

VIII a.



The City of Aspen  
City Attorney's Office

## Memorandum

**TO:** Mayor and Members of Council

**FROM:** James R. True

**THRU:** John Worcester

**DATE:** February 19, 2009

**RE:** IRV Election

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A Charter amendment passed in a November 2007 requires City Council to adopt procedures to implement Instant Runoff Voting. Following the Charter amendment, the City Council designated a committee to consider recommendations for such procedures. The committee recommended various rules for the instant runoff election and a tabulation procedure. Those rules as set forth in the proposed Instant Runoff Voting Procedures Manual were attached to the ordinance presented at first reading.

At first reading, the council addressed several questions regarding the various methods of tabulation. Following such discussions, Council requested that staff prepare two alternative tabulation methods for consideration at second reading.

Attached hereto is the "Primer" prepared by Kathryn Koch and presented at first reading. This explains various rules that have been proposed for the election. Such rules apply to the election regardless of the tabulation method.

Also attached is the proposed ordinance, which if adopted would incorporate and adopt the proposed Instant Runoff Voting Procedures Manual and by reference the Colorado Secretary of State's election manual.

The Instant Runoff Voting Procedures Manual that is attached to the proposed ordinance contains general rules regarding the election and will ultimately designate the chosen tabulation method for City Council. Thus, as you will note, Section 6 of the Manual refers the reader to the alternatives for the tabulation of the City Council seats. There have been other changes in the manual to address

minor concerns that have been raised since first reading. However, no other substantive changes have been made. Specifically, the rules regarding the Mayoral election has not been modified.

The two alternatives for the election of the City Council are also attached. Both alternatives involve ranking candidates by preference first to last. All voters may rank all or as few candidates as he or she wishes.

Alternative One, is designated as the Two Votes Counted – Batch Elimination method. This is the method proposed by the committee and included in the manual at first reading. This tabulation method counts the highest two votes on each ballot in the initial round and in subsequent rounds if more than two candidates move into the subsequent rounds. The batch elimination, which is designed to emulate the most recent City runoff system simply means that if no one receives the threshold in the initial count, the top four vote getters move on. The bottom four, assuming eight candidates, are eliminated in a batch. All votes are then reassigned giving the highest two votes to those candidates remaining in the runoff. The rules set forth in this Alternative One attempt to address all conditions that can be encountered, particularly ties at various stages.

Alternative Two, is designated as One Vote Counted, Sequential Elimination. This method, contemplates an initial count of the highest vote for each candidate. After that tabulation, the candidate with the fewest votes is eliminated and those votes are reassigned to the candidate with the highest ranking who is continuing in the runoff. The elimination of the candidate with the fewest votes continues until a candidate reaches the threshold. That candidate is deemed elected and the voting for the second seat is commenced. In tabulating the voting for the second seat, the winner of the first seat is eliminated and all votes are recounted with any vote given to that candidate then given to the candidate with the next highest ranking. After this tabulation, the candidate with the fewest votes is eliminated and those votes reassigned to the next highest ranked candidate who is continuing in the runoff. This sequential elimination of the candidate with the fewest votes continues until a candidate reaches the threshold.

There are supporting arguments and criticisms of each method. And, in various test ballots, the different methods have led to different results.

On Wednesday, February 18, 2009, staff conducted a public session to demonstrate the two tabulation methods. Approximately twenty citizens, and several members of the press attended. Although no recommendations were submitted by this group, numerous questions were answered and at least one other method was suggested and promoted. That method, which will likely be presented at council, involves counting two votes initially, then conducting a sequential elimination rather than a batch elimination. Further explanation of this method can be provided if necessary.

Based on comments received at this meeting and further consideration of the various methods of tabulation, including some other proposed alternatives and compromises, there is strong possibility that staff will recommend to Council at second reading a compromise for the City Council election.

Finally, the Clerk proposes that a computer specialist be utilized who will provide a program that scans all ballots then tabulates the count using the rules that are chosen by Council. The Clerk will certify this process consistent with State Statute prior to the election. It is anticipated that members of the public will request the Council to require that the votes be hand counted, either solely or in addition to the computer count. Staff opposes this request. Certification of the counting method if electronic tabulation is used is a standard process and staff believes that it will be conducted fairly and openly.

ACTION REQUESTED: A Motion to approve Ordinance No. \_\_\_\_\_, Series of 2009.

