

Hon. Paul D. Lopez

Clerk and Recorder

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City and County of Denver

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June 30, 2021

The Honorable Stacie Gilmore, Council President
Denver City Council
1437 Bannock Street, Rm 451
Denver, CO 80202

Dear Council President Gilmore,

As you know, in August of 2020, I convened a Charter Review Committee to review alternative voting methods and other options to remedy a timing conflict between municipal and state election laws.

Committee members met for a series of meetings through March 2021, hearing from experts, studying the various options and discussing each option's possible impacts on the City and County of Denver.

The options explored were: moving the election (either to the fall or earlier in the spring), plurality voting, approval voting, and ranked choice voting (RCV/IRB). Ranked choice voting is also known as Instant Run-off Ballot (IRB). The committee also reviewed a report by the Office of Clerk and Recorder's engagement team, which documented feedback received from residents via a public survey, virtual town hall meeting and a series of presentations to community and neighborhood groups, civic engagement organizations, and political parties.

Members of the Charter Review Committee included:

- Michael Cummings Ph.D., Professor Emeritus of Political Science, University of Colorado Denver – Clerk and Recorder Appointee
- Hon. Kevin Flynn, Denver City Council District 2 – Council Appointee
- Hon. Stacie Gilmore, City Council President, District 11 – Council Appointment
- Mark Grueskin, Esq. Shareholder, Recht Kornfeld PC – Clerk and Recorder Appointee
- Hon. Stephanie O'Malley Esq., Associate Vice Chancellor for Government and Community Relations University of Denver – Clerk and Recorder Appointee

- Gena Ozols, Field Director at Colorado Organization for Latina Opportunity and Reproductive Rights – Clerk and Recorder Appointee/Community Applicant
- Alan Salazar Esq., Chief of Staff for Mayor Michael Hancock – Mayoral Appointee

Committee discussions centered on which options might enable more participation from voters, which might confuse them, and whether some may provide opportunities for more diverse candidates. Voter engagement, outreach, access, and education are the cornerstones of our elections program. As such, we must be thoughtful in our approach, to ensure that these priorities are preserved with the implementation of any changes to our municipal elections processes.

After deliberation, committee members submitted individual recommendations, with the majority overwhelmingly in favor of moving the election from May to April to provide at least 45 days between the municipal general election and the June run-off, over ranked choice voting, approval voting, or moving the general and run-off elections to the Fall.

Given the Committee’s recommendation, the input from the public, and the extensive analysis from our office, I am recommending two viable options to the Denver City Council for consideration: to either move the regularly scheduled municipal general election from the first week of May to the first week of April, or that we administer the ranked choice voting/instant runoff ballot model to stay in statutory compliance and eliminate the need for a run-off election.

The following is an summary of the budgetary and operational impact of these recommendations, based off our subject matter expertise and analysis.

Moving the Municipal General Election to April

Moving the municipal general election to a date earlier in the year provides a relatively simple solution. With regard to voter education, this option would only require voters to learn about a new time to vote, rather than a whole new way to vote. This option allows for the minimum 45 days needed to mail ballots to military and overseas voters in accordance with Colorado Revised Statute and the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA), but it does not remove the possible need for a run-off election.

Voter education would be consistent with our current structure, which includes in-person and virtual engagement, a paid social media campaign and, if budgeted, some paid media. Our current engagement team consists of four full-time employees as part of my community and civic engagement program. The Spring scheduling of the municipal election general and run-offs has always proved challenging where voter awareness is concerned, since state and federal general elections are held in the Fall.

Elections operations would remain in the current state, with little to no impact to ballot preparation, ballot instructions, tabulation, ballot processing, reporting, or auditing procedures.

Transitioning to a Ranked Choice Voting/Instant Runoff Ballot (RCV/IRB) model

A ranked choice voting election would also allow the Office of Clerk and Recorder to provide election materials to Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) voters within the statutory deadline of 45 days. Ranked choice voting eliminates the need to conduct run-off elections for non-multi-winner contests and is known to facilitate more accurate representation and a more refined method to elect candidates by the nature of its design.

There are five main challenges and focal points we must work through should the City and County of Denver choose to adopt an RCV/IRB model for municipal elections: cost, voter education, ballot procedure modification, post-election auditing and extended time period for the announcement of final, official results.

