



# Memorandum

**TO:** Kevin J. Jackson, Village Manager

A handwritten signature in dark ink, appearing to read "KJ Jackson", enclosed in a simple oval.

**FROM:** Gregory T. Smith, Interim Village Attorney *GTS*

**FOR:** Village President and Board of Trustees

**DATE:** October 18, 2024

**SUBJECT: Referendum Regarding Ranked Choice Voting Procedures**

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## **Purpose**

The purpose of this memo is to explain how candidates for the offices of Village President and Trustee would be elected should the ranked choice voting referendum pass. We also provide updates on the State Ranked-Choice and Voting Systems Task Force and the City of Evanston's efforts to implement ranked choice voting.

## **Background**

On October 10, 2023, the Village Board received a presentation on ranked choice voting and discussed whether to adopt an ordinance placing a ranked choice voting referendum on the ballot. The Village Board did not adopt the ordinance.

In August of 2024, petitions were filed with the Village to place a referendum implementing ranked choice voting for certain Village elected officials on the November 5, 2024 general election ballot. The referendum proposes a new election process for the offices of Village President and Trustee beginning with the April of 2027 consolidated election.

## **Referendum**

On November 5, 2024, voters in the Village are expected to consider the referendum in **Exhibit A**. The referendum has three numbered Sections – 1, 2, and 3 – and additional subsections within Section 3 – (a), (b), (c), and (d). Section references below are to these Sections and subsections.

## **Legal Standard**

The Illinois Constitution authorizes home rule municipalities, such as the Village, to change the way in which its officers are elected after referendum approval. Ill. Const.,

Art. VII, Sec. 6(f). A referendum proposing a change in the way in which Village officials are elected must be very specific. As the Village Attorney aptly noted in an October 10, 2023 memorandum to the Village Board:

This specificity is required under the Illinois Supreme Court's holding in the case of *Leck v. Michaelson*, 111 Ill.2d 523 (1986). Per the Court's holding, the formula for the election of Village officers by ranked-choice voting must be on the ballot in specific, understandable language for the voters. In the *Leck* case, the Court invalidated a binding referendum adopted by the voters of the Village of Lansing. The referendum at issue provided, "Shall a run-off election be held for any candidates for public office in the Village of Lansing who do not receive fifty percent (50%) of the votes cast for that office."

After the proposition passed, the Village Board adopted an Ordinance to implement the proposition. Lansing's adopted Ordinance contained numerous provisions regarding the procedures for run-off elections.

The Court stated that although the village's home rule powers allowed for the village to adopt the referendum to change the manner of selection of its elected officers under Article VII, Section 6(f) of the Illinois Constitution, it could not do so under its chosen method. The referendum submitted to the voters must be "self-executing." *Id.* at 528. What this means from a legal standpoint is that there can be no vagueness or ambiguities contained in the referendum question.

A binding referendum proposition must be able to stand on its own terms and a later adopted Ordinance to explain the terms of a referendum is legally impermissible. The Court characterized Lansing's referendum as follows, "The Lansing referendum illustrates the mischief that may result from a proposition that initiates a change in the election process without adequately working out and articulating the details of the new scheme." *Id.* at 531.

Per *Leck*, the referendum submitted to the Village must stand on its own terms. It is not permissible to supplement, add to, or make assumptions about its contents. If the referendum succeeds, the procedures described in it must be followed precisely as written. Gaps or problems in those procedures could only be cured by referendum and not by an ordinance adopted by the Village.

**Scope:**

Below is a summary of the scope of the referendum with its terms.

