Making Government Work

10 ways city governance can adapt to meet the needs of Oaklanders

Acknowledgements

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Introduction
Adapting Government to Meet Today's Needs

Oakland is the heart of the East Bay. It is a creative, community-minded, and racially and economically diverse city, home to excellent regional rail access, a growing downtown and thriving neighborhoods. And yet, as in many cities across the country, racial and socioeconomic disparities persist across nearly every indicator of livability, from median income to preschool enrollment, from rates of asthma emergency room visits for young children, to the percentage of individuals who get food assistance.[1]

The COVID-19 pandemic and social justice movements of 2020 exposed persistent challenges in governing the city equitably and delivering services for all residents of Oakland. These events forced the city to innovate, respond to community needs and coordinate across systems, with a level of efficiency that Oaklanders had never before seen. During the pandemic, government acted with common purpose to help keep communities safe, distribute vaccines and repurpose streets for pedestrians and bicycles, prioritizing human health over the movement of cars. Legislation moved quickly through the process to formalize tenant protections.

At the same time, government failed to meet the needs of Oaklanders. Many Oaklanders didn't receive the emergency relief funds they qualified for. While public schools were able to provide free lunches during shelter in place, many students did not get a full education for a year and a half, and parents struggled to provide childcare and educational support while working. Even before the pandemic, Oakland struggled with homelessness. The number of homeless residents rose starkly between 2017 and 2019, from roughly 860 people in 2017 to 3,200 in 2019.[2] While these challenges are not unique to Oakland, they highlighted the difficulty of managing a city of 425,000 people with a limited revenue base and an atypical governance structure.

The events of 2020 brought the challenges of governing the city into focus, making it clear that Oakland's model of government needs to be updated. As Oakland grows in size and complexity, its system of government needs to evolve. A progressive, forward-looking city, Oakland has the opportunity to flexibly adapt to meet the needs of its residents today and in the future. This report provides an analysis of Oakland city government, with particular attention to its governance structure, and makes 10 recommendations for how the city can more effectively serve the needs of all Oaklanders.

Oakland is governed by its local elected politicians, including City Council members, mayor, city attorney and city auditor. Despite many strengths, Oakland's current governance structure — a hybrid between "strong mayor" and "council-manager" forms of government (described in

1   City of Oakland, Oakland Equity Indicators Report, 2018, https://data.oaklandca.gov/stories/s/Oakland-Equity-Indicators/brb2-j4ad/

2   Alameda County, EveryOne Counts Homeless Point-in-Time Count & Survey, 2019, https://everyonehome.org/main/continuum-of-care/everyone-counts/

Chapter 1) — contributes to the city's challenges. This hybrid structure makes it difficult to establish accountability for the effective functioning of government, since it leaves open the question of which branch of government is in charge. In addition, many of the rules, procedures, processes and norms currently in place to guide government action create obstacles and limits to productive collaboration within and across different branches of government.

This report looks at the roles and responsibilities of the elected and appointed officials in the City of Oakland Charter, analyzes them against SPUR's principles of good government (see "Defining Good Government" below), and makes recommendations to increase the city government's ability to effectively represent all Oaklanders and efficiently provide public goods and services.

The recommendations in this report are intended to help Oakland thrive by strengthening a positive culture of collaboration within government and providing tools to elected and appointed officials to enable them to solve common problems and better serve the interests of the public. It is our hope that, if adopted, these recommendations will collectively ensure that Oakland's government is better positioned to address future challenges and provide positive, transparent, productive governance for all residents of Oakland.

Defining Good Government

A good government is one that ensures the rights of its people and supports their ability to thrive. To realize this goal, leaders and government employees should have clear, effective rules for how to interact, know who is doing what, support each other in achieving shared outcomes, and provide programs and services that effectively meet the needs of the people they serve. Their actions should be transparent and responsive to public input. This section provides a working definition of good government that can be used to analyze Oakland's current governmental systems and SPUR's recommended changes.

We believe that the following six principles can be used to collectively establish trust between constituents and their representatives and staff, who create policies, programs and laws and make sure they are consistently implemented for the common good. While a government may achieve one or more of the principles below, missing even one can erode its capacity to function effectively.

There are many ways to define good government. The principles outlined below are not meant to be exhaustive. Due to the broad nature of the topic, they focus more on process than results and can apply to any level and type of government, regardless of scale, scope or subject area.

❶ Clarity and Fairness: Good government has an established legal framework that is interpreted and enforced impartially. All governmental entities, staff and elected officials respect and abide by established laws and rules of conduct. Rules and laws are applied in ways that are clear and fair. Legal guidance given to policy makers regarding the application of the law is clear and accurate.

❷ Transparency: Good government is transparent. Information is accessible to the public, understandable and able to be monitored. Key interests seeking to influence the outcome of

decisions are known to the public. Communication is clear, allowing leaders to discuss issues thoroughly and make good decisions. When members of the public can see what is happening and are involved in the process, they are more likely to accept what comes out of it. They believe that what occurred was lawful, fair and based on informed decision-making.

3 Accountability: Good government is accountable to the public for its decisions. Roles and responsibilities of governmental entities, departments, staff and elected officials are clearly defined. Accountability includes fiscal accountability for tax dollars collected and spent.

4 Representation: Good government is engaged with the community it represents and is inclusive and equitable. It is reflective of the community members it serves. It equitably allocates resources, both time and money, to ensure that all residents have opportunities to improve or maintain their well-being and that economic prosperity and growth are shared. Good government balances all voices and is not subject to undue influence of any group or political power. It listens and considers not only the loudest voices but also those without a voice, without organization and without financial strength. It represents everyone, balancing their often-competing interests for the greater good.

5 Effectiveness, Efficiency and Adaptability: Good government delivers services to meet the needs of the public while making the best use of the resources available. It effectively leverages its time, talent and resources to maximize benefits to its residents. It operates at a high level of competence and excellence, obtained through adequate funding, good management and allocation of resources. Good government is nimble and able to quickly adapt to address challenges that arise.

6 Leadership: Good government has leaders at every level (elected, appointed, employed) who establish norms and values to instill respectfulness in all interactions. They insist on civility in decision making and in all public engagement and discourse. They enforce and follow the rule of law. Good leaders motivate and inspire others, creating an environment of collaboration and success despite differences of opinion. Good leaders are able to work through challenges and make tough decisions in a timely manner. They balance all interests, set realistic expectations, strive for the greatest public good and trust in the process, accepting and implementing results they may not personally like.

Good Governance Is Critical to Addressing the Many Challenges Oakland Faces

Homelessness

Homelessness has skyrocketed in Oakland in recent years, increasing by 47% between 2017 and 2019.[3] Part of the challenge comes from the escalating cost of housing, which has pushed many out of their homes. The City of Oakland has made enormous efforts to address these challenges, including piloting the use of community cabins and developing programs to keep people in their homes so they don't become homeless. But better coordination between different government entities, including the city and Alameda County, could help make additional strides to respond to this crisis.

Photo by Michael Short/San Francisco Chronicle

Policing

The murder of George Floyd, a Black man, by a white police officer in Minneapolis ignited a wave of protests and calls for police reform, including reductions in funding for police and investments in crime prevention programs. Finding ways to reform policing systems that disproportionately harm Black people and people of color while also ensuring that crime does not rise due to a reduction in the police force requires leadership, accountability, innovation and a government that effectively represents the city's diverse communities.

