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**From:**

**Sent:** Monday, May 2, 2022 8:15 AM

**To:** citycouncil

**Subject:** Item 10-1 Amendment of the Resolution Establishing Policing Commission

Dear City Council,

I am writing to support the completion of the process of establishing the Policing Commission and to urge Council to build trust and communication in the city. In April, the Council considered a proposal that represented a significant weakening of the resolution passed in October by Council, and I wrote then to object to those changes, and have included that email in case the April proposal resurfaces. The crux of the problems with the April resolution was that it stripped the power for authorizing investigations from City Council and gave it to the City Manager, who already reviews the Chief of Police's job performance. Thus it destroyed any pretense of independence, and thus hope for building trust.

At the April meeting, Council considered amendments that would restore the authority of Council to make the final decision on whether to authorize a Consultant to investigate a complaint, drawing upon the recommendation of the Policing Commission. I support passing a resolution that restores that Council authority and begins the process of receiving applications for the commission. Building trust depends upon creating an independent, publicly appointed, publicly meeting body that can receive comments from the public and solicit information from the Police. Only when that begins can we move toward a position of trust, and beyond wariness, sometimes rooted in the misinformation that necessarily spreads when there is a lack of public engagement.

There is one additional amendment I would suggest for the amended proposal considered in April. The resolution passed in October stated that the "outside consultant" would be "recommended by the Commission." The revised version considered in April omits that language and says that Council will determine whether the "City Manager should hire an outside consultant." To the degree this recognizes the City Manager as the ultimate hiring agent for the city, this is unobjectionable. But without the clarifying statement from the original resolution that the consultant would be "recommended by the Commission," it raises concerns that it would be interpreted to mean the City Manager could hire a consultant of their own choosing.

This would destroy the independence of the process and guarantee that this issue would continue to come before Council again and again, and would undermine the hopes that the Commission could create trust. Therefore I urge Council to insert "recommended by the Commission" after "City Manager should hire an outside Consultant" in the paragraph that now begins on the bottom of page 2.

I can imagine other amendments that could perfect the proposal and I encourage you to take those seriously, but then to move to close the issue at the meeting tonight.

I urge you to open applications quickly and then look to begin commission meetings as soon as possible. It has been a long haul, nearly two years, and the next stage of building trust between police and community will commence when the commission begins to meet, not sooner. Throughout the process, Member Gary has been a consistent advocate for the necessity of public engagement, and deserves a great deal of credit for guiding the Council to this end. We will all benefit by the creation of this commission.

Thank you for your time and attention.

Sincerely,  
Greg Downs

Comment Submitted April 3, 2022:

Dear City Council Members,

In October, the Albany City Council passed a resolution creating a policing commission that would create the potential for trust and constructive relationship between the public and city's police. At Monday's meeting, you have a resolution (currently item 7-8) that would gut that commission, increase public distrust of the police, make police's job harder in the long run, guarantee that Council faces ongoing problems on this issue, and require future work from future Councils to fix this mistake. For the good of the city and of its long-term police-public relationship, I urge you to simply direct city staff to advertise openings for the policing commission you have already created.

Please forgive the length of this letter. I will be traveling Monday to check on my father and I am not certain that my plane will land in time for me to call in. As you know, I have engaged with this issue for more than 18 months as Chair of the SEJC in 2020 and as a member of the city's Task Force, where I also served on the subcommittee on Accountability for that Task Force. As you all know, I study the history of race and governance in my professional career as Professor of History at University of California, Davis, and am the author of four solo-authored books, reports for the National Parks Service, and amicus briefs for civil rights cases (and at present a report for a House Select Committee.)

As the Staff Report includes very little information about the resolution, I am relying on my own reading of the textual difference. In other items, the City has included red-lined versions that illustrate changes and helpfully illustrative Staff Reports. It is undoubtedly that absence of information for this resolution encourages suspicion, rumor, and confusion among the public.

As I read the difference in the new resolution, the crucial one is the shift in who decides whether to authorize the Consultant to investigate a complaint. The version Council passed in October gave that power, rightfully, to City Council, as the elected representatives of the people, and thus the ultimate source of sovereignty in the city. This version strips that power from City Council and grants it to the City Manager, who will consult with the Police Chief and City Attorney. Thus, in one quick measure, the new resolution destroys the investigative process' independence, asking the very person who supervises the Police Chief to review the police complaint procedure.

Independence is a core value in public engagement with policing. The National Association for Civilian Oversight of Law Enforcement names "Independence" as its second pillar in its illustration of what makes for "meaningful" civilian oversight. ([https://www.nacole.org/community\\_oversight\\_paves\\_the\\_road\\_to\\_police\\_accountability](https://www.nacole.org/community_oversight_paves_the_road_to_police_accountability))

The oft-cited scholarly article "Getting It Right: Building Effective Civilian Review Boards to Oversee Police," by Udi Ofer--Director of the ACLU's Justice Decision and a visiting lecturer at Princeton University's School of Public and International Affairs--lists "Independent Investigative Authority" third in its "Key Components of Effective Civilian Review", and states that "A civilian complaint review board will be only as strong as its authority to conduct independent investigations." In defining the stakes of this decision, Ofer writes, "Arguably, a weak civilian review board is worse than no civilian review board because it gives the illusion of independent accountability but actually provides little to no accountability." (1052) (Link: <https://scholarship.shu.edu/shlr/vol46/iss4/2/>)