According to the current election management system (EMS) vendor, the cost to license and support the RCV/IRB module for tabulation would be an initial fee of \$350,000 with an annual recurring fee of \$70,000. Current costs to conduct a citywide run-off election is between \$900,000 to \$1,000,000. Two of the past four municipal election cycles have resulted in citywide run-off elections. For the last non-citywide run-off election in 2015, the associated cost was approximately \$500,000 for four City Council seats. An RCV/IRB model of election would more than pay for itself the first time it was implemented, whether it was a citywide or multi-district run-off.

Voter education would require more resources than our current structure and budget allows, given that we will not only need to provide instruction on the logistics of RCV/IRB but also how to fill out an RCV/IRB ballot. This will require additional funding for a large, well-messaged education effort that will need to include direct mail to Denver voters, paid social media, paid media, and additional staff.

Another challenge will be adopting and refining ballot processing procedures within the Denver Elections Division. Fortunately, the procedures that are most impacted occur after signature verification and ballot extraction have already taken place. Once the ballots have been scanned into the tabulation system, any ballot with an errant mark would be sent to the EMS adjudication system. The Denver Elections Division will need to create standard instructions for the resolution of any race filled out by a voter that requires interpretation of the voter's intent. A similar document already exists in the form of the "Voter Intent Determination of Voter Intent for Colorado Elections" guide issued by the Colorado Secretary of State of Office which contains current examples of target marking by voters and how to interpret their intentions.

Another procedure that will require adjustment will be the reporting of results for any RCV/IRB contest. Under the present system, results can be extracted from the EMS and displayed to the public at 7 p.m. on election night. With RCV/IRB, the final tabulated results calculated by the system would not be available until all ballots have been received and processed. We would need a disclaimer on our public-facing website to explain to interested parties that tabulation is in progress and results will not be available until all ballots are tabulated.

The final practice that will need adjustment will be the post-election audit. Currently, the State of Colorado conducts Risk-Limiting Audits on all state, coordinated, and federal elections. The City and County of Denver has adopted this audit type as a best practice for its municipal elections since it is a transparent and accurate statistical audit. If discrepancies are found between the EMS and paper ballots, then a full audit of all tabulated ballots could be necessary. The Colorado Secretary of State created [a document explaining how to conduct an RLA on an RCV/IRB election](#). The most difficult part of the implementation of an RLA on an RCV/IRB election is the determination of the margin of victory. Namely, a decision would need to be made for which round of the RCV/IRB calculations should be used to determine the margin of victory, which would impact how many ballots would be included in the RLA.

Transitioning from a standard voting model to a ranked choice voting model would provide numerous benefits to the voters in the City and County of Denver and could provide measurable cost and resource benefits for the city; however, considerations for additional procedures, documents, and educational outreach will need to be included in any proposal to implement the RCV/IRB voting method.

Voter Education and Outreach Budget Analysis

Any changes to our municipal election cycle would create a need for direct voter outreach and education. Voters will not only need to know what changes have been made, but how they will be directly affected by those changes.

Moving the municipal election to April would require voter education, but it would be a relatively simple message since the way people vote would not change.

To understand the budgetary and outreach implications of implementing RCV/IRB, we looked at two similar cities who have successfully implemented RCV/IRB in their communities. We have been in discussion with elections administrators in these cities to review their budgets, to understand the attention paid to voter outreach and education, and to gauge the success of those efforts. We were able to speak with the City Clerk of Santa Fe, New Mexico and two members of the elections division from the City of Minneapolis, Minnesota.

Both municipalities, in relationship with their counties (Santa Fe County and Hennepin County respectively) set aside resources for a robust voter education effort around RCV/IRB. Both entities also worked in conjunction with community organizations or relied on grant

partnerships for portions of their education budgets. Despite these efforts, both agencies said that they believed that their efforts did not go far enough to reach low propensity voters, especially voters of color and low-resource voters.

Santa Fe, New Mexico

The City of Santa Fe and a nonprofit called Fair Vote each spent \$50,000.00 (\$100k total) on outreach. Santa Fe County has roughly 100,000 registered voters and the city has about 60,000 of that.