Photo by flickr user Daniel Arauz
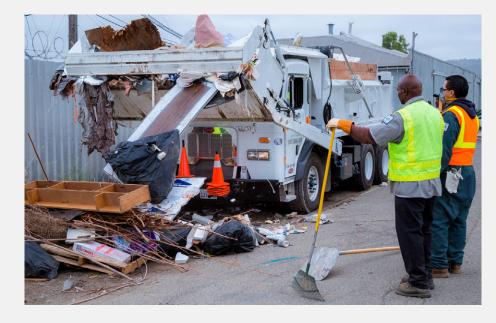
3   Sarah Ravani, "Oakland homelessness surges 47% - per-capita number now higher than SF and Berkeley," *San Francisco Chronicle,* July 29, 2019, https://www.sfchronicle.com/bayarea/article/Oakland-homelessness-surges-47-per-capita-14115123.php

Illegal Dumping

Between July 2020 and June 2021, the City of Oakland picked up 70,000 cubic yards of illegal garbage.[4] Illegal dumping impacts lower income communities and communities of color more than wealthier and whiter communities. Better enforcement of existing laws and more funding for public works are both needed to address this issue.

Photo courtesy City of Oakland

Potholes

With the passage of Measure KK in 2016, Oakland embarked on a three year process of repaving streets. The repaving plan developed by Oakland's Department of Transportation prioritized equity, which has resulted in more local repaving projects in areas that are "underserved," i.e., inhabited by people with low incomes, people of color or non-English speakers. This was a positive governance improvement that has directly helped many communities that may not have otherwise been prioritized. Consistent and effective auditing practices will allow the public and decision makers to understand how Measure KK funds have been spent, celebrate successes and plan for future investments.

Photo courtesy City of Oakland

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4   Noah Baustin, "Oakland's illegal trash-dumping crisis is worse than ever. Here's why," *San Francisco Chronicle,* August 23, 2021, https://www.sfchronicle.com/eastbay/article/Oakland-s-illegal-trash-dumping-crisis-is-worse-16406813.php

Chapter 1
How Does Oakland's Government Work Today?

Oakland has a hybrid form of government that combines elements of a "strong mayor" system and a "council-manager" system (see definitions below). In 1931, Oakland established a council-manager system of governance, which it maintained until the passage of Measure X in 1998. Under the council-manager system, the mayor was the presiding officer of the Oakland City Council but had no veto power. The power to run the city sat with the city manager, who was appointed, and could be fired, by the City Council. Frustrated by their inability to effectively govern the city, past Oakland mayors led failed attempts to reform this system and institute a strong mayor system of government in 1984 and 1996. The 1996 attempt, Measure F, would have created a strong mayor, though without veto power. It was defeated by the voters, getting only 47% of the vote. The current form of government began to take shape with the passage of Measure X in 1998. The nature of this form of government is described in more detail below.

The Different Forms of Local Government

In California, there are two predominant forms of local government: "strong mayor" and "council-manager." Council-manager forms of government are typical of smaller cities, and many — but certainly not all — larger cities have a "strong mayor" governance system.

Strong Mayor

Under a strong mayor form of government, the mayor holds a series of powers that might otherwise be vested in a city council or a city manager. These powers include the ability to veto legislation and the responsibility for running the city by carrying out the executive functions of the government, including the hiring and firing of department heads.[5]

Benefits of a strong mayor system:

→ There is clarity about who is the ultimate decision maker.

→ The mayor can function as the political spokesperson for the city, with higher standing and greater voice in the city's regional affairs.

→ The mayor can serve as a check on city council decisions that have negative impacts on the city's function.

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5   National League of Cities, "Cities 101 — Mayoral Powers," http://www.nlc.org/resource/cities-101-mayoral-powers/ (accessed on October 8, 2021).

→ Voters can easily hold the mayor accountable for delivering on campaign promises and making the city function, and they can elect someone different to change directions as needed. In nearly all American cities, the mayor is the most easily identified politician and is therefore the one credited with civic success and saddled with civic failure. In a strong mayor system, authority and responsibility are aligned.

Challenges of a strong mayor system:

→ Power is concentrated in one person's hands, which can lead to corruption. Concerns of corruption as a result of centralized power resulted in the good-government reforms of the progressive era of the late 19th and early 20th centuries, which sought to reduce the ability of big city "machines" to consolidate power by investing more authority in appointed experts to run government. These good-government reforms favored council-manager forms of government with an appointed city manager over strong mayor systems where votes for mayor could be delivered through machine politics.

→ A mayor's desire to be reelected could lead to a focus on near-term outcomes rather than the long-term needs of a city.

→ Since power is more concentrated, it is easier for a strong mayor to carry out an agenda, which, depending on whether one agrees with that agenda, can be a good thing or a bad thing.

→ The qualities needed to win elections aren't necessarily the same as those needed to run a city, and the person in the strong mayor role may turn out to be an ineffective administrator.

Examples: San Diego, San Francisco and Los Angeles

Council-Manager

Under a council-manager form of government, the city council has the authority to hire and fire the city manager, who carries out the executive functions of government. In a council-manager governance system, the role of mayor typically rotates among the city councilmembers and has very limited authority.[6] The city manager holds the responsibility to run the city.

Benefits of a council-manager system:

→ City managers can be selected for their professional competency rather than for political savvy. The city manager can be an outside expert hired for their managerial acumen who is better able to remain neutral in city politics.

→ A professional manager can facilitate more effective and efficient administration of city work.

→ Administrative functions are more insulated from politics because the city manager is not elected.

→ There is less political tension between the city manager and the city council, since the city manager serves at the will of the council and can be removed by them at any time.

6   Ibid.

Challenges of a council-manager system:

→ The city manager is not directly accountable to the public because they are not elected. This means the city manager is less likely to be seen as representing the constituents of the city they serve, and they can seem disconnected from the goals and interests of the people.

→ Residents can be unclear as to who is in charge. They may still expect the mayor to respond to their problems, even though the mayor has no direct control over the administration.

→ Professional city managers often do not come from or live in the city they work and may not have deep knowledge of the city they are tasked with managing.

Examples: Sacramento, San José and Long Beach

Oakland's Hybrid Structure

California cities typically have either strong mayor or council-manager forms of government. Through Measure X, Oakland created a hybrid governance structure that does not fit neatly into either form. It is not a strong mayor system because the mayor does not have veto power over legislation and does not directly hire and fire department heads. It also is not a council-manager form of government because the mayor has certain authorities, including the capacity to hire and fire the city manager, in Oakland known as the city administrator. (See Figure 1 for a fuller list of the roles and responsibilities of the Oakland mayor and City Council.)

Oakland's Ability to Change Its Form of Governance

Under California law, cities may be organized either as general law cities or charter cities. General law cities must be governed by an elected city council of five members under a council-manager system. The councilmembers may decide how the mayor is selected and hire a city manager to be the city's chief executive officer instead of the voters electing a mayor to lead the city. Broadly, general law cities have less authority to choose their own form of governance, since they are obligated to conform to the state law.

Charter cities, on the other hand, have the authority to define their own governmental structure. This is done through the ballot. Voters adopt a city charter that sets forth the procedures for local governance, including the powers of the mayor, the city council, the city administrator and other key officials. The 10 largest cities in California are charter cities, including Oakland (the eighth largest). As a charter city, Oakland was able to create its current hybrid form of government through a 1998 ballot measure, and it can make further changes by putting new charter amendments before the voters.

In 1998, Measure X established the current system of governance in Oakland by making the following changes to the city's governmental structure:

1. Removed the mayor as a member of the City Council and eliminated the need for the mayor to attend City Council meetings.

2. Established term limits for the mayor (two terms of four years each).

3. Granted the mayor the authority to hire, fire and manage the city administrator, with confirmation of the appointment and salary by the City Council. (This authority was formerly with the City Council.)

4. Removed a prohibition on the mayor directing subordinates of the city administrator (while retaining that prohibition for City Council members).

