

**From:** Jerry Mungai [ ]  
**Sent:** Tuesday, October 02, 2018 12:19 PM  
**To:** The Office of Mayor Sam Liccardo <[REDACTED]>; District 6 <[REDACTED]>; District 1 <[REDACTED]>; District 10 <[REDACTED]>; District 5 <[REDACTED]>; Taber, Toni <[REDACTED]>; Sykes, Dave <[REDACTED]>; rulescommitteeagenda@sajoseca.gov  
**Subject:** Ballot Measure to hold mayoral elections concurrent presidential elections; Rules Committee 10/3/18 meeting agenda item G.6

Mayor Liccardo and Rules Committee members:

This proposal to change mayoral election to the presidential election cycle from the gubernatorial elections cycle is a curious one. The stated purpose is to increase overall voter participation. We do know that older and generally more conservative voters vote in gubernatorial election cycles than do younger and more liberal voters. So, is this proposal in reality an attempt to increase Democrat turnout, especially young Democrats? I think one could reasonably answer, "Yes."

We already have enough ways to get out the vote, like reducing voter eligibility from age 21 to age 18; vote by mail; DMV mandatory voter registration; ballots in a numerous languages, provisional ballot availability on election day, expanded voting time at voting places on election day; just to mention a few.

We hear constantly that there will be a "blue wave" in November that will result in the Democrats taking control of the House and possibly the Senate. Social media is working quite well to encourage young people to vote; and interest groups like Moveon.org; America Coming Together; America's Voice, etc. have well-funded campaigns to urge people to vote. So, it's safe to say, there will be a large voter turnout in November.

*There are enough ballot measures on any given presidential year election cycle; let's continue to use the current system to have more focus on local government candidates and issues during the gubernatorial election cycle.*

This proposal is a solution in search for a problem.

The mayor and city council should be focusing on the challenging fiscal issues facing the city today: rising pension costs and deteriorating parks and transportation infrastructure, to name a few. Right now we need cost-effective ways to meet these challenges. Solutions to these problems will only become more pressing with the next inevitable economic downturn.

Measure "T", for example, will NOT eliminate one major problem: the backlog of streets rated "Fair" or "Poor". My street, for example, is rated "Poor"; and I don't expect redress with Measure "T".

And, "T" does NOTHING to address the continuing deterioration of our parks! Fixing our parks, in my view, is more important than seeking a way to increase voter turnout.

I urge Mayor Liccardo and the Rules Committee to vote "no" this proposal.

Jerry Mungai



San Jose  
70 South First Street  
San Jose, CA 95113  
T. [REDACTED]

October 3, 2018

Joan R. Gallo

Mayor Liccardo and Councilmembers  
San Jose City Hall  
200 E. Santa Clara Street  
San Jose, CA 95113

***Re: Concurrent Election Ballot Proposal***

Dear Mayor Liccardo and Councilmembers:

I am writing to you on behalf of Working Partnership USA with regard to a proposal to make the Mayoral election concurrent with the Presidential election.

Historical Perspective

Prior to the passage of Measure F in 1978, we had 6 Councilmembers and a Mayor, all elected at large, with a strong City Manager form of government. The Mayor served as the Councilmember who conducted the meetings and was the ceremonial head of the City. At the time of Measure F, the population of the City had rapidly grown to approximately 600,000 residents, up from approximately 400,000 only ten years earlier. With Measure F, we converted to the current 10 district elected Council seats and only the Mayor was elected at large. In the early 1980s, then Mayor McEnry created a Charter Review Committee which proposed a number of changes to the Charter and City procedures to strengthen the role of the Mayor. Today, we have a growing population of over a million residents and the Mayor is unquestionably the leader of the City as well as the only person elected City-wide.

Benefits of the Proposal

An in-depth study of city elections in California in 2002 by the Public Policy Institute demonstrated that concurrency has a huge influence on whether registered voters will participate in municipal elections.<sup>1</sup> In 2016, the Kinder Institute for Urban Research and its Center for Local Elections in American Politics found that in California cities where Mayoral elections coincide with the Presidential elections, voter turnout is more than double that of cities where Mayoral elections are conducted off cycle, Mayoral elections held concurrently with Presidential elections have the highest turnout,

<sup>1</sup> Municipal Elections in California: Turnout, Timing, and Competition by PUBLIC POLICY INSTITUTE OF CALIFORNIA, Zoltan L. Hajnal, Paul G. Lewis, Hugh Louch (2002).  
[http://www.dcfnpic.org/content/pubs/report/R\\_302ZHR.pdf](http://www.dcfnpic.org/content/pubs/report/R_302ZHR.pdf)

while those held off cycle have the lowest turnout. Those that coincide with midterm Gubernatorial elections fall in the middle. Their summary statistics of all Mayoral elections in San Jose, show the average turnout about 8 percentage points below the average turnout for all Mayoral elections in California.<sup>2</sup>