CITY MANAGER'S COMMENTS: \_\_\_\_\_  
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cc: City Manager

**INSTANT RUNOFF VOTING PRIMER**

**Instant Runoff Voting (IRV)** is a voting system used in elections in which voters can rank candidates in order of preference. In an IRV election, if no candidate receives a majority of first choices, the candidate with the fewest number of votes is eliminated and ballots cast for that candidate are redistributed to the surviving candidates according to the voters' indicated preference. This process is repeated until one candidate obtains a majority.

A ballot question in November 2007 changed Aspen's voting system from a regular election and runoff and directed Council to adopt procedures for Instant runoff voting before the May 2009 election. The Charter change also requires a candidate for Council to receive 50% plus of the vote in order to be elected. Staff and a committee of citizens have worked on these procedures over the past several months. Council approved that committee in September 2008.

At your February 9<sup>th</sup> meeting, staff will forward an ordinance for 1<sup>st</sup> reading to adopt these procedures. We scheduled this work session to give Council time to review the procedures and ask questions.

Runoff elections approved by the voters in 2000 and held in 2001, 2003, 2005, and 2007. We have structured Aspen's election procedures to be similar to the elections plus runoff as used in the past.

**Mayor Race**

The ballot for the Mayor's race will look like this:

<b>MAYOR</b>				
<b>Two Year Term, Vote for One/Column</b>				
	<b>1<sup>st</sup></b>	<b>2<sup>nd</sup></b>	<b>3<sup>rd</sup></b>	<b>4<sup>th</sup></b>
	<b>Choice</b>	<b>choice</b>	<b>choice</b>	<b>choice</b>
<b>Fill in one oval per choice</b>	<b>Your 2<sup>nd</sup> or 3<sup>rd</sup> choice will be considered if your 1<sup>st</sup> choice Loses</b>			
<b><i>Mark only one circle per column or per row</i></b>				
Colonel Mustard	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Scarlett O'Hara	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Nicholas Nickleby	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Eleanor Rigby	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Before, if there were 4 candidates for Mayor in a May election and no candidate received a majority, in June there would have been 2 candidates. In IRV, if there are 4 candidates for Mayor and no candidate receives a majority, the two candidates with the lowest vote

totals are eliminated and the votes are recounted reassigning the votes of the candidates who were eliminated to their highest remaining candidate, if there is one.

Colonel Mustard	22
Scarlett O'Hara	42*
Nicholas Nickleby	25
Eleanor Rigby	27*

**Round 1**

119 voters – 3 spoiled ballots = 116 votes for Mayor X .50 = 58 plus 1 = 59 votes needed to win and there is no candidate who meets the threshold in this round.

**Round 2**

The top two vote getters enter Round 2. Each ballot is recounted as follows: Everyone who voted for the Colonel and Nickleby will have their second choice votes added to the candidate remaining in the race.

Scarlett O'Hara	63
Eleanor Rigby	47

Scarlett O'Hara is elected.

**Council Race** The ballot for City Council will look like this:

No community has exactly the same parameters for Council seat as Aspen. While a single seat contest is straightforward, the Council race in Aspen is for two seats and each candidate must garner 50% plus 1 vote to be elected.

<b>CITY COUNCIL</b>								
(four year term)								
Two City Council Members will be elected for 4-year terms. Rank your choices in columns 1 through 8. Your first and second choices <u>will</u> be counted in the first round of tallies. Do NOT duplicate your choices.								
	Vote for ONE 1 <sup>st</sup>	Vote for ONE 2 <sup>nd</sup>	Vote for ONE 3 <sup>rd</sup>	Vote for ONE 4 <sup>th</sup>	Vote for ONE 5 <sup>th</sup>	Vote for ONE 6 <sup>th</sup>	Vote for ONE 7 <sup>th</sup>	Vote for ONE 8 <sup>th</sup>
<b>Mark only one circle per column or per row</b>								
Jack B. Nimble	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Greta Greenwood	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
David Crockett	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Travis Thompson	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Che Guevara	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
John Q. Adams	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Wilbur Mills	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Peter Romanov	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

A two-seat race where each candidate has to receive 50% plus 1 vote to be elected is much more challenging. The committee went through several different ways to count the Council runoff, choosing to emulate the previous elections and have batch elimination. If there were 8 candidates running for two seats, all first and second choices on a ballot would be counted (as in previous elections, electors were able to vote for two Council candidates).

**SCENARIO A**

**Round 1**

In this example 115 ballots were cast with the following results after counting the 1<sup>st</sup> and 2<sup>nd</sup> choices on each ballot.

Jack B. Nimble	42*
Greta Greenwood	50*
David Crockett	36*
Travis Thompson	17
Che Guevara	26*
John Q. Adams	21
Wilbur Mills	13
Peter Romanov	25

With 115 ballots cast, i.e. 115 voters participated in this Round 1, the threshold is  $115 \times 50\% = 57.5$  plus 1 = 58.