5. Established the city attorney as an elected position.

Under Measure X, the mayor was also given the authority to "suspend" an ordinance (but not veto it) if it was passed by a 5–3 majority of the City Council. With this authority, the mayor could delay the passage of an ordinance, require a revote and require a supermajority (defined as a 6–2 City Council vote) for adoption. Six years later, under 2004's Measure P, the voters scaled back this authority, reducing the supermajority requirement to 5–3, essentially canceling out the mayor's suspension power; if the mayor suspended an ordinance that had a 5–3 majority in the City Council, the same 5–3 vote would secure the passage of the measure in the revote, and the ordinance would be adopted.

FIGURE 1
Current Roles and Responsibilities of Officials in Oakland

This table outlines the key roles and responsibilities of elected and appointed officials in Oakland under the City Charter.

TITLE	ROLE	RESPONSIBILITY
Mayor	Chief elected officer • Provides leadership and marshals public interest to move an agenda • Serves as the ceremonial head of the city • Elected by the voters • Limited to two four-year terms	• Hires and fires the city administrator (City Council confirms the hire and must be advised before firing. The charter is silent regarding the mayor's authority to direct other administrators, including department heads.) • Breaks tie votes of the City Council and can suspend an ordinance passed by the City Council, requiring reconsideration at the next City Council meeting • Makes appointments to boards and commissions, subject to confirmation by the City Council • Submits the city budget to the City Council • Recommends legislation to the City Council • Delivers annual State of the City address • Promotes economic development to broaden and strengthen the city's commercial and employment base • Has authority to fire the police chief
City Administrator	Chief administrative officer • Serves at the will of the mayor (see above) • Responsible to City Council for the proper and efficient administration of all city affairs • Controls and administers the city's financial affairs • Attends all City Council meetings	• Executes all laws, policies and ordinances • Appoints, assigns, reassigns, disciplines and/or removes all directors or heads of departments under their jurisdiction • Recommends legislation to the City Council • Prepares city budget under direction of the mayor • Prepares and submits reports to the City Council • Creates rules and regulations to manage administrative departments
City Council	Governing and legislative body • Composed of seven district councilmembers and one at-large councilmember elected by the voters • No term limits	• Vested with all legislative powers (drafting, amending and adopting ordinances) and all corporate powers (approving contracts, filing and settling lawsuits, etc.) • Sets the compensation of all city employees • Amends and approves the city budget proposed by the mayor and city administrator • Creates departments and administrative agencies under city administrator, boards and commissions • Confirms mayoral appointments to boards and commissions; can remove commissioners with six votes • Granted no administrative or executive powers, except through legislative powers; disallowed from giving orders to any subordinate under the city administrator

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| City Attorney | Counsel to city government
• Elected by the voters
• No term limits | • Renders legal opinions when requested by mayor, City Council, city administrator or any other officer, board or commission
• Serves as legal counsel to mayor, City Council and city departments (unless department is designated as independent in the City Charter)
• Has limited authority under state law to enter into affirmative litigation (i.e., suing individuals and entities on behalf of the people of Oakland)7 |
| City Auditor | Fiscal oversight
• Elected by the voters
• No term limits
• Budget set by City Council | • Audits the books, accounts, money and securities of all city departments and agencies
• Evaluates internal city controls to ensure assets and resources are reasonably safeguarded from fraud, waste and mismanagement
• Helps city departments to improve the effectiveness, efficiency and economy of their operations
• Prepares financial analyses of all ballot measures and major expenditures
• Responds to requests for audits and review
• Prepares performance audits of each department |

Source: SPUR analysis of Oakland City Charter

How Oakland's Government Works Now

The following is a discussion of the city's current form of government, the roles and responsibilities of key elected and appointed officials, and the budgetary process.

Mayor

The mayor is the head of the city and is held accountable by the voters for carrying out the executive functions of Oakland's government. However, Oakland's current form of government imposes limits on the mayor's ability to carry out those functions.

Most significantly, unlike in a true strong mayor system, Oakland's mayor has limited legislative authority. Although the mayor has the ability to introduce legislation at City Council meetings, the mayor cannot veto ordinances or resolutions (ordinances create laws; resolutions create policies). The mayor can also suspend an ordinance passed by a 5–3 majority of the City Council. However, because the City Council simply needs another 5–3 majority at its next meeting to approve the ordinance, any delay is essentially temporary, as the vote tally does not need to change for the ordinance to pass. Unlike with an ordinance, the mayor does not have authority to suspend a resolution.

Additionally, the mayor can serve as a tiebreaker vote if the City Council is split 4–4 on an

7   This authority is limited to powers granted under state law related to nuisance claims.

item, but this power is rarely exercised. Under Section 210 of the City Charter, the City Council can only pass a resolution or ordinance by an affirmative vote of five or more members of the City Council. To avoid a tie and possible passage of an item, opponents need just one councilmember to abstain from voting, resulting in a 4–3 vote with one abstention. In this case, there is no tie, and the item will fail because it didn't receive five affirmative votes. By having one member abstain, the opponents eliminate the mayor's ability to vote and cast the deciding fifth vote for passage.

Notably, the mayor's role in the outcome of the budget process is also limited. The mayor submits an annual budget to the council, but as discussed in the "City Council" section below, councilmembers can propose their own budget, and the mayor has no line-item or other veto power over the budget ultimately adopted by the council. In proposing a budget, the mayor identifies priorities but lacks authority to fund them. In contrast, within some strong mayor systems of government, such as San Francisco's, the mayor has a line-item veto over budget items.

Additionally, unlike other strong mayor cities where the mayor is both the chief executive officer and the official representative of the city, in Oakland those roles are split between the mayor and the city administrator. In San Francisco, strong mayor authorities include "general administration and oversight of all departments and governmental units in the executive branch" and "coordination of all intergovernmental activities."[8] In Oakland, these authorities are instead vested with the city administrator.

In Oakland, the relationship between the mayor and the city administrator is complex. The mayor has the authority to hire, fire and give direction to the city administrator. While the charter explicitly gives the mayor hire and fire authority over the city administrator, it is silent as to whether the mayor can direct department heads or staff. In practice, to move their agenda forward, the mayor works with the city administrator, who in turn directly manages the department heads and staff. The mayor and mayor's staff also work with department heads and other administrative staff on issues of importance to the mayor. However, there is not a direct reporting relationship between the mayor and department heads, which means staff can receive different instructions from the city administrator and the mayor, creating confusion and uncertainty. Of course, the mayor could be considered the ultimate supervisor, with the authority—if the mayor chooses to use it—to fire a city administrator if the officials don't work well together.

Lastly, the mayor has the authority under the charter to actively promote economic development to broaden and strengthen the commercial base of the city, but it is not clear what this means in practice.

Analysis

Under Oakland's current hybrid governance system, it is challenging for the mayor to deliver any agenda. While the electorate assumes the mayor has the power to make change, the mayor's power is actually quite limited, with no veto power over ordinances, resolutions or the budget. The mayor's authority to serve as a tiebreaking vote is undermined by the City Council's ability to avoid the tie through procedural measures.

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8   San Francisco City Charter, Article III, Sec. 3.100, Executive Branch – Office of the Mayor, Powers and Responsibilities.

While the mayor has the power to hire and fire the city administrator and to champion economic development, the mayor does not directly manage city governmental functions. However, there is no prohibition on the mayor influencing or directing department heads.

City Administrator

The city administrator is the manager of the city, running day-to-day operations as in a council-manager form of government. But unlike true council-manager structures, Oakland's city administrator is hired by the mayor and confirmed by the City Council. Only the mayor can fire the city administrator, with notice to the City Council.

