

October 28, 2008

Dear Community Members,

I am writing this letter to share with you rulings from the City Attorney and City Clerk regarding the recall election.

On November 4, 2008, the San José City Council will vote to set the date of the special recall election for Council District 7. The City Clerk has recommended March 3, 2009.

The **only** decision that the City Council will make on November 4 is **which date to hold the special election**. This will be item 3.6 on the agenda.

The City Attorney and City Clerk have reviewed the law and determined the answers to the other questions about the election:

- **The City of San José cannot hold both a recall election and a replacement election on the same ballot.**

The City Charter defines how a recall election will be held. We must first ask the voters if the Councilmember shall be recalled. If the voters vote to recall the Councilmember, the City can either hold another election to replace the Councilmember or appoint a new Councilmember. While the State of California allows different types of elections for state office, local elections for City Council are governed by the City Charter, which is the constitution of the City of San Jose. The City Attorney's legal ruling is online here: http://www.sanjoseca.gov/clerk/Agenda/20081104/20081104_0306sup.pdf.

- **The election will be a traditional precinct election.**

Voters can either vote at the polling place in their precinct, or they can vote by mail with an absentee ballot. The Elections Code does not allow all-mail elections in San José. This information is outlined in a memo that is online: http://www.sanjoseca.gov/clerk/Agenda/20081104/20081104_0306.pdf.

On November 4, the City Council will not vote on the issue of a single ballot. The City Council will not vote on holding an all-mail election. We will only vote on the date of the recall election.

I thank you for your interest in this issue and reaffirm my commitment to working with the entire community through this difficult process.

Sincerely,

Mayor Chuck Reed