



CITY of BRISBANE

City Council Meeting Agenda

Thursday, May 16, 2024 at 7:30 PM • City Hall 50 Park Place, Brisbane, CA 94005

The public may observe/participate in City Council meetings using remote public comment options or attending in person. City Council members shall attend in person unless remote participation is permitted by law. The City Council may take action on any item listed in the agenda.

TO ADDRESS THE COUNCIL IN PERSON

Location: 50 Park Place, Brisbane, CA 94005, Community Meeting Room

Masking is not required but according to the California Department of Public Health guidelines, people at higher risk for severe illness should consider masking. To help maintain public health and safety, we respectfully request that people not attend in-person if they are experiencing symptoms associated with COVID-19 or are otherwise ill and likely contagious (e.g., respiratory illnesses).

To address the City Council on any item – whether on the posted agenda or not – please fill out a Request to Speak Form located in the Community Meeting Room Lobby and submit it to the City Clerk. Speakers are not required to submit their name or address.

REMOTE PARTICIPATION

Members of the public may participate in the City Council meeting by logging into the Zoom Webinar listed below. City Council meetings may also be viewed live and/or on-demand via the City's YouTube Channel, youtube.com/brisbaneca, or on Comcast Ch. 27. Archived videos may be replayed on the City's website, brisbaneca.org/meetings. Please be advised that if there are technological difficulties, the meeting will nevertheless continue if remote participation is available.

The agenda materials may be viewed online at brisbaneca.org at least 72 hours prior to a Regular Meeting, and at least 24 hours prior to a Special Meeting.

Remote Public Comments:

Remote meeting participants may address the City Council. We also encourage you to submit public comments in writing in advance of a meeting. Aside from commenting personally while in the Zoom Webinar, the following email and text line will be also monitored during the meeting and public comments received will be noted for the record during Oral Communications 1 and 2 or during an agenda item.

Email: ipadilla@brisbaneca.org or Text: (628) 219-2922

Join Zoom Webinar: zoom.us (please use the latest version: zoom.us/download)

brisbaneca.org/cc-zoom

Webinar ID: 991 9362 8666

Call In Number: 1 (669) 900-9128

Note: Callers dial *9 to “raise hand” and dial *6 to mute/unmute.

SPECIAL ASSISTANCE

If you need special assistance to participate in this meeting, please contact the City Clerk at (415) 508-2113. Notification in advance of the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting.

WRITINGS THAT ARE RECEIVED AFTER THE AGENDA HAS BEEN POSTED

Any writings that are received after the agenda has been posted but before 4pm of the day of the meeting will be available for public inspection at the front lobby in City Hall and on the internet (brisbaneca.org/meetings). Any writings that are received after 4pm of the day of the meeting will be available on the internet at the start of the meeting (brisbaneca.org/meetings), at which time the materials will be distributed to the Council.

CALL TO ORDER & PLEDGE OF ALLEGIANCE

ROLL CALL

- A. Consider any request of a City Councilmember to attend the meeting remotely under the “Emergency Circumstances” of AB 2449

ADOPTION OF AGENDA

PRESENTATIONS AND AWARDS

- B. Proclaiming May 2024 as Asian American Pacific Islander Heritage Month
- C. Proclaiming May 2024 as Mental Health Awareness Month
- D. Proclaiming May 19-25, 2024 as Public Works Week

ORAL COMMUNICATIONS NO.1

CONSENT CALENDAR

- E. Approve Minutes of City Council Meeting of April 18, 2024
- F. Approve Minutes of City Council Closed Session Meeting of May 2, 2024
- G. Approve the Friends of the Brisbane Library’s City-Wide Yard Sale as a Co-Sponsored Event
- H. Approve the Mothers of Brisbane’s CPR/First Aid Training as a Cosponsored Event
- I. Approve a Resolution Adopting a Project, the Overlay of Monterey Street between Visitation Avenue and San Bruno Avenue, for fiscal year 2024-2025 funded by Senate Bill 1: the Road Repair and Accountability Act of 2017

(The Fiscal Impact of this Item: The project recommended for this year is to utilize 2024-25 RMRA funds to complete a mill-and-overlay of Monterey Street between Visitacion Avenue and San Bruno Avenue, as identified in the City's pavement management system. City will receive an estimated \$124,200 to fund the cost of this work.)