The city administrator manages almost all city employees, including department heads. The city administrator has the authority to hire and fire department heads, as well as to delegate to department heads the authority to hire and fire staff.

Under the City Charter, the city administrator is responsible to the council for the proper and efficient administration of all affairs of the city. The city administrator is required to attend all City Council meetings and to recommend ordinances that the city administrator deems necessary. Because the city administrator serves at the will of the mayor but is also accountable to the City Council for administering the affairs of the city, the city administrator effectively reports to nine people: the eight members of the City Council plus the mayor. The current system has the potential to pull the city administrator in two (or more) directions and create competing interests within the council and between the council and the mayor.

The City Council can, through the legislative process, provide direction to the city administrator but cannot direct department staff. However, the City Council can create ordinances that determine how the functions under the city administrator are organized and administered. Any departments created by the City Council are administered by the city administrator, who must determine how to best carry out the policy directives of the council. The council can also request information from the city administrator.

Lastly, the city administrator has a great deal of responsibility for the city's fiscal health and is charged under the charter with the power to "control and administer the financial affairs of the city."[9] The city administrator must prepare a balanced budget to be submitted by the mayor to the City Council.

The City of Oakland Finance Department, housed within the Office of the City Administrator, is responsible for:

→ Developing a balanced budget that the mayor submits to the City Council

→ Producing a five-year financial forecast that estimates the city's revenues and expenditures over the forecast period

→ Analyzing ordinances and resolutions for their budgetary impacts

→ Approving all hiring

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9   Oakland City Charter, Section 504.

→ Managing payroll

- Managing accounts payable
- Managing all purchasing
- Managing the fiscal audit of the city
- Monitoring revenue
- Managing cashflow

Notably, neither the Finance Department nor the city administrator has the authority to certify revenue, meaning they cannot ensure that the budget conforms to the amount of funding that they, in their professional opinion, determine is available.

The power to certify revenue instead rests with the City Council as part of its authority to adopt the budget, meaning that it is the council's prerogative to determine how much funding is available and to pass any legislation with budgetary impacts. This creates challenges, since the technical expertise to determine what revenues are available resides in the Finance Department.

Analysis

There are several challenges with the current system, many of which stem from the limited financial authority of the city administrator. Because the city lacks an independent entity with the power to certify revenue, such as an independent city controller, the City Council can pass a budget (or legislation) predicated on revenue projections that differ from those provided by the Finance Department. This is what happened during the 2019–2021 budget cycle, when the council president's proposed budget asserted that revenues were higher than revenue projections developed by the Finance Department for the mayor's proposed budget. While a balanced budget was ultimately passed, the council president's initial budget proposal caused significant conflict between the city administrator and the council.[10]

The Finance Department is charged with managing city expenditures within budget constraints, so if funds that were certified by the council did not materialize, the Finance Department would be responsible for figuring out how to balance the budget with the funds that were available.

10   Letter from City Administrator to City Council, June 6, 2019, https://www.courthousenews.com/wp-content/uploads/2019/06/City-Administrator-Response.pdf

The Budget Process

Oakland has a two-year budget process to determine how revenue coming into the city over the next two years will be allocated among the various city functions, services and obligations, including police, fire, parks and recreation, human services, libraries and employee retirement costs. Under the City Charter, every two years the mayor and city administrator are tasked with proposing a budget for the city that is ultimately adopted by the City Council following public feedback and amendments by the council. The City Council has adopted an ordinance (Consolidated Fiscal Policy) that provides a framework to guide the budget process. The ordinance also mandates that the city pass and adopt a balanced budget in each two-year budget cycle.

Although the City Council approves a two-year budget, appropriations under the budget are divided into two one-year spending plans. During the second year of the two-year budget cycle, the mayor and City Council conduct a midcycle budget review to address variances in estimated revenues and expenditures, as well as other changes to the city's financial condition.

The budget process is very detailed and prescribed, with established compliance dates and required public outreach and collaboration among the City Council, mayor and city administrator. The mayor and City Council are required to hold a biennial budget workshop, and the city administrator must develop or secure a statistically valid survey of the public's concerns, needs and priorities and submit it by February 15 of the budgetary cycle year. Councilmembers can submit expenditure priorities and other suggestions. The city administrator must report back to the City Council by April 15, and the proposed budget from the mayor and city administrator must be published and made publicly available by May 15.

The council president (often with other councilmembers) develops and puts forward a separate budget proposal. Other councilmembers may develop additional proposals. The City Council then deliberates and adopts the final two-year budget.

It should be noted that the budget is sometimes developed before labor negotiations are completed, which means the budget would need to be adjusted to reflect the outcomes of labor negotiations after the budget has been certified.

City Council

The Oakland City Council is made up of seven district seats and one at-large seat, for a total of eight councilmembers. According to the City Charter, the council is the governing body of the city, a role that includes exercising corporate powers (approving contracts and filing and settling lawsuits) and serving as the city's legislative body (drafting, amending and adopting ordinances). The City Council also debates and adopts policies, the most important of which is the biennial city budget. Through the budget allocation process, the council decides which public services will be provided by city

departments and how all city employees and officials will be compensated. The City Council also passes laws that govern actions by private residents (such as zoning and building regulations, parking rules and landlord-tenant laws). In addition, the council is charged with purchasing and selling city property; approving franchises for garbage and cable services; incurring debt; and approving major city projects, such as new public buildings or fire engines.

The City Council has no direct administrative powers under the City Charter. Instead, these powers are reserved for the city administrator. Section 218 of the City Charter expressly prohibits the City Council from directing any staff under the responsibility of the City Administrator's Office (essentially all city staff). Violation of this provision is considered a misdemeanor and can result in conviction of the offending councilmember and the forfeiture of their office. However, the City Council does have some authority over administrative affairs via its legislative powers, which allow the City Council to make inquiries directly to the city administrator and to city staff. For example, a councilmember can request information on a topic or ask staff's opinion on specific policy matters.

The City Council passes the budget and does not need consent of the mayor. As mentioned above, the City Council has the authority to determine how much money is available for the city to spend in its budget. So although councilmembers cannot direct staff, the City Council can use their budgeting authority to eliminate staff positions and programming, thereby indirectly regulating staff through budget changes.

The City Council has rules and procedures (Council's Rules of Procedure) enacted by resolution to govern its conduct and operation. Under these rules, there are six standing committees of the City Council and a council president, whom the council elects at its first meeting in January to serve for a two-year term. The council president appoints all committee members, the vice-mayor and the president pro tempore, subject to confirmation of the City Council. The Council's Rules of Procedure also govern the operations of the council and its subcommittees, establishing protocols and rules of order. These protocols only require legislation to be introduced at the Rules Committee, with no requirement to include a staff report from the city administrator and no timeline for city attorney review (although city attorney review is required[11]).

Analysis

Because councilmembers are precluded from directing and interacting with city staff, the city administrator serves as a liaison between the two, essentially acting as a gatekeeper. Given the significant workload of the city administrator, this can create a bottleneck in getting things done. It also creates challenges for councilmembers to serve their constituents, as they are not able to work directly with city staff, even on non-policy issues like constituent services. While the City Council does have adopted rules of procedure, these rules don't require a set standard for review and analysis of legislation or policies by city staff, nor do they provide timelines to allow for city attorney review. This can make it extremely difficult for councilmembers to fully understand the consequences of taking a legislative action.

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11   City Council Rules of Procedure, Rule 26, https://www.oaklandcityattorney.org/PDFS/Guides%20and%20FAQs/City%20Council%20Rules%20of%20Procedure.pdf.