The Santa Fe clerk said that she does not believe those resources extended to the community members who really needed (and continue to need) the outreach, while naming that she does not currently have an internal outreach/engagement staff member or team and has a small budget for elections communications.

If we scale the budget and number of registered voters for the City of Santa Fe to make it applicable to the number of registered voters in the City and County of Denver, it would translate to a budget of roughly \$833,500.00 for voter education, outreach, and communications around RCV/IRB. This would need to be an budget expansion request from the Office of Clerk and Recorder each year for multiple election cycles and possibly beyond.

How we got there:

\$100,000.00/60,000 registered voters = approx. \$1.667 per voter

\$1.667 x 500,000 registered voters = \$833,500.00

Minneapolis, Minnesota

Minneapolis has been using RCV/IRB for 10 years, with a roughly similar population to Denver. The Minneapolis Foundation provided a grant to fund education and outreach for the first election.

In 2009, the clerk for Minneapolis requested approximately \$365,000.00 in funds from the city council in anticipation of the electorate's choice to implement RCV/IRB. Of that original request, 30% was allocated to voter outreach and education. \$35,000.00 of that was grant funded.

Even after a decade, Minneapolis continues to conduct and expand voter education and outreach. They rely heavily on grants to fund the organizations that continue to educate voters. They have one full-time staffer for these education efforts, and that person has requested \$100,000 to fund local organizations to educate voters. They requested \$70,000 for social and traditional media outreach to help with voter education, as well as requesting two staff members dedicated to voter outreach from July to November. After 10 years of

implementation, voter education around RCV/IRB continues to require time and resources in Minneapolis.

Another valuable finding from Minneapolis was that a need arose to provide training to candidates running for office. They have found that candidates share misinformation or bad information to voters. For example, candidates might tell voters to rank them as all of their top three choices, or only rank one person. To ensure that candidates to share correct information, Minneapolis is considering a requirement for candidate training before or right after filing.

The City of Minneapolis also contracts out for around \$50,000.00 to conduct a data-driven survey of voters, non-voters, and candidates, around the time of the election. This effort has yielded useful information about whether RCV/IRB is well-received in the community, as well as providing feedback for their education and outreach efforts.

Of note, after the 2017 municipal elections, the Minneapolis Elections and Rules Committee made the following recommendations [in their report](#), to strengthen their efforts for the 2021 municipal elections.

- Focus voter outreach and education on registration, particularly in under-represented communities.
- Expand community partnerships to leverage additional resources and engagement.
- Continue to diversify election judge corps to reflect the communities we serve.

They found that even with the expenditures they do have for education and outreach, they still fail to hit every community equally or effectively to explain RCV/IRB. It is an ongoing investment in the work, and one they have identified as important.

New York, New York

We are monitoring NYC's ranked-choice municipal election closely. We are analyzing public response, participation, obstacles in addition to ballot tabulation and audit processes. Potential addendums and language changes to our recommendations may come as more information becomes available and upon conclusion and certification of the NYC municipal election.

Why Approval Voting isn't an option

Approval voting is an electoral system where each voter may select or "approve" any number of candidates, and the winner is the candidate approved by the largest number of voters. It is distinct from plurality voting (which was also reviewed by the committee) in which a voter may choose only one option among several, whereby the option with the most votes is chosen.

Although approval voting continues to be discussed nationwide as an option and was one of the voting methods the committee reviewed, it was not recommended since it does not resolve the possibility of a run-off election.

Summary

In summation, after almost a year after convening the Charter Review Committee, I am hereby fulfilling my obligation in submitting these two recommendations to the Denver City Council to either move the regularly-scheduled municipal general election to April or explore ranked choice voting to eliminate the need for a run-off election.

My office has analyzed and concluded that both models are viable options, and we are prepared to successfully administer either option with the standard of excellence our office is known for.

Both draft charter amendments and companion ordinances for both options will be provided to you in the coming weeks as you schedule these through the legislative process and begin to deliberate. I respectfully request that the Council move in a timely fashion in order to place this necessary adjustment for Denver voters to consider for the 2021 November Coordinated Election.

In Solidarity,

A handwritten signature in blue ink, appearing to read "Paul López", written in a cursive style.

Hon. Paul D. López, Clerk and Recorder
City and County of Denver

Cc: Hon. Jamie Torres, President Pro-Tempore,
Denver City Council