



COUNCIL AGENDA: 6/23/26
FILE: 26-763
ITEM: 3.3

Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: SUSANA ALCALA WOOD
CITY ATTORNEY

SUBJECT: SEE BELOW

DATE: June 12, 2026

**SUBJECT: PROPOSED BALLOT MEASURE FOR THE NOVEMBER 3, 2026
ELECTION TO AMEND THE CITY CHARTER TO ALLOW THE CITY
COUNCIL THE OPTION TO UTILIZE RANKED CHOICE VOTING
ONLY IN AN ELECTION TO FILL A VACANCY IN THE OFFICE OF
THE MAYOR OR COUNCIL MEMBER**

ACTION FOR COUNCIL CONSIDERATION

Consider the proposed resolution of the City Council, and adoption:

- (a) Calling and giving notice, on its own motion, for a Special Municipal Election to be held on November 3, 2026, to submit to the electors of the City of San Jose, the following measure:

Shall the City Charter be amended to allow the City Council the option to utilize ranked choice voting only in an election to fill a vacancy in the office of the Mayor or Council Member?

- (b) Directing the City Clerk to, pursuant to Elections Code Section 12111, cause a synopsis of the proposed measure to be published at least one time not later than one week before the election in the San Jose Mercury News, a newspaper of general circulation within the City of San José, instead of printing the full text of the measure in the Sample Ballot;
- (c) Authorizing the City Council, or any member or members of the City Council, to submit a ballot argument in favor of the measure pursuant to Elections Code Section 9282;
- (d) Authorizing the submittal of rebuttal arguments or, in the alternative, declining to authorize the submittal of rebuttal arguments pursuant to Elections Code Section 9285;
- (e) Directing the City Attorney to prepare an Impartial Analysis of the measure pursuant to Elections Code Section 9280; and

- (f) Directing the City Clerk to take all other actions necessary to place this measure on the November 3, 2026 ballot.

SUMMARY AND OUTCOME

Approval of this item will place a measure on the November 3, 2026 ballot that, if approved, would amend the City Charter to allow the City Council the option to select an election by means of ranked choice voting only when a vacancy occurs in the office of the Mayor or Council Member.

BACKGROUND

On May 27, 2026, the Rules and Open Government Committee (“Rules Committee”) approved for referral to City Council, a memorandum authored by Councilmembers’ Cohen, Kamei, Mulcahy, and Tordillos, to place a ballot measure on the November 2026 ballot to amend the City Charter to allow the Council the option to choose to utilize ranked choice voting in elections to fill vacancies. This Rules Committee memorandum details the recent adoption of ranked choice voting around the Country and the reported benefits—“namely, that it saves money, produces a more diverse pool of candidates and elected officials, and creates more civil, policy-driven campaigns.”

Ranked choice voting is an election method in which voters rank candidates for an office in order of their preferences (first choice, second choice, third choice, and so on). Under this process, if a candidate receives more than half of the first choice votes, that candidate wins. However, if no candidate receives the majority of first choice votes, the vote tabulation moves into an “instant run-off” where the candidate who received the fewest first choice votes is eliminated, and voters who ranked that candidate as their first choice will have their votes count for their next choice. This process continues until a candidate has received a majority of the votes cast.

The May 27, 2026 Memorandum approved by the Rules Committee was not the first instance the City has considered proposing a ballot measure to institute ranked choice voting in City elections. Throughout 2021, the San Jose Charter Review Commission met to review recommendations and prepared a Final Report for submittal to the City Council. This Final Report, dated December 3, 2021, included a recommendation to transition to ranked choice voting in city elections. The City Council considered the Charter Review Commission’s Final Report during the January 11, 2022 City Council meeting and the April 11, 2022 Study Session.

To accompany the April 11, 2022 Study Session, Councilmembers’ Cohen and Jimenez prepared a separate memorandum, dated April 8, 2022, which, in part, recommended placing on the November 2022 ballot, a measure instituting ranked choice voting in San Jose. Ultimately, the City Council voted for the Administration to return to the City Council in 2024 for further discussion on a potential ballot measure instituting ranked choice voting.

Currently, Section 410 of the City Charter authorizes the City Council to fill a vacancy in the office of Mayor or Council member by appointment by a majority of its remaining members, or call an election for the purpose of filling such vacancy. Under Section 410 (b) if the vacancy is to be filled by election, the election will either be conducted at a Regular Municipal election, a General Election or at a Special Election, as determined by the Council. The election would be conducted in accordance with Section 1600.

Charter Section 1600 currently provides the process for conducting elections for the office of Mayor and Council members. Subsection 1600 (g) states that 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 votes cast for such office. In the event that no candidate receives a majority of votes cast for office, Subsection 1600 (d) specifies the run-off qualification process, whereby 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.

It is common for no particular candidate to receive a majority of the votes cast for an office during a Primary Municipal Election, thus requiring the need for an additional Run-off Municipal Election. This most recently occurred in 2025, when a Special Election was called to fill a vacancy in District 3 which required a Run-off Municipal Election to declare an elected Council Member to fill the vacancy.