While many factors determine voter turnout, the pattern is consistent. There is a very wide gap in San Jose between the participation in the off-year Mayoral election and the Presidential election. In 2012, 77.6% of registered voters voted in the Presidential election and in 2016, 80.5% voted. It appears that 46.2% of registered voters votes were cast in the hotly contested Mayoral run-off election in 2014 and only 36.% in the recent 2018 Mayoral primary.<sup>3</sup>

### Legal Authority

The California Constitution grants San Jose, as a charter city, plenary authority to establish rules governing all aspects of municipal elections. (Cal. Const.Art. XI, Sec.5(b).) Specifically, the Constitution grants charter cities the power to enact election laws that prevail even over the California Elections Code. (*Johnson v. Bradley*, (1992) 4 Cal.4th 389; *Edelstein v. City and County of San Francisco*, (2002) 29 Cal.4th 164). Making the Mayoral election concurrent with the Presidential election and determining how the transition is structured is clearly a municipal affair left to the voters discretion in approving a charter amendment.

The transition to a concurrent Mayoral/Presidential system requires a one-time change in the length of the term of the office. On a one-time only basis, the transitional term of the Mayor preceding the change must either be a single two year term or a single six year term. It seems to us more reasonable to simply extend the Mayoral term beginning on January 1, 2019 to six years.

### Conclusion

Representative democracy depends on voter participation. Voter turnout is a fundamental indicator of a healthy democracy. In San Jose, our only city-wide representative is the Mayor. The research discussed above determined that the single step with the most impact to increase participation in a Mayoral election is to hold that

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<sup>2</sup> [http://www.owl.net.rice.edu/~marschal/Home\\_files/Mayoral%20Elections%20in%20California,%201995-2014.pdf](http://www.owl.net.rice.edu/~marschal/Home_files/Mayoral%20Elections%20in%20California,%201995-2014.pdf)

<sup>3</sup>

| YEAR | ELECTION TYPE   | NUMBER OF VOTES<br>CAST | % REGISTERED<br>VOTERS |
|------|-----------------|-------------------------|------------------------|
| 2014 | Mayoral general | 180,930                 | 46.2                   |
| 2016 | Presidential    | 360,149                 | 80.5                   |
| 2018 | Mayoral primary | 159,346                 | 36.7                   |

election concurrent with the Presidential election. It is an important step that we, as a city, can take. To accomplish concurrency, the Charter needs to be amended to have the Mayoral election in the same year as the Presidential election.

Submitted with this letter is a draft Resolution which would accomplish making the Mayoral election occur in the same year as the Presidential election and to accomplish this change, it would extend the term of Mayor beginning January 1, 2019 for 6 years so that, if approved by the voters, the next Mayoral election would occur with the 2024 Presidential election.

Thank you for your consideration.

Sincerely,

HOPKINS & CARLEY  
A Law Corporation

Joan R. Gallo

JRG:md

cc: Rick Doyle, City Attorney  
Derecka Mehrens, Executive Director

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN JOSE CALLING AND GIVING NOTICE OF, ON ITS OWN MOTION, THE SUBMISSION TO THE ELECTORS OF THE CITY OF SAN JOSE AT A SPECIAL MUNICIPAL ELECTION, TO BE CONSOLIDATED WITH THE GENERAL ELECTION ON \_\_\_\_\_, 2020, A BALLOT MEASURE PROPOSAL TO AMEND SECTION 402 OF ARTICLE IV, SECTION 500 OF ARTICLE V AND SECTION 1600 OF ARTICLE XVI OF THE SAN JOSE CITY CHARTER RELATING TO THE ELECTION OF THE MAYOR.

**WHEREAS**, San Jose City Charter Sections 1600 and 1601 authorize the City Council to set the date for a Special Municipal Election; and

**WHEREAS**, pursuant to California Elections Code Sections 9255(b)(1) and 1415(a)(2)(A) and Government Code Section 34458(a), the City Council desires to submit to the electors of the City of San Jose (the "City" or alternatively, "San Jose") at a Special Municipal Election a ballot measure proposal to amend Section 402 of Article IV, Section 500 of Article IV, and Section 1600 of Article XVI of the San Jose City Charter and to place the measure on the ballot for the General Election on \_\_\_\_\_, 2020, a Statewide General Election;

**WHEREAS**, studies have shown about half of the differences in turnout among California cities can be explained by one simple factor — the timing of the local election;<sup>1</sup>