- A. Offices Impacted by Ranked Choice Voting. If the referendum succeeds, ranked choice voting will apply to the election of candidates to the offices of Village President and Trustee, but not Village Clerk. Ranked choice voting would also not apply to any other offices such as board of education members, park district commissioners, township trustees, county commissioners, State representative and senators, Governor, or Federal offices.
- B. Village Clerk. If the referendum passes, voters will elect the Village President and Trustees using the procedures described in the referendum, but the Village Clerk would continue to be elected by traditional majority vote.
- C. Write-In Candidates. A voter may write-in a candidate's name and rank the write-in candidate in the same manner as any candidate whose name is printed on the ballot.
- D. When Would Ranked Choice Voting Begin? Ranked choice voting would be implemented beginning with the April of 2027 consolidated election. After that election, ranked choice voting would also be used to fill vacancies in those offices.
- E. General Procedure. The referendum provides each voter with one vote for each office to be filled at election. Instead of selecting one candidate for each opening, the voter assigns a rank to all candidates running for a given office. The rank of "1" is the highest, followed by "2," "3," and so on, based on the number of candidates for each office. Implementation of voters' rankings for candidates for Village President and Trustee is described below.
- F. Overvoting. If a voter overvotes, by ranking multiple candidates at the same ranking, the referendum provides that "their vote shall be counted up to the overvote."

**Election of Village President**

The referendum proposes that the Village President be elected using the following procedures.

- A. Voting Procedure. Per Section 1, voters will rank each candidate for Village President in ascending order with "1" being ranked the highest, "2" being the second rank, and so on.
- B. Counting Votes.

1. Per Section 2, to be elected, a Village President candidate must receive more than 50% of the "1" ranked votes. If a candidate surpasses that vote threshold, they are elected and no further action is taken to distribute votes.
2. Section 3 provides that if the Village President is not elected by "1" ranked votes, the procedure in Sections 3(a) – (d) will be used to determine the winner. Section 3(d) provides that Sections 3(a) – (c) are to be followed until a candidate for Village President surpasses the vote threshold.
3. Section 3(c) provides a procedure for eliminating Village President candidates with the "fewest total votes" when there remain more candidates for an office than open seats. If a voter's "1" ranked candidate is eliminated, their vote is transferred to their next-ranked candidate for that office who has not been eliminated.
4. Per Section 3(d), the redistribution process in Section 3(c) will occur until a candidate surpasses the vote threshold.

### **Election of Trustees**

The referendum proposes that Trustees be elected using the following procedures.

- A. Voting Procedure. Per Section 1, voters will rank each candidate for Trustee in ascending order, with "1" being ranked the highest, "2" being the second rank, and so on.
- B. Counting Votes.
  1. Per Section 2, the vote threshold for Trustees is more than 25% of the "1" ranked votes. Candidates for Trustee which meet that vote threshold will be elected.
  2. Section 3 provides that if after counting all "1" ranked votes, less than three candidates for Trustee have obtained enough "1" rank votes to meet the vote threshold, then votes will be distributed as follows:
    - a. Per Sections 3(a) and (b), once a candidate for Trustee receives enough votes to meet the vote threshold, a part of that candidate's surplus votes will transfer to the next-ranked candidate on each ballot, so long as that next-ranked candidate has not been eliminated.
    - b. Per Section 3(c), if there are no surplus votes to distribute and there are still seats that have not been filled, then each

candidate who has not been eliminated will be elected as Trustee.

- c. Per Section 3(d), the above-mentioned redistribution process in Sections 3(a) and (b) will occur from each highest-ranked candidate until all seats are filled.
- d. Also, per Section 3(c), when there are more candidates for an office than open seats, the Trustee candidate with the "fewest total votes" is eliminated. Per this Section, if a voter's "1" ranked candidate is eliminated, their vote is transferred to their next-ranked candidate for that office who has not been eliminated.

### **State Task Force on Ranked Choice Voting**

As the Village Attorney noted in the October 10, 2023 memorandum to the Village Board:

[T]he Illinois legislature adopted [Public Act 103-467](#) which was signed by Governor JB Pritzker on August 4, 2023 and went into effect that same date. Public Act 103-467 contains a new state statute, 10 ILCS 5/1-23, which requires the State of Illinois to study whether ranked-choice voting is a viable election system in the State.

The Ranked-Choice and Voting Systems Task Force is required to issue a report on ranked choice voting. The report was initially due by July 1, 2024. In November of 2023, the deadline was extended to June 30, 2025. The Task Force has not submitted its report to date.