Oakland Is an Even-Numbered Voting Body

Oakland's City Council is fairly unique in that it includes an even number of councilmembers. Most other city councils are odd numbered to prevent a tie vote. While Oakland's mayor can serve as a tiebreaker in council votes, there are many challenges related to the current system, including that the voting process can be manipulated through abstentions to ensure that the vote is not a "tie" and therefore prevent the mayor from casting a tiebreaking vote. (We discuss this process and recommend changes in the "Recommendations" chapter starting on page 23.)

The following California cities have odd-numbered legislative voting bodies ("all district" refers to a city where all the councilmembers are elected by district; "at-large" means that a role is elected by the entire city):

→ San Diego: 9 City Council members (all district)
→ Los Angeles: 15 City Council members (all district)
→ Long Beach: 9 City Council members (all district)
→ San Francisco: 11 Supervisors (all district)
→ Sacramento: 9 City Council members (8 district, mayor at-large)
→ San José: 11 City Council members (10 district, mayor at-large)

City Attorney

The city attorney is an elected position. Before the passage of Measure X in 1998, the city attorney was appointed by and served at the will of the City Council, which resulted in the city attorney being threatened with removal if they did something the City Council did not support. As an elected official, the city attorney has a level of independence that ensures they are not beholden to any politician. It also means the city attorney has an incentive to establish an enhanced public profile in order to be reelected.

Under the City Charter, the city attorney represents the mayor, the City Council and every applicable city department and, as is required by state law, asserts and maintains the attorney-client privilege with each client. The role of the city attorney is to provide legal advice and legal representation in litigation in which the city is a party. As standard practice, the city attorney maintains strict confidentiality among clients. If a client does not want to disclose that they are working on a legislative topic, the city attorney will not disclose that work, even if it results in two competing legislative proposals by two different clients. The city attorney provides the same advice to all clients, regardless of a client's political predilections.

The city attorney also has a separate policy and citywide advocacy role. While not explicitly stated in the City Charter, the city attorney considers the "people of Oakland" to be a client. Under state law, the city attorney has the power to bring limited affirmative litigation on behalf of the

people of Oakland and in that capacity represents the people. The work of the City Attorney's Neighborhood Law Corps[12] is a positive example of the use of this power. This entity acts as a proactive public-interest law group and takes actions such as filing lawsuits against landlords who illegally demolish homes.[13]

Because the city attorney is an elected official, there is not a legal attorney-client relationship between the city attorney and the people of Oakland. The attorney-client relationship rests between the city attorney and the City of Oakland (as an entity), even though the city attorney is allowed to bring affirmative lawsuits on behalf of the people of Oakland. There is no language in the City Charter that defines what happens when there is a conflict between the city attorney's clients as stated in the charter (the mayor, city council, etc.), and the city attorney's role representing the people of Oakland.

The city attorney also sponsors legislation, including legislation that does not directly relate to the functioning of the Office of the City Attorney, and is not precluded by the charter from endorsing ballot measures or candidates.

Analysis

While the city attorney's expanded roles are not specifically forbidden by the City Charter, they have the potential to create a situation where politics and personalities override legal interpretation. This can result in elected officials ignoring the city attorney's legal advice because it is seen as being based on personal policy views, as opposed to the definitive interpretation of the law — an outcome that is not typical in other city governments. The city attorney's role in policy and citywide advocacy can also blur the line between who the city attorney represents in a particular matter or transaction — i.e., whether the client is the city and its officers or the people of Oakland.

City Auditor

The city auditor is an elected official and serves a four-year term that runs concurrently with the term of the mayor. Under the City Charter, the city auditor is authorized with the power and duty to audit the books, accounts, money and securities of all city departments and agencies. The City Charter also requires the city auditor to periodically report to the City Council on the results of these audits and to make recommendations to the city administrator on the design of accounting forms and reports, as well as on the methods for all city departments to maintain their accounts and accounting systems. If the city auditor's recommendations to the city administrator regarding accepted accounting principles have not been implemented, despite reasonable time and opportunity, the city auditor must report the noncompliance to the City Council.

Under the City Charter, the city auditor also has the power to conduct surveys, reviews and audits deemed to be in the best public interest or when requested by the City Council or mayor. The charter lists nine examples of what is considered "in the best public interest," which include

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12   Oakland City Attorney's Office, "Neighborhood Law Corps," https://www.oaklandcityattorney.org/Community/NLC.html (accessed on October 8, 2021).

13   Oakland City Attorney's Office, "City Attorney's Neighborhood Law Corps Files Lawsuit Against Landlords who Illegally Demolished Tenant's Home," press release, May 9, 2017,
      https://www.oaklandcityattorney.org/News/Press%20releases/NLC%20lawsuit%20369%20MacArthur.html

evaluating the city's financial controls to ensure that its assets and resources are reasonably safeguarded from fraud, waste and mismanagement; preparing an impartial financial analysis of all ballot measures and of proposed major expenditures before they are approved; and conducting performance audits of each city department as specified in the city budget. In order to conduct these surveys, reviews and audits, the auditor needs to be funded by the budget to complete this work.

Analysis

The city auditor is responsible for overseeing and providing transparency to the accounting practices and financial management of the city. The city auditor does not have the authority to stop illegal spending but does have the power to shine a light on city operations and finances through audits and reports. The auditor also has the authority to assess and examine the financial management and oversight of the city administrator, City Council and mayor, potentially creating a contentious relationship between them. Such tensions between the auditor and city leaders can be problematic since these same officials determine the city auditor's budget.

Chapter 2
Recommendations

SPUR believes that some aspects of governance in Oakland are working well, but other areas need to be improved in order to build greater trust between the government and its constituents. We believe that, collectively, these recommendations have the potential to improve the effectiveness and efficiency of city governance, increase transparency about the actions of government and strengthen representation and accountability. We hope that these recommendations will help enhance clarity around government functions, while also encouraging cooperation among the different branches of government.

Mayor

The recommendations in this section move Oakland from a hybrid council-manager/strong mayor form of government to a clearly defined strong mayor form of government. As Oakland has grown in both size and complexity, the need for a more consolidated executive function within government has increased. The people of Oakland expect the mayor to be able to solve citywide problems, and without clearer authority, the mayor is unable to fulfill that expectation.

These recommendations give the mayor greater authority to lead the city and implement a strong agenda. We feel that the current hybrid system creates significant governance challenges. It's neither a true council-manager form of government—where the city council hires and fires a city manager who manages the city in accordance with the policy priorities of the council—nor is it a strong-mayor system, where the mayor has much greater control over the actions of the executive branch of government, as well as a greater ability to manage the budget process. The hybrid model fails to give the mayor the authority needed to respond to voters and implement an agenda. This means the people of Oakland cannot hold the mayor accountable for the mayor's performance. Given the size, importance and complexity of a city like Oakland, we don't believe that returning to a true council-manager form of government is appropriate or desirable. Instead, we recommend moving Oakland toward a strong mayor system through a series of key changes.

Recommendation 1: Give the mayor veto power over legislation.

One of the key aspects of a strong mayor system is the power to veto legislation. The current charter does not give the mayor enough authority related to legislation that impacts the functioning of the city. As the city's chief executive, the mayor should have a voice in the legislative process. The mayor's current tiebreaker role is easy to manipulate and generally ineffective. If the mayor cannot vote as a member of council (as is typically the case in a council-manager form of government), then they should have the authority to veto legislation. However, the veto power should not be absolute. A supermajority of six (out of eight) council votes should be able to override the mayor's veto.

How it's implemented: Charter amendment

Where else is this done? The mayors of San Francisco and Long Beach have veto authority. Their legislative bodies can override the veto by a two-thirds majority.