The U.S. Department of Justice's Office of Community Oriented Policing Services in 2021 report on the "State of the Field of Effective Oversight Practices" listed "Independence" first on its "Thirteen Principles for Effective Oversight." "Independence is widely understood to be imperative to an oversight agency's success and legitimacy....An oversight agency must be able to act impartially, fairly, and in a manner that maintains community and stakeholder trust." (63-64) And later stating: "The ability to perform essential functions expeditiously and without outside interference is crucial to providing effective oversight.....Any requirement of board or outside approval for essential

functions and daily operations may cause delays regarding time-sensitive matters and, therefore, reduce overall public confidence in the oversight agency. Public confidence in the Civilian Investigative Panel (CIP) in Miami was seriously damaged by procedural requirements delegating key decisions to the agency's independent legal counsel, who was appointed by Miami's city attorney." (90)

(Link: <https://cops.usdoj.gov/RIC/Publications/cops-W0952-pub.pdf>)

Independent authority to call for investigations--resting either in the commission or the equivalent of the Council--is common in California cities and towns, including those with City Manager forms of government. For example, Davis, California, includes not only investigative authority but an Auditor's office, something we deemed beyond the capacity or needs of Albany, but that we aimed to reproduce through the consultant model. (<https://www.cityofdavis.org/city-hall/commissions-and-committees/police-accountability-commission>)

In the report of the Task Force to Council in September, we warned against stripping the independence from the commission: "Our emphatic recommendation is that any authorization for investigation should rest with the City Council, not the City Manager, to ensure that the board works within public oversight, not failed models that center on staff oversight of policing, which often lead to increased mistrust and confusion." (I have attached our September memo.)

Eliminating the independence will immediately and seriously damage confidence in the process and in the police, as people understandably ask: "Why not trust Council to make this decision" and then wonder why the city would be committed to secrecy and thus what it is hiding.

In the longer run, destroying the independence of the commission and making its recommendations subject to the same City Manager who already oversees the Police Chief will inevitably lead to doubt about the complaint process, mistrust of its results, and suspicion of the city's commitment to secrecy.

This not only attacks the public's sovereign authority over its city functions, expressed through its representatives, it also makes the job more difficult for the city police, as they face a more-suspicious, less-trusting public and find themselves unable to establish a basis of trust. How can people trust a process, in which the city will not entrust its own representative to assess the need for an investigation of a complaint?

Please simply instruct Staff to issue the application for seats on the Policing Commission, as could have been done weeks ago, if not months ago. That is the best path to building a relationship of trust and partnership in this community.

Thank you for your time and attention.

Sincerely  
Greg Downs

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<https://uncpress.org/book/9781469652733/the-second-american-revolution/>

<http://www.mappingoccupation.org/> (with Scott Nesbit)

<http://history.ucdavis.edu/people/gdowns>

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**From:**

**Sent:** Monday, May 2, 2022 1:56 PM

**To:**

**Subject:** Tonight's agenda

To the Mayor and all the city council members,

While I continue to be grateful that we have people on the city council willing to serve the residents of the city, I am appalled at the very slow progress we are making as a community, particularly in areas where the groundwork has already been laid.

Where is the oomph, the energy and the leadership that we so desperately need to really show that, as a community, we need and want change. We cannot do it all at once but there are a couple of things that we have begun to work on, have had commissions for, who have made recommendations and which you seem intent on side stepping or altering in some way so as to negate the groundwork laid by community members who are in fact hoping to change what happens in our city and have done something about it, through all the proper channels.

In unfinished business, ITEM 10 , which occurs so late in the evening that it's a challenge for so many of us to be able to speak coherently, there are two critical items for which you have the power to really make some progress on and which you have dragged your feet. Both issues deserve to be dealt with promptly and now! That means you being decisive, acting for the community and making something happen. And not simply discussing, making verbal gymnastics of the intent or finally asking our city manager who is an employee of the city, to give you yet more recommendations or even make these critical choices.

**The Police Commission which you should pass.**

We need this and we need the city council to be the final arbiters not the police department itself. This is Albany; the Police should have nothing to hide and I, for one, am sad to know that there has been any opposition to this from them or any one else in the city. I realise it's politics but time for a change to a system that has not served so many of our community well. And surely we have the strength to be among the first communities to say "enough" and we need change!

**And the Shuumi Land Tax, which you should pass.**

The council must work with the Sogorea Te' Land Trust in order to right the historical wrongs that are part of our daily life on this land, and in Albany.

Our city is in an economic position to create a funding stream for Sogorea Te', for their tribal work to thrive and flourish, which is a way of reckoning with a history of exploitation.

Where's the hold-up here? Many of us pay shuumi Tax as individuals, time for the city to make a contribution, as repair for the brutality and damage of earlier generations, which is now our responsibility.

And further looking at the agenda for tonight I notice a list of seemingly perfunctory ( and rather meaningless since no action happens) proclamations and approvals namely:

Asian American and Pacific Islander Heritage Month, older Americans, Police Officers and Public Service workers. In a separate place we have Affordable Housing Month and Mental health Month I ask you.....What is the point of acknowledging all these very worthy groups of people if we dont put our money where our mouth is and actually do something real , like the two items above, which are clearly issues that demand action and attention now. Hopefully we can work on really Affordable housing or really improved rent control soon so that Albany indeed has affordable housing for people who work in the city, like our teachers.

Sincerely

Caroline Lehman

Member Albany Uprising

Chair, Interfaith Immigration Social Justice Team, Congregation Beth El.

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