

San Jose council, not voters, will choose two new councilmembers

“I think it brings shame to our city,” said Mayor Sam Liccardo, who pushed for a special election

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Dmitriy Kruglyak, a real estate agent from San Jose, holds up a sign at San Jose City Hall in San Jose, Calif., on Monday, Nov. 28, 2022. (Shae Hammond/Bay Area News Group)

SAN JOSE — In a major rebuke of San Jose’s top leadership, the City Council has decided to fill two council seats by appointment instead of holding a special election — marking the first time since 1994 that residents will not vote for their representatives on the governing body of the nation’s 10th largest city.

The 7-4 decision to appoint council members to District 8 and District 10 seats — which will be vacant in January after last month’s election — came after more than five hours of fiery debate that included hundreds of residents at a special Monday meeting punctuated by boos and cheers. The decision will impact roughly 200,000 residents who live in the two districts.

Mayor Sam Liccardo, Mayor-elect Matt Mahan, and Councilmembers Pam Foley and Charles “Chappie” Jones supported holding special elections, which were estimated to cost up to roughly \$11 million.

Liccardo, who described the move to appoint new council members as a “clear break from precedent, said “I think it brings shame to our city.”

Councilmembers Sergio Jimenez, Raul Peralez, David Cohen, Magdalena Carrasco, Dev Davis, Maya Esparza and Sylvia Arenas, who currently represents District 8, all voted for the appointment.

“Today, the special interest is my community and not leaving them without representation,” Arenas said during Monday night’s deliberation. “I want to make sure that there’s somebody who represents us.”

The appointed candidates will fill the seats until a general election in 2024. In a January meeting, council members [will interview candidates and make the appointments](#). Two-thirds of the council must approve the selections.

The two open seats belong to Mahan, the mayor-elect, and East San Jose’s Arenas, who during last month’s election beat Johnny Khamis for the District 1 Santa Clara County’s Supervisor position. Mahan, who represents Almaden Valley, defeated County Supervisor Cindy Chavez in a tight race to become the city’s next mayor.



San Jose Councilman and mayoral candidate Matt Mahan speaks to supporters at his watch party at Blanco Urban Venue in downtown San Jose, Calif., on Tuesday, Nov. 8, 2022. (Nhat V. Meyer/Bay Area News Group)

A battle over how to fill the two seats [has been brewing for weeks](#). The city’s more moderate bloc, led by Mahan, argued that a special election would allow the district’s residents to have a say in who represents them.

But some of the council’s more progressive members, backed by the county’s labor groups, Democratic Party and the local NAACP chapter, contended that a special election would be too costly and that the likely low voter turnout would end up producing a candidate who isn’t a true

reflection of the community. The one exception was Davis, a moderate who cited concerns about costs and joined her progressive colleagues in a vote against the special elections.

Critics of the special election also argued that the winners would have to immediately begin campaigning for their 2024 election, which would not allow them to focus on their districts' needs.

At stake during the debate was the ideological makeup of the council. A special election would have offered Mahan a chance to have a moderate ally on a council that currently has a progressive majority and who all backed his opponent Chavez in the mayor's race. In a statement, Mahan said there was "no good reason" for the council to vote for appointments.

"The question before us was a simple one, and the Council got it wrong," he wrote. "We heard five straight hours of public comment tonight overwhelmingly in support of a special election from the most diverse group of speakers we've seen in the council chamber for years." But those that did come out in support of the appointments argued it was the best course of action.

"We have critical things that need to be done for the city of San Jose, such as our parks, libraries and senior programs," said resident Claudia Shope, who supported the appointments. "These are being neglected. So the whole rest of the city is neglected. This cannot be done with wasting our money on the special election."



SAN JOSE – MARCH 17: San Jose City councilmember Sylvia Arenas speaks during a press conference outside of the San Jose Police department in San Jose, Calif., on Wednesday, March, 17, 2021. (Randy Vazquez/ Bay Area News Group)

Santa Clara County Democratic Party Chair Bill James accused those who supported a special election of being a "vocal minority" that was pressuring council members. The special election would "leave so many residents out," he said.

At the center of the debate was the cost of the special elections, which range from \$7.5 to \$11.3 million, according to an estimate from the County's Registrar of Voters. The price represents roughly a tenth of one percent of the city's \$6 billion budget — and the registrar has stated that costs have ballooned because of new laws that have increased voter accessibility, along with material and labor expenses. The last special election in 2015 cost taxpayers about \$1.2 million. But the high cost would have been worth it, supporters of the special election said during Monday's meeting.

“If we focus on the dollars and cents on democracy, we put a price on something that simply shouldn't be taken into consideration,” resident Jonathan Padilla said. Padilla and others likened an appointment process to authoritarian rule, drawing comparisons to communist dictatorships like China and Vietnam.

High school senior Maxwell Love stated, “taxation without representation is tyranny,” a Revolutionary War-era slogan used by Boston Tea Party members. “Now I'm sure that nobody in this room is threatening to dump 46 tons of tea in the Guadalupe River. But the question remains. How can you tax the people of San Jose without giving them any representation in their own city council? That sure sounds like tyranny to me.”

The last time an appointment was made at the city council was in 1994, when Councilmember Kathryn Cole was recalled and Alice Woody was assigned her seat. Since then, vacancies have always been filled through special elections, including in 1995, 2001, 2005, 2007 and 2015. San Jose State University political science professor emeritus Larry Gerston said Tuesday morning that he wasn't surprised by decision for appointments considering the makeup of the council.

“Put aside the grand statements about cost and democracy and all of these lovely considerations,” Gerston said. “It really was a question of whose politics would remain. It was done in the name of self-preservation.”