The Mayor's Role as a Tiebreaker Vote

The current system under the City Charter allows the mayor to serve as a tiebreaker in council votes. A tiebreaker vote is not the same as a veto. In some instances where votes of the City Council have been tied, the current system has been manipulated to deny the mayor a tiebreaking vote by having a councilmember abstain instead of voting no. As mentioned earlier, when a councilmember abstains, the vote becomes 4–3 with one abstention and therefore not a tie. One way to address this issue would be to require that abstentions count as "no" votes, but this change could create a series of problems. For example, City Council members could have legitimate conflicts of interest that preclude them from voting on a particular measure, in which case counting their abstention as a "no" vote would not be accurate or appropriate. For this reason, we recommend instead that the mayor have veto power over legislation. If the mayor is given the authority to veto legislation through changes to the charter, we would recommend eliminating the mayor's power to serve as a tiebreaker.

Recommendation 2: Give the mayor line-item veto power over the budget.

The mayor should be responsible for creating a comprehensive budget that works for the city. In order to ensure that the budget both supports the priorities of the city and is implementable, the mayor should have line-item veto power over the budget. The City Council should be able to override the mayor's veto with a vote of six out of eight councilmembers.

How it's implemented: Charter amendment

Where else is this done? San Francisco's mayor has a line-item veto over budget items. If the item is vetoed, those funds drop back into the general fund and are available for reappropriation. This line-item veto power is very rarely used in San Francisco and serves mostly as an incentive for the mayor and the Board of Supervisors to find alignment on budget matters.

City Council

The recommendations in this section increase transparency regarding the City Council, the policy-making body for the City of Oakland. Unlike many other city councils, the Oakland City Council does not have term limits for councilmembers. While this has the benefit of enabling councilmembers to develop deep relationships with their constituents, it has the unintended consequence of suppressing new leadership and new policy ideas. Salaries and compensation for Oakland City Council members and staff are lower than those of their peers in other cities, which could also limit interest in paid and elected roles.

Additionally, the legislative process in Oakland sometimes lacks analysis and input by the city staff who would be required to implement it. We recommend that the legislative process be revisited in order to create more clarity, transparency and input.

Recommendation 3: Create term limits for councilmembers of three four-year terms, with the ability to return after sitting out a term.

Term limits are a critical tool to nurture new political talent over time. Long-standing councilmembers are key because they develop deep relationships with their constituencies and have the standing and longevity to stand up to special interest groups, while new councilmembers bring new ideas and policies. But because the power of incumbency can often be too difficult for new politicians to overcome, maintaining a mix of representation is challenging. How can Oakland get the best out of both, encouraging new political talent while also allowing seasoned councilmembers to continue to do good work in their districts? To balance these two interests, we recommend that councilmembers be able to serve 12 consecutive years (three four-year terms) and, after taking a term off, run again for another three terms. Councilmembers could return any number of times, as long as they take one term off in between three-term stints. Current councilmembers could serve three additional four-year terms upon passage of a term-limit measure.

How it's implemented: Charter amendment

Where else is this done? The San Francisco Board of Supervisors has term limits of two four-year terms. (San Francisco is both a city and a county, so its supervisors also serve as councilmembers.) Supervisors may return after sitting out a term. City Councils in both San José and Long Beach have term limits of two four-year terms.

Recommendation 4: Raise the pay of councilmembers.

Currently, councilmembers are classified as full-time employees.[14] Unlike many other cities, Oakland has a salary increase for councilmembers built into its charter.[15] However, compared with other city councils representing large cities in the Bay Area, Oakland's compensation for councilmembers is at the low end of the spectrum (see Figure 2).

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14   A memo from Oakland's Human Resources Management Department classifies City Council members as full-time employees. See: Anil Comelo to Whitney Barazoto, April 8, 2016, http://www2.oaklandnet.com/oakca1/groups/ceda/documents/agenda/oak058309.pdf

15   Oakland City Charter, Section 202.

FIGURE 2
Salary Comparison of City Council Members
While Oakland's city councilmembers do not make the lowest wages when
compared to other large California cities, they do make lower wages than
both their San Francisco and San José counterparts.

CITY	POPULATION	AVERAGE CITY COUNCIL MEMBER TOTAL WAGES	AVERAGE TOTAL RETIREMENT AND HEALTHCARE CONTRIBUTIONS
Los Angeles	3,923,341	$209,964	$81,053
San Francisco	825,211	$140,148*	not available**
San José	1,029,782	$138,115	$31,082
San Diego	1,411,034	$89,489	$18,366
Sacramento	515,673	$90,595	$22,779
Oakland	435,514	$107,358	$56,839

Source: Information for all cities except San Francisco comes from California State Controller's Office, "Government Compensation in California," https://publicpay.ca.gov/Reports/PositionRpts.aspx?year=2020&rpt=3 (accessed on August 31, 2021). The source for San Francisco's information can be found in footnote 14.

*   San Francisco Department of Human Resources, Compensation Manual — Fiscal Year 2019-20, updated April 27, 2020, https://sfdhr.org/sites/default/files/documents/Classification-and-Compensation/Compensation-Manual-FY19-20.pdf?documentid=13621.

** Information for San Francisco came from a different source than the information elsewhere in the table, and no retirement and healthcare contribution data was available from that source.

Oakland's councilmembers also earn far less than Alameda County supervisors, who earn roughly $186,683 in wages and $97,398 in retirement and healthcare contributions.[16]

At the same time, we learned from interviews that some Oakland City Council staff earn less than staff in the City Administrator's Office. This can create an imbalance in hiring ability and retention between the City Council and the City Administrator's Office. Salaries should be reviewed and adjusted to achieve parity, based on overall level of responsibility and management oversight.

How it's implemented: Charter amendment for City Council member salaries; budget adjustment for City Council staff salaries and compensation

Recommendation 5: Create more transparency and clarity around the legislative process.

Currently, the legislative process often lacks detailed analysis of complicated policy proposals. While legislation initiated by a councilmember must include a memorandum from the sponsor's office, there is currently no requirement that it include an analysis prepared by the City Administrator's Office, nor is there a timeline for review by the City Attorney's Office.[17] Although legislation does contain

16   California State Controller's Office, "Government Compensation in California", https://publicpay.ca.gov/Reports/PositionRpts.aspx?year=2020&rpt=4 (accessed on August 31, 2021).

17   Oakland City Council Rules of Procedure, Rule 26.

information about budget impacts of a proposed measure, legislators are not required to take that information into account when making budget decisions.

The ideal legislative process would include vetting by a newly created City Controller's Office (see recommendation 6) before legislation was introduced to determine its fiscal impacts and funding sources. If the measure did not identify a sufficient funding source, then it could not be introduced. After vetting, the proposal would then be sent to the City Attorney's Office for review to make sure it appears in the proper legal form. The City Attorney's Office would have a minimum of two weeks to review the legislation. Before the proposed legislation could be heard at the Rules Committee, the City Administrator's Office would provide additional analysis, including a detailed analysis of the impacts of the legislation and the steps needed to implement policy. From there, the proposal would go through the current council process.

Lastly, the role of the Rules Committee is to serve as the procedural committee of the City Council, not as a subject-matter committee that debates the merits of a proposal. In an ideal process, the role of the Rules Committee, as defined in Rule 23 of the Council Rules of Procedure, would be followed.

How it's implemented: Amendment to the Oakland City Council Rules of Procedure

Where else is this done? All legislation in San Francisco has been analyzed for fiscal impacts, and if funds are not identified to cover the cost of the proposed legislation, the legislation cannot be heard by the Board of Supervisors. The City of Sacramento's Law and Legislation Committee operates as a scheduling committee and ensures that most legislation[18] has been properly vetted by the city staff, clerks and attorneys who would implement it. This process ensures that all people who care about the issue, including the public, have a clear understanding of the legislative and fiscal impacts on the city and its departments.