According to media reports, the Task Force is exploring implementation of ranked choice voting in 2028 at the earliest.<sup>1</sup> The report is expected to include details regarding statutory and voting systems modifications necessary to implement ranked choice voting.

Public Act 103-467 is an attachment to this memo.

### **City of Evanston's Implementation of Ranked Choice Voting**

In 2022, voters in the City of Evanston approved a referendum to implement ranked choice voting for City officials beginning with the 2025 consolidated election cycle. Media reports indicate that the Cook County Clerk will not implement that procedure because of limitations in State law and with the Clerk's voting machine technology.<sup>2</sup>

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<sup>1</sup> <https://www.wifr.com/2024/03/06/ranked-choice-voting-could-come-illinois-2028/>.

<sup>2</sup> <https://evanstonroundtable.com/2024/06/25/evanston-ranked-choice-voting-ordinance/> and <https://dailynorthwestern.com/2024/01/24/city-ahead-of-ranked-choice-voting-in-evanston-in-2025-illinois-sees-push-for-electoral-reform/>.

The City Council adopted an ordinance in June of 2024 directing the Cook County Clerk to implement ranked choice voting.<sup>3</sup> The resolution of this dispute will be illustrative for implementation of ranked choice voting in municipalities under current State law. In July of 2024, the City Clerk announced that she did not anticipate ranked choice voting would be implemented for the 2025 election cycle.<sup>4</sup>

### **Engagement**

In August 2024, staff created and published a page on the Village's website that provides general ranked choice voting questions and answers, referendum-specific questions and answers and a copy of the referendum itself. The page can be viewed here: <https://www.oak-park.us/rcv>.

The page is now displayed on the Village of Oak Park website's homepage, in the "Don't Miss" section just below the top news stories and upcoming events. Additionally, staff has taken steps this week to share basic information and a link to the landing page via social media and the weekly e-news.

### **Next Steps**

The referendum is expected to appear on the November 5, 2024 general election ballot. Village staff will continue to monitor the progress of the Task Force and the City of Evanston's implementation of ranked choice voting.

### **Attachments:**

1. Exhibit A – Referendum
2. Public Act 103-467

For questions, please contact Kevin Jackson, Village Manager, at [kjackson@oak-park.us](mailto:kjackson@oak-park.us) or (708) 358-5773.

**cc:** Lisa Shelley, Deputy Village Manager  
Ahmad Zayyad, Deputy Village Manager  
Christina M. Waters, Village Clerk  
All Department Directors

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<sup>3</sup> <https://cityofevanston.civicweb.net/document/401102/>, p. 161-165.

<sup>4</sup> [https://youtu.be/l\\_isCVSTAFs?t=475](https://youtu.be/l_isCVSTAFs?t=475).

## **EXHIBIT A**

### **REFERENDUM**

Shall the Village of Oak Park elect its President and Village Board of Trustees by "Ranked Choice Voting"?