ANALYSIS

Due to the July recess, and in order to meet the deadline of August 7, 2026 to submit a ballot measure to the County Registrar of Voters (ROV), the City Attorney's Office prepared the ballot question and draft Charter amendment for the City Council's consideration as part of the Rules Committee referral. The proposed ballot measure would amend Charter Section 1600 to allow City Council the option to utilize ranked choice voting only in an election to fill a vacancy in the office of Mayor or Council Member. Ranked choice voting is an election method in which voters rank candidates for an office in order of their preferences (first choice, second choice, third choice, and so on). Under this process, if a candidate receives more than half of the first choice votes, that candidate wins. However, if no candidate receives the majority of first choice votes, the vote tabulation moves into an "instant run-off" where the candidate who received the fewest first choice votes is eliminated. The ballots with the now-eliminated candidate ranked as first are then redistributed to their respective second-choice candidates, and votes are recounted. This process repeats until a candidate has a majority of support from the votes cast. The proposed measure also addresses unique issues which may arise, such as tiebreakers between candidates with the least votes, elimination of multiple candidates, and ballot errors.

The proposed ballot measure would not change the ability of voters to write-in candidates, and would not require a voter to rank anymore than one candidate. Additionally, the City Council would retain the existing options to fill the vacancy through the appointment process or to call an election which does not utilize ranked choice voting.

The proposed ballot measure was carefully drafted after a survey of charter and implementation ordinance language from various local jurisdictions that have adopted ranked choice voting. The proposed measure is intentionally distinct from the various jurisdictions that were sampled for the following reasons:

- Unlike other jurisdictions, the election method in San Jose for candidates for the office of Mayor or Council Members is entirely contained within the Charter. Moreover, the County Registrar of Voters (ROV) currently conducts all elections subject to state law, as may be amended. By contrast, other jurisdictions who have more detailed implementation ordinances will also conduct their own elections. For this reason, it could be potentially problematic for the City's Municipal Code to set forth implementation requirements at the risk of creating a conflict with the County's ability to conduct an election utilizing ranked choice voting.
- The proposed ballot measure would allow the City Council the option to utilize ranked choice voting as opposed to requiring it in all City elections (as is the case in San Francisco and Oakland). This is consistent with the referral from Rules Committee.
- The proposed ballot measure can also be more succinct due to advancements in voter tabulation systems and increased ranked choice voting utilization as an accepted method for conducting elections. Many other local jurisdictions that adopted ranked choice voting did so in the early stages of ranked choice voting methodology nationwide, requiring more guidance due to its then novelty.

Election Requirements

Should the City Council decide to proceed with proposed ballot measure, the following actions are recommended as required by state law and past practices in previous elections, most recently June 2026.

- Publishing a synopsis of the proposed measure in the San Jose Mercury News, a newspaper of general circulation within the City of San José, instead of printing the full text of the measure in the Sample Ballot;
- Authorizing the City Council or any member or members of the City Council to submit a ballot argument in support of the measure;
- Authorizing the submittal of rebuttal arguments;
- Directing the City Attorney to prepare an Impartial Analysis of the measure in accordance with Elections Code Section 9280; and
- Directing the City Clerk to take all other actions necessary to place this measure on the November 3, 2020 ballot.

However, Council also has the option under the Elections Code to print the full text of the measure in the voter information guide, at additional cost; and/or decline to allow the submission of rebuttal arguments.

To meet the deadlines established by the County Registrar of Voters (ROV), the deadline to submit a resolution calling for a measure election is **Friday, August 7, 2026**. The deadline to submit to the City Clerk arguments for or against the measure is **Tuesday August 11, 2026**,

at **Noon** and **Tuesday, August 18, 2026**, at **Noon** for impartial analyses and rebuttal arguments, if allowed. The City Clerk may accept rebuttal arguments from either the author(s) of a primary argument in support of or in opposition to a ballot measure, or any other person(s) authorized in writing by the author(s) to submit a rebuttal argument. Rebuttal arguments may not exceed 250 words and may be signed by no more than five (5) persons.

CONCLUSION

It is recommended that the City Council adopt a resolution calling a Special Municipal Election to be held on and consolidated with the statewide general election on November 3, 2026 to submit to the voters a Charter amendment as described above.

EVALUATION AND FOLLOW-UP

Approval of this item will place a ballot measure on the November 3, 2026, ballot, which if approved by voters will amend the City Charter as described above.

CLIMATE SMART SAN JOSE

The recommendation in this memo has no effect on Climate Smart San José energy, water, or mobility goals.

COST SUMMARY/IMPLICATIONS

According to an estimate from the Santa Clara County Registrar of Voters with whom the City consolidates municipal elections, the cost to add a measure to the ballot in 2026 is \$2,316,277 for a total of six pages. This estimate is subject to change based on current registration and final total number of pages.

COORDINATION

This memorandum was coordinated with the Office of the City Clerk.

/s/

SUSANA ALCALA WOOD
City Attorney

For questions, please contact Matthew Tolnay, Senior Deputy City Attorney, at matthew.tolnay@sanjoseca.gov or (408) 535-1912.