City Controller

One significant challenge facing the City of Oakland is its lack of an independent, trusted voice on financial and budgeting matters. As mentioned earlier, under the current system, the Finance Department and City Council can disagree on issues as fundamental as how much money the city has to spend, creating a budget conflict not only over what expenditures to make but also over how much revenue exists. In addition, while a financial analysis accompanies proposed legislation, there is no independent entity with the authority to reject legislation and policy proposals that create new costs without a funding source. Many smaller cities with a council-manager form of government have a finance department, but Oakland's size and complexity may mean that this no longer meets the city's needs. For these reasons, we recommend that Oakland establish an independent Controller's Office separate from the City Administrator's Office, with enhanced powers and authority described in recommendation 6.

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18   The Sacramento Council rules allow for some tax- and zoning-related legislation to bypass the Law and Legislation Committee and move toward the full council. See Sacramento City Council Rules of Procedure.

Recommendation 6: Establish a new independent Office of the City Controller.

We believe that the City of Oakland needs an independent city controller with a specific set of authorities tailored to ensuring a balanced budget and sound financial practices. Unlike the current Finance Department, this office should be separate from the City Administrator's Office and should be able to certify revenue.

The new Oakland Controller's Office should have the authority to keep the budget in balance by: one, determining how much money the city has to spend; and two, having the authority to deny spending proposals if the funds are not available to pay for them. Specifically, the Oakland Controller's Office should have the authority to certify revenue and should also be authorized to sign off on contracts between the city and outside entities.

The Oakland Controller's Office should have control over financial records and reporting, which would include managing the city's financial audits, such as the Comprehensive Annual Financial Report.

The new Oakland Controller's Office should be responsible for enforcing spending policies, particularly those laid out in the City's Consolidated Fiscal Policy.[19] The office should also develop new spending policies as needed to better manage city finances. Additionally, the office should include a risk management function to oversee the city's long-term financial obligations, particularly long-term liabilities such as retirement funding and retiree health care.

In order to support these activities, all of the existing functions of the current Controller's Bureau in the Finance Department would be moved into the new Controller's Office, which would be separate from the City Administrator's Office. The budgeting function (preparing the budget for submission to the City Council), as well as the functions under the Treasury and Revenue Management bureaus within the Finance Department, should remain with the city administrator. Managing external mail (currently under the Controller's Bureau) should also remain with the City Administrator's Office.[20]

The controller should be appointed by the mayor and confirmed by the City Council for a term longer than the mayor's term (such as 10 years). Grounds for firing the controller should be limited to specific reasons, such as fraudulent activity.[21] Additionally, there should be a Controller's Office budget explicitly set aside so that the controller cannot be defunded for political reasons.

How it's implemented: Charter amendment

Where else is this done? San Francisco has a separate Controller's Office with the authority to keep the budget in balance.[22] Under the San Francisco City Charter, the controller has the authority to certify revenue, to reduce expenditures if revenues are less than anticipated and to authorize expenditures.

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19   City of Oakland Consolidated Fiscal Policy, https://cao-94612.s3.amazonaws.com/documents/FY-2017-18-Consolidated-Fiscal-Policy-Exhibit-1_Clean.pdf

20   For more information about how the Finance Department is currently organized, see: City of Oakland, "Finance: Who We Are and What We Do," https://stories.opengov.com/oaklandca/published/iozH8B3X5 (accessed on October 8, 2021).

21   In San Francisco, the Controller can only be removed for cause, with a two-thirds vote of the Board of Supervisors. See San Francisco City Charter, Section 3.105.

22   San Francisco City Charter, Section 3.105(d), https://codelibrary.amlegal.com/codes/san_francisco/latest/sf_charter/0-0-0-152

City Attorney

The city attorney plays a critical role in Oakland, providing legal counsel to the city and its elected officials. However, the city attorney's legal advice is not always seen as impartial and is thus not always relied upon as definitive. Moreover, there can be conflicts between the role the city attorney plays when representing the people of Oakland in affirmative litigation and when representing the City of Oakland as an entity. For the Office of the City Attorney to function as effectively as possible, these conflicts need to be resolved.

Recommendation 7: Clarify when the city attorney represents the people of Oakland and when the city attorney represents the City of Oakland as an entity.

The City Charter states that the role of the city attorney is to represent the city, meaning the governmental structure. Under state law, the city attorney also represents the people and can bring lawsuits on behalf of the people of California in certain instances, such as when the city sues unscrupulous landlords for not following the law. In that limited capacity, the Oakland city attorney also represents the residents of Oakland. In other words, although the city attorney is elected, the casting of a ballot does not create an attorney-client relationship. Instead, it indicates resident support for a candidate or attorney to represent the city. The attorney-client relationship in a municipal setting is created through the charter (for charter cities) or through state law (for general law cities). The people and their rights and interests are protected and looked after by their elected city councilmembers and mayor, who in turn are represented by the city attorney. Though elected, the city attorney does not have a separate interest or right to protect and look after resident interests other than those enumerated by state law.

In practice, who the Oakland city attorney represents is often called into question. This confusion has the potential to leave the city without adequate legal representation and to create conflicts of interest. It sometimes results in situations where legal counsel is attempting to set policy through its role representing the people, when policy should be set through elected legislative and executive officials. City residents vote for councilmembers and a mayor to represent their policy visions and beliefs. The city attorney, as lead counsel for the city, is elected to ensure that those policies are legally adequate and to put them into effect, not to set policy.

Because of this confusion, we recommend the creation of clear guidelines and guardrails around policy creation by the City Attorney's Office outside of its formal role as legal counsel for the city. The attorney-client relationship is important; we recommend strengthening it by creating an enhanced understanding of each party's role in a given matter or transaction—particularly large, complex transactions that the city undertakes.

Additionally, it would be helpful to publicly clarify when the city attorney has used their power to represent the people of Oakland upon their own initiative to affirmatively litigate a matter (as opposed to the City Council initiating a lawsuit). One way this could be accomplished is by including this information in the report out from a closed-session hearing of the City Council.

How it's implemented: Written rules of procedure developed by the City Attorney's Office,

reviewed by the mayor, city administrator and City Council and then published as a public document.

Where else is this done? Many cities clarify the roles and responsibilities of the City Attorney's Office. For example, the Los Angeles City Charter specifies that the city attorney is the city's general counsel, with authority to: provide advice and opinions on matters of municipal concern; examine the form and legality of contracts and ordinances; and interpret the City Charter, federal and state statutes, and other laws that govern Los Angeles.[23]

Recommendation 8: Clarify the process of how and when the city attorney hires outside counsel.

Due to a leanly staffed City Attorney's Office and increased urgency in negotiations, it would be beneficial for the City of Oakland to hire outside counsel from time to time. These outside attorneys, managed by the City Attorney's Office, would have specific subject-matter expertise in issues related to the transaction.

Since outside counsel may be required to support complex transactions such as large real estate transactions, the relevant department head should be able to request outside counsel and participate in their selection. One possibility is for the City Attorney's Office to present three candidate firms for the department to select from. The department's selection should be honored unless the city attorney provides specific legal reasoning for objecting.

How it's implemented: Written rules of procedure developed by the City Attorney's Office; reviewed by the mayor, city administrator and City Council and then published as a public document

Where else is this done? Before the elimination of redevelopment agencies in California, Oakland's Community and Economic Development Agency had its own attorney to advise on real estate matters, separate from the City Attorney's Office. While we are not recommending that departments be able to directly hire their own attorneys, this example does show how a city agency can be represented by counsel other than the city attorney.