No candidates in round 1 received the required 50% plus 1 so the 4 candidates with the highest votes continued to round 2. All the votes for the 4 candidates being eliminated are now allocated to the remaining candidates with the highest votes according to their second choices.

**Round 2 Two Winners**

Jack B. Nimble	57*
Greta Greenwood	67*
David Crockett	55
Che Guevara	46

In this case, 113 ballots were counted. Thus, the threshold is  $113 \times 50\%$  plus 1 = 57. Two candidates met the threshold in round 2 and are elected. The threshold is lower because two voters did not cast any votes for candidates still in the race. Those ballots are deemed blank.

**Scenario A-2**

**Round 2 One Winner**

In the following example, the threshold is still 57 and the two highest votes are counted; however, in this case, one candidate, Greta Greenwood reaches the threshold and is elected.

Jack B. Nimble	55
Greta Greenwood	67*
David Crockett	53
Che Guevara	48

Since one candidate is elected, the next two highest vote getters move into Round 3.

**Round 3**

In this Round 3, all ballots are recounted, giving the highest vote cast to the candidate remaining in the election. This yields the following result:

Jack B. Nimble	57
David Crocket	53

At this point, the candidate with the most votes will have a majority of the votes cast and will be elected.

**Scenario A-3**

In this scenario no candidate meets threshold in Round 2, above, the lowest vote getter is eliminated. The two highest rankings for the candidates remaining are counted. This yields the following results:

Jack B. Nimble	55
Greta Greenwood	67
David Crockett	53

In this example Greta Greenwood is elected and Jack B. Nimble and David Crockett are recounted as Round 3, above.

**SCENARIO B**

**Round 1**

In this example, as in Scenario A, 115 ballots were cast with the following results after the count of the 1<sup>st</sup> and 2<sup>nd</sup> choices on each ballot:

Jack B. Nimble	42
Greta Greenwood	60*
David Crockett	36
Travis Thompson	15
Che Guevara	24
John Q. Adams	21
Wilbur Mills	10
Peter Romanov	22

With 115 ballots cast, i.e. 115 voters participated in this Round 1, the threshold is  $115 \times 50\% = 57.5$  plus 1 = 58. This threshold is needed to be elected.

In this case Greta Greenwood is elected. The next two highest vote getters enter Round 2.

**Round 2**

All ballots are recounted giving the highest ranking to the candidate who is still in the race.

Jack B. Nimble	57
David Crockett	53

In this example, 110 ballots are cast for one of these two candidates. Thus, the threshold is 56. Jack B. Nimble wins. In all cases, the threshold will be met unless there is a tie. Ties are broken pursuant to set procedures.

**ORDINANCE NO. 3**  
**Series of 2009**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ASPEN,  
COLORADO, AMENDING TITLE 2 OF THE ASPEN MUNICIPAL CODE BY  
THE ADOPTION OF A NEW CHAPTER 2.26, INSTANT RUNOFF VOTING  
PROCEDURES.**

**WHEREAS**, Article XX, Section 6(d) of the Colorado State Constitution grants to Home Rule municipalities the power to legislate in “all matters pertaining to municipal elections;” and

**WHEREAS**, on September 4, 2007, the City Council adopted Ordinance No. 38, Series of 2007, to amend Sections 2.7 and 3.2 of the Aspen City Home Rule Charter to require the City Council to adopt and implement instant run-off voting procedures for the election of Mayor and members of Council, and to require members of Council to be elected by majority vote; and

**WHEREAS**, on November 6, 2007, the electorate of the City of Aspen did approve Ordinance No. 38, Series of 2007; and

**WHEREAS**, the City Clerk has met with a number of citizens of the City of Aspen for the purpose of formulating instant run-off voting procedures and said committee of citizens has recommended the adoption of this ordinance.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF  
THE CITY OF ASPEN, COLORADO, THAT:**

**Section 1.**

Title 2 of the Aspen Municipal Code is hereby amended by the addition of a new Chapter 2.26, Instant Runoff Voting Procedures, which Chapter shall read as follows:

**Chapter 2.26**

**INSTANT RUNOFF VOTING PROCEDURES**

**Sec. 2.26.010      Applicability.**

This Chapter shall apply to all elections conducted using instant runoff voting to elect the Mayor and Councilmembers. All other provisions of the Colorado Municipal Election Code, Sections 31-10-101, *et seq.*, C.R.S., and Section 1-7-1003, C.R.S., shall apply to the extent they are not inconsistent with this Chapter.

