



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Councilmember Cohen  
Councilmember Jimenez

**SUBJECT:** SEE BELOW

**DATE:** April 8, 2022

Approved

Date: 4/8/2022

**SUBJECT: RECOMMENDATIONS FROM THE 2021 SAN JOSE CHARTER REVIEW COMMISSION**

## **RECOMMENDATION**

1. Place on the November 2022 ballot a measure instituting ranked choice voting in San José.
2. Move forward with a ballot measure to elevate the Board of Fair Campaigns and Political Practices to the City Charter, with the year to be determined by Council.
3. Consolidate any Charter revisions adopted by the Council from recommendations six through ten into one ballot measure for the November 2022 election.
4. Return to Council by 2025 for a discussion about the appropriate size of the City Council in advance of the 2030 Census.
5. Decline to adopt recommendations two and eleven from the Charter Review Commission.
6. Refer those components of the Charter Review Commission's recommendations that do not require a ballot measure and can be implemented by Council action to the City Roadmap prioritization process.

## **BACKGROUND**

Our Council owes a debt of gratitude to the members of the Charter Review Commission for the months of hard work, research, and debate exemplified in their December 3<sup>rd</sup> final report. Each of the recommendations they have offered merits serious consideration, and we look forward to a full discussion of them. We also appreciate the thoughtful point-by-point analysis provided by staff on the Commission's report.

The Charter Review Commission's recommendation to present voters with the option of implementing ranked choice voting would build on the Council's work over the past few years to ensure our elections reflect, as much as possible, the will of our residents. As the memorandum from the City Clerk points out, dozens of jurisdictions—mainly cities, but also counties and

states—use ranked choice voting, and that number is growing, with five cities voting to adopt it in 2021. This is not an unprecedented idea, and we have the benefit of seeing the effects that ranked choice voting has had on elections in those jurisdictions—namely, that it saves money, produces a more diverse pool of candidates and elected officials, and creates more civil, policy-driven campaigns.

RCV is associated with positive outcomes for producing both candidates and elected officials that are more reflective of the communities they represent. Studies have shown that ranked choice voting leads to a substantial increase in the number of women and people of color who run for office and win, reducing barriers to entry and encouraging a more diverse pool of public servants.<sup>1 2</sup> Voters in ranked choice jurisdictions have also all but unanimously expressed that local elections became significantly less negative and more civil after transitioning to RCV, and research has found RCV elections feature fewer attacks between candidates and negative media articles than in first-past-the-post jurisdictions.<sup>3 4</sup> And quite simply, RCV saves money. As the memorandum from the City Clerk points out, the city anticipates spending over \$3 million for the June primary alone this year, not including the November general. Consolidating both into one election would save the city money even after accounting for the cost of outreach and software.

Concerns have been expressed that ranked choice voting, by virtue of its perceived complexity, may serve to dampen turnout and reduce voter engagement with the electoral process. These fears, however, have not been borne out in reality. In fact, studies have consistently found that cities that have implemented RCV have seen significant *increases* in voter turnout, to the tune of eight to ten percent.<sup>5 6 7</sup> Moreover, surveys of voters from New York City to California have not found them particularly daunted or confused by the change to ranked choice voting; indeed, Californians in cities that have already made that transition have indicated they find it *less* confusing than the current top-two primary system.<sup>8 9</sup> We should not do our residents the disservice of assuming against all evidence that they cannot understand or engage with RCV. Rather, we should give them the opportunity to decide for themselves at the ballot box whether ranked choice voting is the right path forward for San José.

We are also recommending that Council move forward with a ballot measure to elevate the Board of Fair Campaigns and Political Practices to the City Charter—a move that would be emblematic of our city’s commitment to election integrity, preclude future Council action that may weaken the Board, and help ensure the Board can carry out its responsibilities as a fair campaign practices watchdog. We acknowledge that, in conjunction with any equity-related

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<sup>1</sup> John, S., Smith, H. & Zack, E. The alternative vote: Do changes in single-member voting systems affect descriptive representation of women and minorities? *Electoral Studies*, Vol 54, pp. 90-102. August 2018.

<sup>2</sup> Terrell, C., Lamendola, C. & Reilly, M. Election Reform and Women’s Representation: Ranked Choice Voting in the US. *Politics and Governance*, Vol 9, Issue 2, pp. 332-343. June 2021.

<sup>3</sup> Donovan, T., Tolbert, C. & Gracey, K. Campaign civility under preferential and plurality voting. *Electoral Studies*, Vol 42, pp. 157-163. June 2016.

<sup>4</sup> Kropf, M. Using campaign communications to analyze civility in ranked choice voting elections. *Politics and Governance*, Vol 9, Issue 2, pp. 280-292. June 2021.

<sup>5</sup> Kimball, D. & Anthony, J. Voter Participation with Ranked Choice Voting in the United States. University of Missouri St. Louis. October 2016.

<sup>6</sup> Richie, R. Implications of Maine Adoption of Ranked Choice Voting. *National Civic Review*, Vol 106, No 1, pp. 20-24. Spring 2017.

<sup>7</sup> McGinn, E. Rating Rankings: Effect of Instant Run-Off Voting on Participation and Civility. University of Technology Sydney. July 2020.

<sup>8</sup> John, S. & Douglas, A. Candidate Civility and Voter Engagement in Seven Cities with Ranked Choice Voting. *National Civic Review*, Vol 106, No 1, pp. 25-29. Spring 2017.

<sup>9</sup> Wendland, J. & Carman, E. Ranking Works? An Examination of Ranked Choice Voting in New York City. Amherst, New York: Daemen College. 2021.

ballot measures that Council may approve, this would entail three and possibly more separate ballot measures, and we look forward to a comprehensive Council discussion regarding the appropriate timing for each of them.

We also feel it would be appropriate for the Council, in accordance with the Commission's recommendations, to discuss the size of the Council and the number of districts. San José's Council districts were first established in 1978; since then, our city has more than doubled in population, and the number of residents per district has exploded from 60,000 to over 100,000, but we have yet to revisit the question of district size and appropriate resident-to-district ratio. This is a conversation worth having in the interests of ensuring Council offices can best serve their residents, and we therefore recommend that staff return to Council by 2025 so that discussion can take place in advance of the 2030 Census.

Lastly, while we appreciate the Charter Review Commission's thoughtful recommendations on instituting a new Commission every ten years and establishing regular department-level audits, we do not recommend moving forward with them. We feel it is more appropriate for Council to continue to have the flexibility to appoint a Charter Review Commission when it is necessary, and given feedback from the City Auditor's Office expressing deep misgivings about mandated department-wide audits, we also do not feel the Council should move forward with a ballot measure to that effect.

The Charter Review Commission has offered a slate of recommendations for our consideration. We agree with the recommendations to explore ranked choice voting and Council size, as well as the proposed measures to promote equity and inclusivity consolidated into a single ballot measure. On a number of recommendations, we must respectfully disagree. All, however, merit thoughtful and serious discussion, and we thank the Commission for bringing them forward.

*The signers of this memorandum have not had, and will not have, any private conversation with any other member of the City Council, or that member's staff, concerning any action discussed in the memorandum, and that each signer's staff members have not had, and have been instructed not to have, any such conversation with any other member of the City Council or that member's staff.*