City Auditor

The city auditor plays a crucial role in reviewing the functioning of Oakland's government. This role should be both sufficiently funded and protected from political retribution during the budget process by funding it through a budget set-aside, a voter-adopted requirement that would ensure that the City Council would fund this role at a certain level.

Recommendation 9: Establish a budget set-aside to fund the city auditor.

To ensure that the city auditor's position is sufficiently funded to perform its functions, we recommend that voters enact a set-aside to fund this function. While the exact size of this City Auditor's Fund is to be determined, the language establishing it should state that it is to be used exclusively to implement the duties and requirements of the Office of the City Auditor. If funds are

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23   Los Angeles City Charter, City Attorney, Section 270 et seq.

not spent or encumbered (set aside for a specific purpose and restricted for that use) by the end of the fiscal year, the balance in the City Auditor's Fund should then revert to the General Fund, or to whatever source they originated from.

With these guaranteed funds, the auditor should work on performance audits that spur improvements in governmental performance. The mayor and City Council members should be able to suggest different areas to be audited. Upon request, the city auditor should provide department heads or other managers with input as to how to be more effective and efficient.

Additionally, all future voter-adopted initiatives or referendums should include funds for performance audits.

How it's implemented: Charter amendment

Where else is this done? The San Francisco Controller's Office has a guaranteed set-aside in order to fund performance audits.

Annual Work Plan

Currently, councilmembers set biennial priorities during the budget cycle but do not have a clear system of accountability or implementation after passage. As a result, the City Council frequently asks for informational reports from the City Administrator's Office throughout the year, which often leads to councilmembers changing their priorities or feeling frustrated about the lack of traction on their priorities.

Recommendation 10: Create a comprehensive priority-setting process to establish an annual work plan that will be followed by the City Council and mayor and will help the city administrator focus resources.

One of the challenges that the city administrator faces is an inability to focus resources, which lengthens the amount of time it takes to complete work. Overall city functions would benefit from the council and the mayor engaging in a thorough priority-setting process, resulting in an annual work plan that the city would fund and adhere to for prioritizing time, energy and financial resources.

A local example of effective work-plan creation can be found in San José, which currently has a strong process called Council Policy Priority Setting. Established in 2011, this process allows the City Council to manage limited staff resources under fiscal constraints by determining what issues they would like to prioritize for completion in the year ahead. At the beginning of the year, the City Council develops and proposes ideas for prioritization. The City Manager's Office then performs feasibility studies and cost analyses on these ideas. Finally, the City Council holds a Policy Priority Setting Session, where councilmembers vote to determine which items make the priority list and how the policies are ranked. Once this process is completed, these priorities allow the City Council to track outcomes and give clear guidance to staff about where to focus their time and attention.

Oakland has an opportunity to build from San José's example and create an improved priority-setting process that helps the city administrator focus resources and efforts. We recommend that this process should be transparent, properly documented, and open to the public to ensure that everyone is aware of the city's goals.

How it's implemented: Ordinance adopted by City Council

Where else is this done: See the discussion of San José's priority-setting process above.

Recognizing Good Governance

Good government requires nurturing a culture of respect and collaboration, as well as elevating and honoring the excellent work of city staff. Often, this work involves effort that goes unseen by the public. Nevertheless, the public greatly benefits from the important work that staff accomplish.

One way to foster a culture of respect and collaboration in Oakland's city government would be to honor those city staff members who are deemed exemplars of the principles of good government through an annual awards ceremony or other means. SPUR has held such award ceremonies in San Francisco and San José.

Conclusion

Oakland is the vital heart of the East Bay. As the city grows, its model of governance should grow and adapt with it. The governance changes proposed in this report can help the city improve its ability to serve all Oaklanders by creating more transparency in government actions, increasing the accountability of elected officials and improving the city government's overall effectiveness and efficiency. These changes can help Oakland better address the challenges it faces, including eradicating homelessness, encouraging equitable growth and maintaining high-quality services for all of its residents. The proposed recommendations are not radical or untested — many large California cities have implemented these changes to improve their governance. Oakland should step into its role as a growing, complex city and adopt a structure that befits its central role in the region.

Appendix

Interviewees

SPUR thanks the following individuals for their time and input. The findings and recommendations in the report are SPUR's and do not necessarily reflect the viewpoints of the interviewees. Any errors are the authors' alone.

Abel Guillen, former Councilmember, City of Oakland

Adam Benson, former Director of Finance, City of Oakland

Adam Van de Water, former Budget Advisory Commission Member, City of Oakland

Alex Marqusee, former Aide to Councilmember Lynette McElhaney, City of Oakland

Alexa Jeffress, Economic and Workforce Development Director, City of Oakland

Barbara Leslie, President and CEO, Oakland Metropolitan Chamber of Commerce

Barbara Parker, City Attorney, City of Oakland

Bonnie Hamlin, Vice President of Administration, League of Women Voters of Oakland

Brenda Roberts, former City Auditor, City of Oakland

Bruce Nye, Board Member, Make Oakland Better Now

Buck Deventhal, former Deputy City Attorney, City of San Francisco (deceased)

Casey Farmer, former Aide to Councilmember Lynette McElhaney, City of Oakland

Claudia Cappio, former Assistant City Administrator, City of Oakland

Courtney Ruby, City Auditor, City of Oakland

Dan Kalb, Councilmember, City of Oakland

Darin Ranelletti, Policy Director for Housing Security, Mayor's Office, City of Oakland

Deanna Santana, former City Administrator, City of Oakland

Deborah Schefler, former President, League of Women Voters of Oakland

Dennis Herrera, former City Attorney, City of San Francisco

Ed Harrington, former City Controller, City of San Francisco

Ed Reiskin, City Administrator, City of Oakland

Edward Gerber, Budget Advisory Commission Member, City of Oakland

Elihu Harris, former Mayor, City of Oakland

Fred Blackwell, former City Administrator, City of Oakland

Greg McConnell, President and CEO, Jobs and Housing Coalition

Helen Hutchison, former President, California League of Women Voters

Henry Gardner, former City Administrator, City of Oakland

Ignacio De La Fuente, former City Council President, City of Oakland

Jayne Williams, former City Attorney, City of Oakland

Jean Quan, former Mayor, City of Oakland

Jeanette Dong, former Legislative Aide to Mayor Elihu Harris, City of Oakland

Joanne Karchmer, former Deputy Chief of Staff to Mayor Libby Schaaf, City of Oakland

John Russo, former City Attorney and former Councilmember, City of Oakland

Junious Wilson, former CEO, Urban Strategies Council

Kelley Kahn, Director, Special Projects, Economic and Workforce Development Department, City of Oakland

Larry Reid, former City Council President, City of Oakland

Libby Schaaf, Mayor, City of Oakland

Loren Taylor, Councilmember, City of Oakland

Lynette McElhaney, former City Council President, City of Oakland

Mary Bergan, Board Member, League of Women Voters of Oakland

Nikki Fortunato Bas, Council President, City of Oakland

Noel Gallo, Councilmember, City of Oakland

Pat Kernighan, former City Council President, City of Oakland

Robert Bobb, former City Manager, City of Oakland

Sabrina Landreth, former City Administrator, City of Oakland

Shereda Nosakhare, Chief of Staff to Mayor Libby Schaaf, City of Oakland

Susan Cleveland-Knowles, Deputy City Attorney, City of San Francisco

Susan Muranishi, County Administrator, Alameda County

Tomiquia Moss, former Chief of Staff to Mayor Libby Schaaf, City of Oakland

Latonda Simmons, former City Clerk, current Assistant City Administrator, City of Oakland

Zachary Wald, former Chief of Staff to Councilmember Lynette McElhaney, City of Oakland

Zack Wasserman, Attorney, Wendel Rosen, LLP

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