"Ranked Choice Voting" provides each voter with one vote and allows voters to rank candidates in order of preference to maximize the power of their vote. This method of voting would be used to rank candidates for President and Village Board. If approved, the following rules shall apply beginning with the April 2027 consolidated election: (1) voters shall vote by ranking one or more candidates up to the number of candidates in the race (the number "1" is the highest ranking, followed by "2" then "3" and so on); (2) a candidate for President who receives 50% plus one of first rankings and any candidate for Village Board Trustee who receives 25% plus one of first rankings shall be elected; (3) in the event that the President and/or all three Village Board Trustees are not elected by first rankings, tabulation for the unelected offices proceeds as follows: (a) for any elected Village Board Trustee who receives more votes than needed to win a seat, a part of each vote received by that candidate shall be transferred to each ballot's next-ranked candidate who has not yet been eliminated, where the part of the vote to be transferred is the number of surplus votes received by that candidate above the threshold needed to win a seat divided by the total votes for that elected Trustee (the fraction of the candidate's votes that were in surplus of the number needed to win a seat that would be wasted if not transferred); (b) any candidate for Village Board Trustee who receives 25% of the vote plus one after this transfer is elected, and, pursuant to step (a), a part of each vote in surplus of 25% plus one is transferred to the next highest-ranked candidate who has not yet been eliminated; (c) if there are no surplus votes to transfer and all seats are not filled, the candidate with the fewest total votes is eliminated, and votes for the eliminated candidate are counted for each ballot's next-ranked candidate who has not been eliminated; (d) steps (a) – (c) shall continue until a candidate for President is elected with 50% of the vote plus one and three Village Board Trustees are elected with 25% of the vote plus one. Ranked Choice Voting eliminate a primary election for President and Village Board of Trustees. In the event of a Village Board vacancy, Ranked Choice Voting shall be used, and the percentage required for a candidate to be elected shall be based on the number of vacancies. In the event a voter "overvotes" by ranking multiple candidates at the same ranking, their vote shall be counted up to the overvote. For all declared write-in candidate(s), the ballot shall include a write-in line, and voters may write in a candidate's name and rank that candidate in the same manner as a candidate whose name is printed on the ballot. The election authority for Oak Park shall design and print ballots that allow Ranked Choice Voting and program electronic voting machines to enable Ranked Choice Voting. [ ] Yes [ ] No

**Public Act 103-467**

(10 ILCS 5/1-23 new)

Sec. 1-23. Ranked-Choice and Voting Systems Task Force.

(a) The Ranked-Choice and Voting Systems Task Force is created. The purpose of the Task Force is to review voting systems and the methods of voting, including ranked-choice voting, that could be authorized by law. The Task Force shall have the following duties:

(1) Engage election officials, interested groups, and members of the public for the purpose of assessing the adoption and implementation of ranked-choice voting in presidential primary elections beginning in 2028.

(2) Review standards used to certify or approve the use of a voting system, including the standards adopted by the U.S. Election Assistance Commission and the State Board of Elections.

(3) Advise whether the voting system used by Illinois election authorities would be able to accommodate alternative methods of voting, including, but not limited to, ranked-choice voting.

(4) Make recommendations or suggestions for changes to the Election Code or administrative rules for certification of voting systems in Illinois to accommodate alternative methods of voting, including ranked-choice voting.

(b) On or before March 1, 2024, the Task Force shall publish a final report of its findings and recommendations. The report shall, at a minimum, detail findings and recommendations related to the duties of the Task Force and the following:

(1) the process used in Illinois to certify voting systems, including which systems can conduct ranked-choice voting; and

(2) information about the voting system used by election authorities, including which election authorities rely on legacy hardware and software for voting and which counties and election authorities rely on equipment for voting that has not exceeded its usable life span but require a software upgrade to accommodate ranked-choice voting. In this paragraph, "legacy hardware and software" means equipment that has exceeded its usable life span.

(c) The Task Force shall consist of the following members:

(1) 4 members, appointed by the Senate President, including 2 members of the Senate and 2 members of the public;

(2) 4 members, appointed by the Speaker of the House of Representatives, including 2 members of the House of Representatives and 2 members of the public;



(3) 4 members, appointed by the Minority Leader of the Senate, including 2 members of the Senate and 2 members of the public;

(4) 4 members, appointed by the Minority Leader of the House of Representatives, including 2 members of the House of Representatives and 2 members of the public;

(5) 4 members, appointed by the Governor, including at least 2 members with knowledge and experience administering elections.

(d) Appointments to the Task Force shall be made within 30 days after the effective date of this amendatory Act of the 103rd General Assembly. Members shall serve without compensation.

(e) The Task Force shall meet at the call of a co-chair at least quarterly to fulfill its duties. At the first meeting of the Task Force, the Task Force shall elect one co-chair from the members appointed by the Senate President and one co-chair from the members appointed by the Speaker of the House of Representatives.

(f) The State Board of Elections shall provide administrative support for the Task Force.

(g) This Section is repealed, and the Task Force is dissolved, on June 1, 2024.