**WHEREAS**, in 2016 the Kinder Institute for Urban Research and its Center for Local Elections in American Politics found that in California cities where mayoral elections coincide with the presidential elections, voter turnout is more than double that of cities where mayoral elections are conducted off cycle, Mayoral elections held concurrently with presidential elections have the highest turnout (39.6 percent), while those held off cycle have the lowest turnout (17.5 percent). Those that coincide with midterm elections fall in the middle (28.5 percent). Their summary statistics of all mayoral elections in San Jose, average turnout is 21.5 percent, about 8 percentage points below the average turnout for all mayoral elections in California;<sup>2</sup>

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<sup>1</sup> Municipal Elections in California: Turnout, Timing, and Competition by PUBLIC POLICY INSTITUTE OF CALIFORNIA, Zoltan L. Hajnal, Paul G. Lewis, Hugh Louch (2002).  
[http://www.dcfnp.ppic.org/content/pubs/report/R\\_302ZHR.pdf](http://www.dcfnp.ppic.org/content/pubs/report/R_302ZHR.pdf)

<sup>2</sup> [http://www.owl.net.rice.edu/~marschal/Home\\_files/Mayoral%20Elections%20in%20California,%201995-2014.pdf](http://www.owl.net.rice.edu/~marschal/Home_files/Mayoral%20Elections%20in%20California,%201995-2014.pdf)

**WHEREAS**, the first and most important step to increase voter participation in our Mayoral election would be to shift the date of the Mayoral election to coincide with the presidential election.

**NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSE THAT:**

**SECTION 1.** A Special Municipal Election is hereby called and ordered to be held in the City of San Jose consolidated with the General Election on \_\_\_\_\_, 2020 to vote on a ballot measure to amend the San Jose. City Charter Section 402 of Article IV, Section 500 of Article IV, and Section 1600 of Article XVI to enable Mayoral elections to be held concurrently with the Presidential election. The full text of the proposed City Charter amendment is attached as Exhibit A and incorporated by reference in this Resolution.

**SECTION 2.** The ballot measure will be placed on the ballot for the \_\_\_\_\_, 2020 election in the following form:

|                                                                                                                                                                                                                                                                                           |     |  |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----|--|
| For the purpose of increasing voter participation, shall the City of San Jose Charter be amended to hold future elections for Mayor concurrent with the Presidential election. To accomplish this transition, for one time only, extend the term of the Mayor elected in 2018 until 2024. | YES |  |
|                                                                                                                                                                                                                                                                                           | NO  |  |

## EXHIBIT A

### ARTICLE IV - TERM LIMITS

#### **SECTION 402. Mayor and Council Member Term Limits.**

The regular term of office of each member of the Council shall be four (4) years. The Mayor and Council members shall be subject to the following term limits:

(a) MAYOR. No person who has been elected to the office of Mayor for two (2) successive four-year terms shall be eligible to run for election to the office of Mayor, nor to serve as such, for any additional successive term; but the above shall not disqualify any person from running for election to the office of Mayor, nor from further service as Mayor, for any term or terms which are not successive; nor for any parts of terms which are not successive. **Notwithstanding the above, the term of office of Mayor beginning on January 1, 2019 shall be extended for two (2) additional years ending on January 1, 2025 to enable the election of Mayor to be concurrent with the election of President.**

(b) COUNCIL MEMBER. No person who has been elected to the City Council as a Council member in any Council District in the City for two (2) successive four-year terms, after the effective date of this Section, shall be eligible to run for election as a member of the Council in any Council District, nor appointed to serve as a Council member for any additional successive term. Any person appointed or elected to the City Council as a City Council member to fill an unexpired term of two years or less in length shall be eligible to serve two successive four-year terms upon the expiration of the unexpired term for which that person was appointed or elected. Any person appointed or elected to the City Council as a City Council member to fill an unexpired term of more than two years in length shall only be eligible to serve one successive four-year term. The above shall not disqualify any person from running for election to the Office of Mayor or for any term or terms which are not successive. The effective date of this Section shall be January 1, 1991.

### ARTICLE V - THE MAYOR

#### **SECTION 500. Mayor.**

There shall be a Mayor of the City of San José, elected at large, who shall be the eleventh member of the Council. Except as otherwise provided elsewhere in the Charter, the Mayor shall be elected by a majority of the votes cast citywide at a Regular Municipal Election, for a term of four (4) years from and after the first day of January

following the year of the election, **excepting however, the term of Mayor beginning in 2019 only shall be extended for two additional years.**

The office of each member of the Council, including the office of the member who is Mayor, is a separate office to be separately filled. Any incumbent member of the Council may run for the seat of Mayor, and the Mayor may run for the seat of Mayor or for any other seat on the Council for which the Mayor is otherwise eligible; however, no member of the Council shall hold more than one seat, and no person may be a candidate for more than one seat.

