



Split SJ City Council Votes to Appoint Two New Members, Rejecting Public Pleas for Special Election

By Barry Holtzclaw and Don Le / December 5, 2022¹²



San Jose Mayor-elect Matt Mahan at the Dec. 5 City Council meeting. Screen shot from council streaming video.

The San Jose City Council voted 7-4 to appoint two new members to two-year terms to fill District 8 and District 10 vacancies.

"It is unprecedented and I think it brings shame to our city," said Mayor Sam Liccardo after the 11:30pm vote.

Liccardo had joined Mayor-elect Matt Mahan in campaigning for the special elections to fill unexpired vacant council seats, which had been the norm.

"This is a clear break from precedent," Liccardo said.

The six council vacancies for unexpired terms in the past 20 years all were filled by special elections, according to the City Clerk's office.

"This is a council that uniformly endorsed a candidate for mayor different from the one that got elected," said the mayor. Liccardo had supported Mahan in the mayoral race, while all of Mahan's council colleagues had endorsed Santa County Supervisor Cindy Chavez, who lost to Mahan by more than 6,000 votes.

The votes for new council members for Districts 8 and 10 will occur in January, following a “transparent” vetting process, and will require a two-thirds approval of the council, according to supporters.

Council members shared opinions about the issue in a half-hour period after the public comments, but none of the seven 'Yes' votes indicated that the hundreds of impassioned comments by a broad cross section of citizens in favor of elections had changed their minds. Before the vote, Liccardo warned that rejection of a special election would result in a "loss of trust" among San Jose voters, and he predicted the new appointees could face recall elections next year.

The successful motion was based on [a memo submitted to the council before the meeting](#) by Councilmembers Sergio Jimenez, Dev Davis and Sylvia Arenas.

Liccardo, Mahan, Pam Foley and Chappie Jones voted against the motion calling for the appointment of the new council members. Jimenez, Arenas, Peralez, David Cohen, Dev Davis, Maya Esparza and Magdalena Carrasco voted for the plan to appoint the new members.

A half-hour before the vote, after more than five hours of public comment mostly favoring elections over appointed council members, Mahan said the big display of support for a special election was impressive. “A special election will be far more representative than nine of us making this decision,” he said. The mayor-elect said a special election would not require any cuts in city services: “We have reserves...we can pay for this without cutting services.” In an attempt at compromise, Mahan said he would be open to naming an interim council member, to serve until the election.

Earlier Updates -- 10:45pm:

Mayor Sam Liccardo, Pam Foley, Chappie Jones spoke in favor of electing council members. Jones introduced a motion to schedule an election for April 25, with a runoff, if necessary, in July.

Sergio Jimenez, Raul Peralez, Sylvia Arenas and Dev Davis spoke against this. Peralez and Davis cited high cost of a special election, and Arenas cited a lack of representation for District 8 in the first half of the year as a big concern if there were no appointee.

9:30 pm:

More than four hours into it, and public comments at City Hall are continuing, with the vast majority of speakers in favor of special elections to the unexpired terms of Districts 8 and 10. The in-person comments lasted three hours, and the council shifted to a long list of Zoom speakers. Mayor Sam Liccardo said approximately 200 people signed up to speak live at the special City Council meeting, broadcast on [the city council's live video feed](#). Another 200 people signed up to speak to the council via Zoom.

The council expects to begin debating the issue after 10pm.

In addition to the mayor, only five of the 10 current city council members attended the special meeting in person: mayor-elect Matt Mahan, Councilmember Pam Foley (recently re-elected), Councilmembers David Cohen and Sergio Jimenez (terms expire in 2024) and Councilmember Chappie Jones (term expires this month).

Supporters of appointing, rather than electing, two new council members for two-terms claimed tonight they had at least six council member votes, enough to reject pleas for a special election. Four lame-duck council members who will vote on the special elections question, but who will be off the council later this month – County Supervisor-elect Sylvia Arenas, Magdalena Carrasco, Maya Esparza and Raul Peralez — didn't attend the meeting in person. Dev Davis was diagnosed with COVID Monday morning, and could not attend.

The current council could vote on the issue of special elections, or the city could follow the recommendations in a memo from Arenas, Jimenez and Davis to let eight members of the 2023-24 council, plus the mayor, appoint two new members.

The predominant messages from speakers from across the city was that appointing council members would be anti-democratic and represented voter suppression.

