the will of the electorate and ensure that this section of the Charter is implemented across the county government in a manner that is transparent and accountable to all.

In this regard, the CRC recommends that the County initiate the following actions:

1. Undertake an audit of all forms of discrimination experienced by residents of the county, building on the ‘justice and equity’ findings of the CRC;
2. Develop a protocol to evaluate contractors and make sure they are meeting the legal requirements of the non-discrimination section of the charter;
3. Establish an advisory committee to work with the county council and government to ensure the non-discrimination section of the charter is upheld;
4. Create a system for monitoring and reporting to the public on the implementation of the non-discrimination section of the charter.