**Sec. 2.26.020 Definitions.**

(a) *Instant runoff voting* – means ranked voting for single and multiple winner contests. Instant runoff voting simulates a series of runoff elections in a single election. In each round of “instant runoff,” the last place candidates with no chance of winning are eliminated. Voters for those candidates have their ballots count towards their next choice in the following round.

(b) *City Clerk* – means the City Clerk of the City of Aspen or his or her designee.

**Sec. 2.26.030 Adoption of a Procedure Manual.**

A “City of Aspen - Instant Runoff Voting Procedures Manual,” appended as Exhibit A to this ordinance, is hereby adopted to implement procedures for instant runoff and choice voting elections consistent with the requirements of this Chapter. The Procedural Manual shall incorporate, to the extent not incompatible with this Chapter, the rules set forth in the latest version of the “Election Rules of the Colorado Secretary of State.” Three (3) copies of the Procedure Manual, all certified to be true copies by the Mayor, and three (3) copies of the “Election Rules of the Colorado Secretary of State” shall be on file with the City Clerk and shall be open for public inspection in his or her office at City Hall, any weekday between the hours of 9:00 a.m. and 5:00 p.m.

**Sec. 2.26.040 Amendments to the Procedure Manual.**

The Procedures Manual may be amended from time to time by the City Clerk upon the passage of a resolution by the City Council evidencing its approval and the conduct of a public hearing.

**Sec. 2.26.050 Voting Tabulation Center.**

The City Clerk shall designate one location within the City of Aspen to serve as the Voting Tabulation Center prior to each election. The center shall be reasonably accessible to the public for the purpose of observing the vote tabulation. At a minimum, the City Clerk shall arrange the counting of ballots so that the candidates and their representatives may observe the ballots as they are counted. The City Clerk shall ensure that public observation does not interfere with the counting of the ballots. Tabulation of votes shall be conducted as described in this Chapter and the Procedure Manual referenced in Section 2.26.030.

**Sec. 2.26.060 Tabulation of Votes.**

The City Clerk shall conduct the tabulation of votes as required by this Chapter as soon as possible after the close of the polls. The City Clerk may adjourn the tabulation of votes at any time he or she believes in his or her sole discretion a need to recess the tabulation of votes, including a recess over night. No single recess period called by the City Clerk shall extend beyond 12 continuous hours. At any time the tabulation of votes is

discontinued for a recess period, all ballots shall be safely secured in a combination safe. The Procedures Manual referenced at Section 2.26.030 shall include provisions to ensure the safekeeping of ballots during all recess periods.

**Sec. 2.26.070 Reporting Results.**

- A. The City Clerk shall issue the following reports:
  - (i) A summary report listing the total number of votes for each candidate in each round;
  - (ii) A ballot image report listing for each ballot the order in which the elector ranked the candidates, the precinct of the ballot, and whether the ballot is a mail-in ballot or early voting ballot; and
  - (iii) A comprehensive report listing the results in the summary report by precinct.
- B. The City Clerk may be required to establish additional requirements for the reports issued pursuant to this Section as set forth in the Procedure Manual referenced in Section 2.26.030.
- C. Preliminary versions of the summary report and ballot image report shall be made available to the public as soon as possible after the commencement of the official tabulation of votes.

**Sec. 2.26.080 Voter Education.**

The City Clerk shall conduct an education and outreach campaign prior to each election to familiarize electors with ranked choice voting.

**Section 2:**

This ordinance shall not affect any existing litigation and shall not operate as an abatement of any action or proceeding now pending under or by virtue of the ordinances repealed or amended as herein provided, and the same shall be conducted and concluded under such prior ordinances.

**Section 3:**

If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held invalid or unconstitutional in a court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and shall not affect the validity of the remaining portions thereof.

A public hearing on the ordinance shall be held on the 23<sup>rd</sup> day of February, 2009 in the City Council Chambers, Aspen City Hall, Aspen, Colorado.

**INTRODUCED, READ AND ORDERED PUBLISHED** as provided by law,  
by the City Council of the City of Aspen on the 9<sup>th</sup> day of February, 2009.

\_\_\_\_\_  
Michael C. Ireland, Mayor

**Attest:**

\_\_\_\_\_  
**Kathryn S. Koch, City Clerk**

**FINALLY ADOPTED** and ordered published this \_\_\_\_\_ day of \_\_\_\_\_  
2009.

\_\_\_\_\_  
Michael C. Ireland, Mayor

**Attest:**

\_\_\_\_\_  
**Kathryn S. Koch, City Clerk**