“You can’t disenfranchise 200,000 citizens,” said one speaker.

1 pm:

Post-election San Jose City Council meetings are often mundane, but today’s 5pm special meeting is poised to be contentious, pitting lame-duck council members against the current mayor and the mayor-elect, with the political make-up of the new council on the line.

Today will be the first of two meetings to discuss in detail what will happen to the vacant seats: Whether to hold a special election in the spring to fill unexpired terms of council vacancies for District 8 and 10.

According to the City Charter, the council could decide to leave the two district seats vacant until elections are final – as soon as a May vote or as late as an August runoff vote – or it could appoint interim council members to serve until special elections, or avoid an election altogether and appoint council members to serve the remaining two years of a four-year term.

Precedent would dictate a special election, but opponents warned that a special election will cost millions and leave residents of District 8, including the Evergreen area of East San Jose, and District 10, including the Almaden and Blossom Valley areas of South San Jose, unrepresented for months.

The vacancies were created by the November election, when District 8 Councilmember Sylvia Arenas was elected as the District 1 representative on the Santa Clara County Board of Supervisors and [District 10 Councilmember Matt Mahan was elected mayor.](#)

In the runup to this evening’s vote, Mahan, joined today by Mayor Sam Liccardo, is pressing for special elections.

Other political forces, including some council members and members of the politically powerful South Bay AFL-CIO Labor Council are campaigning for appointments to fill the vacancies. Organized labor supported Mahan's opponent in the mayor race, Santa Clara County Supervisor Cindy Chavez, a former city council member.

Mahan spent the weekend encouraging city residents to speak out on the issue at the council meeting, and circulating a petition in favor of special elections.

Mahan and Liccardo will be holding a 4:15pm rally outside City Hall to press their case. Council members have vacated seats mid-term several times in the past 30 years. In every instance, the council held special elections, most recently in 2015. The council on one occasion appointed an interim council member pending the results of a special election, and has never appointed a council member to fill a remaining term.

"Our city council will decide whether the people should vote to choose their representatives or whether our leaders should be chosen by the political insiders," Mahan said in a statement. "Thousands of you have already signed our petition supporting letting the people vote for their own leaders. Today, I want you to take it one step further. I want to request that you join me in asking my colleagues on the city council to stand up for the people and vote for a special election so the people can choose who represents them on the city council."

Newly elected council members Rosemary Kamei (District 1), Omar Torres (District 2) Peter Ortiz (District 5) and Bien Doan (District 7) will take their oaths of office next month, along with Councilmember Pam Foley, who was re-elected with no opposition.

However they are chosen, the six new members of the 2023-24 city council, plus a new mayor, are likely to shake up political alignments.

Four districts in San Jose gained new representatives in the 2022 elections: Rosemary Kamei in District 1 (West San Jose), Omar Torres in District 3 (downtown and north San Jose), Peter Ortiz in District 5 (East San Jose) and Bien Doan in District 7 (South Central San Jose around Story and Tully roads).

And, because of the [City Charter change approved by voters last month](#), Mahan will serve just two years, with a new mayoral election plus council elections in 2024.

A special election will be costly.

Michael Borja, a spokesman for the county Registrar of Voters, released a report that said a May 2023 special election for the two vacant San Jose City Council seats, would cost between \$3.9 million and \$5.8 million, with costs for runoff elections, if necessary, in the range of \$1.9 million to \$2.8 million per council seat.

The Democratic Central Committee/South Bay Labor Council aligned wing is pushing for appointment of new council members because they currently control the majority of the council while Mahan, a moderate mayoral candidate, wants an election.

In a statement, Mahan conceded that “no one likes spending millions of taxpayer dollars to run special elections. But we’re talking about the election of representatives to help manage a \$6 billion annual city budget. Spending less than one-tenth of 1% of one year’s annual budget on an election is a small price for democracy.”

“Our most important priority must be to empower the people—not the insiders,” he said. “And that is well worth the small amount we will spend. And let’s be clear: Having the voters choose their leaders will save money in the long run. Because when we elect our leaders they reflect our values—not the needs of City Hall insiders.”

Mahan suggested that “a much cheaper, all-mail election without costly polling stations in which ballots would be returned by postal service or to drop-off locations. It’s a common sense solution, especially considering that 93% of San Jose voters in the last election mailed or dropped off their ballots.”