

COUNCIL AGENDA: 12/3/2024  
FILE NO: 24-2281  
ITEM: 3.5



# Memorandum

**TO:** HONORABLE MAYOR AND  
CITY COUNCIL

**FROM:** TONI J. TABER, MMC  
CITY CLERK

**SUBJECT:** Special Municipal Election and  
Interim Appointment to Fill  
Vacancy in District 3

**DATE:** November 21, 2024

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## **UPDATED RECOMMENDATION**

Discuss the options for filling the anticipated vacancy in District 3, and

- a) Direct the City Clerk to open a recruitment for an appointment to begin on December 16, 2024 and end on January 10, 2025 with applications transmitted to the City Council for interview selection, and the interview and appointment scheduled for January 28, 2025; and
- b) Adopt a Resolution calling for a Special Municipal Election to be held on April 8, 2025 and, if necessary, a Run-Off Municipal Election on June 24, 2025, for the purpose of electing a Council Member for District 3 and requesting the Board of Supervisors of the County of Santa Clara to Canvass the Returns of said elections and to permit the County Registrar of Voters to render certain services to the City of San Jose relating to the conduct of said election

## **BACKGROUND**

On November 5, 2024, Councilmember Omar Torres, District 3, submitted his resignation effective November 27, 2024. On [November 19, 2024](#), the Council was presented with their options to fill the vacancy as provided in City Charter Section 410. Those options are:

- a) APPOINTMENT. If the vacancy is filled by appointment, the appointment shall be effective until the end of the unexpired term of office or January 1st following the next Regular Municipal Election after the appointment, which ever first occurs.

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- b) **ELECTION.** If the vacancy is to be filled by election, the election will be for the entire unexpired term of the office. The election will either be conducted at a Regular Municipal Election, a General Election or at a Special Municipal Election, as determined by the Council. The election will be conducted in accordance with Section 1600.
- c) **INTERIM APPOINTMENT.** If a vacant office is to be filled by election, the Council may make an interim appointment to fill the office until a candidate has been duly elected and the results of the election have been officially certified. A person who is appointed during the interim period shall meet the eligibility requirements to hold office under Section 404 of this Charter.

During the meeting, Council voted to hold a Special Municipal Election to fill the vacancy and appoint an interim appointee until a candidate has been duly elected and the result of the election have been officially certified. The City Council further directed the City Clerk and City Attorney to hold the Special Municipal Election as soon as possible. Additionally, Council directed the City Clerk to provide guidance during the December 3, 2024 Council meeting specific to details which would allow for an open interim appointee application period that runs concurrently with the candidate nomination period. Following the close of the nomination period, the Council will consider prospective interim appointees.

### **ANALYSIS**

#### **1. Previous Special Municipal Election and Interim Appointment**

The last time the City held a special municipal election to fill a vacancy was on April 7, 2015 to address the vacancy in District 4 that occurred following Councilmember Kansen Chu's election to the State Assembly. The Council appointed Margie Matthews to fill the vacancy in the interim until the results of the election was certified. The results of the election on April 7, 2015 required a subsequent special municipal run-off election that occurred on June 23, 2015 and resulted in the election of Councilmember Manh Nguyen. The cost of the April 7, 2015 election was \$701,601, the cost of special run-off election was \$496,594, and the cost associated with the interim appointment of Councilmember Matthews was negligible.

#### **2. Proposed Interim Appointment Process**

The cost of an appointment is negligible and can be absorbed into the cost of doing business in the City Clerk's office. In accordance with the Council's November 19, 2024 direction, the application for appointment could be open and run concurrently with the election nomination period of December 16, 2024 to January 10, 2025. Upon the close of the application period, applications can be submitted to Council who will then be polled for their selections of whom to interview. The proposed date to interview for appointment will be scheduled for January 28, 2025.

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### 3. Anticipated Special Election Costs

The estimated cost of a Special Stand-alone Election for San José Council District 3 as provided by the Santa Clara County Registrar of Voters on October 31, 2024 is between \$2,008,816 - \$3,264,326 per election by the jurisdiction calling the election. In contrast, primary or general elections are a shared-cost election, where more participating districts and ballot types result in a broader distribution of costs. These figures are estimates based on projected registration and available information and are subject to change based on final billing.

The costs of a special election have not been included in the City Clerk’s budget for FY24-25, so funds would need to be appropriated from the General Fund during the Midyear Budget adjustment. The estimate for a run-off election will be included in the budget for FY 25-26.

### 4. Proposed Special Election Dates

Date	Action Item
16-Dec-24	Election Official to Publish Notice of Election--Candidates
16-Dec-24	Filing Period for Nomination Papers and Candidate's Statements Opens
10-Jan-25	Filing Period for Nomination Papers and Candidate's Statements Closes
18-Mar-25	Last Day to Mail Voter Information Guides and Polling Place Notices
24-Mar-25	Last day to Register to Vote
1-Apr-25	Last day for Election Official to Publish Notice of Nominees
<b>8-Apr-25</b>	Election Day
8-May-25	Last Day to Declare Results
15-May-25	Certification of Election Results at City Council
15-May-25	Filing Period for Runoff Candidate Statements Opens
19-May-25	Filing Period for Runoff Candidate Statements Closes
24-Jun-25	Runoff Election
24-Jul-25	ROV Certifies results
<b>5-Aug-25</b>	Certification of Election Results at City Council

### COORDINATION

This memo was coordinated with the Office of the City Attorney.

TONI J. TABER, MMC

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City Clerk

For questions please contact Toni J. Taber, City Clerk at (408) 535-1260