## **ARTICLE XVI - ELECTIONS**

### **SECTION 1600. Municipal Elections.**

All municipal elections shall be held in accordance with the following:

- (a) **REGULAR MUNICIPAL ELECTIONS.** A Regular Municipal Election is either a regularly scheduled Primary or Run-off Municipal Election. Such elections shall be held every two years, with the election for Mayor and for the odd numbered Council Districts being every four (4) years beginning with 1994, and the election for the even numbered Council Districts being every four (4) years beginning in 1996. **Beginning in 2024, the election of the Mayor shall be held concurrent with the Presidential election.** Each member's term shall commence on the first day of January next following, and end on the last day of December in the fourth calendar year succeeding the date of the member's election **excepting as set forth in Section 500 of Article V with regard to the term of Mayor beginning in 2019.** A regularly scheduled Primary Election shall be held on the same date that the State of California holds its Direct Primary Election. A Run-off Municipal Election shall be held on the same date the State of California holds its Statewide General Election.
- (b) **GENERAL ELECTIONS.** Elections which are held simultaneously in all districts of the City, whether municipal, county or state elections are referred to as General Elections.
- (c) **SPECIAL MUNICIPAL ELECTIONS.** Special Municipal Elections are elections scheduled pursuant to Section 1601. The dates of any Special Municipal Election shall be set by resolution.
- (d) **RUN-OFF QUALIFICATION.** The two candidates who poll the greatest number of votes for office in the Primary Municipal Election shall be the only candidates whose names shall appear on the ballot as candidates for such office at the following Run-off Municipal Election.
- (e) **TIES.** Anything elsewhere to the contrary notwithstanding, all ties in any municipal election shall be decided by lot during open meeting of the Council, under the direction of the Council.



- (f) **DEATH OF A CANDIDATE.** If a candidate dies after the filing of nomination papers for the primary election, the deceased candidate is treated as a candidate for all election purposes. If the deceased candidate is elected, the office will be declared vacant as of the beginning of the term of office for which the election was held. The position shall be filled in accordance with Section 410.
- (g) **MAJORITY OF VOTES.** No person shall be declared elected to the office of the Mayor or Council member at any municipal election unless the person receives a majority of the votes cast for such office.

*Note: deletions are shown by ~~strikeout~~ and additions are underlined. Both are **bold**.*

# Ballot Measure to Move Mayoral Elections Concurrent with Presidential Elections (Against)

Triware < >

Wed 10/3/2018 10:51 AM

To: The Office of Mayor Sam Liccardo; Carrasco, Magdalena; Davis, Dev; Jones, Chappie; Khamis, Johnny; Taber, Toni; Sykes, Dave; Rules and Open Government Committee Agendas  
Inbox

Dear Rules Committee Members!

Good Morning and appreciate all of your service to our community!

I know all would have been said by now and you all are probably tired of reading... Simple is hard and simple is good per Steve Jobs; so I only have one point to make...

All elections are important and responsible voters should vote in all and every elections and we all should get educated on what we are voting. If we don't care enough to show up to vote or don't know what we are voting – isn't that how the system supposed to work, freedom of choice? That's is American way of life!

Let's stop playing politics and spend time on getting all to vote each and every time on all elections.

Thank you for serving the community and be the voice for doing the right thing!

**Best Regards,**

**Benson Yeung | 杨槟森, Senior Partner**  
**Lifetime Entrepreneur & Non-Linear Thinker**

**Triware Network Systems, L.L.C.**

## Ballot Measure to Move Mayoral Elections Concurrent with Presidential Elections (Against)

Jan Schneider <

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Wed 10/3/2018 11:24 AM

To: The Office of Mayor Sam Liccardo; District 5; Jones, Chappie; Davis, Dev; Khamis, Johnny; Rules and Open Government Committee Agendas; Taber, Toni; Sykes, Dave  
Inbox

Dear Rules Committee Members:

While I understand the need to get more citizens to exercise their right to vote, I feel strongly that moving the mayoral election cycle to coincide with the presidential elections is bad for San Jose!

As you all know, San Jose is the 3rd largest city in California, the 10th largest in the country, and has a very diverse citizenry. We face numerous housing, business and social challenges. The people of San Jose and those that wish to serve deserve a mayoral election that is not influenced by national partisan politics and one where the focus is on our city and its' challenges.

I hope you will consider my comments.

Respectfully,

Jan Schneider  
R & J Jewelry and Loan  
San Jose, CA.  
CAPA President Elect  
CAPA Legislative Committee Chair  
<http://randjjewelry.com>