OLD BUSINESS

- J. Elections Issues Update

STAFF REPORTS

- K. City Manager's Report on Upcoming Activities

MAYOR AND COUNCIL MATTERS

- L. Countywide Assignments and Subcommittee Reports
- M. Written Communications

ORAL COMMUNICATIONS NO.2

ADJOURNMENT

TO ADDRESS THE COUNCIL

City Council agenda materials may be viewed online at www.brisbaneca.org, in the City Hall Lobby, and in the Brisbane Library at least 24 hours prior to a Special Meeting, and at least 72 hours prior to a Regular Meeting. Persons wishing to address the Council should fill out a speaker card at the meeting and deliver the speaker card to the City Clerk or announce an intention to speak on an item once it is called.

PUBLIC MEETING VIDEOS

Public Meetings can be viewed live and/or on-demand via the City's YouTube Channel, www.youtube.com/brisbaneca, or on Comcast Channel 27. Archived videos can be replayed on the City's website via the All Meetings Page (<http://brisbaneca.org/city-government/meetings>).

SPECIAL ASSISTANCE

If you need special assistance to participate in this meeting, please contact the City Clerk at (415) 508-2113. Notification in advance of the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting.

File Attachments for Item:

E. Approve Minutes of City Council Meeting of April 18, 2024



BRISBANE CITY COUNCIL

ACTION MINUTES

**CITY COUNCIL MEETING AGENDA
THURSDAY, APRIL 18, 2024**

HYBRID MEETING, 50 PARK PLACE, BRISBANE, CA 94005

7:30 P.M. CALL TO ORDER – PLEDGE OF ALLEGIANCE

Mayor O’Connell called the meeting to order at 7:31 P.M. and led the Pledge of Allegiance.

ROLL CALL

A. Consider any request of a City Councilmember to attend the meeting remotely under the “Emergency Circumstances” of AB 2449

No Councilmembers made a request under the Emergency Circumstances of AB 2449.

Councilmembers present: Councilmembers Cunningham, Davis, Lentz, Mackin, and Mayor O’Connell

Councilmembers absent: None

Staff Present: Interim City Manager Holstine, City Clerk Padilla, City Attorney McMorrow, Finance Director Yuen, City Engineer Breault, Deputy Public Works Director Kinser, Assistant Engineer Santoyo-Velazquez, Assistant to the City Manager Cheung, Police Chief Macias, and Administrative Management Analyst Ibarra

ADOPTION OF AGENDA

Councilmember Davis made a motion, seconded by Councilmember Lentz, to adopt the agenda as it stands. The motion was carried unanimously by all present.

Ayes: Councilmembers Cunningham, Davis, Lentz, Mackin, and Mayor O’Connell

Noes: None

Absent: None

Abstain: None

ORAL COMMUNICATIONS NO. 1

Ron Davis wished Councilmember Davis a happy birthday.

CONSENT CALENDAR

B. Approve Minutes of City Council Meeting of March 7, 2024

D. Approve the Brisbane Dance Workshop's Annual Spring Performance as a Cosponsored Event

Councilmember Davis made a motion, seconded by Councilmember Cunningham, to approve Consent Calendar Items B and D. The motion was carried unanimously by all present.

Ayes: Councilmembers Cunningham, Davis, Lentz, Mackin, and Mayor O'Connell

Noes: None

Absent: None

Abstain: None

E. Approve the Brisbane Chamber of Commerce's and Brisbane Lions Club's "A Night in Little Reno" as a Cosponsored Event

Councilmember Davis is abstaining from voting on this item.

Councilmember Cunningham made a motion, seconded by Councilmember Lentz to approve Consent Calendar Items E. The motion was carried unanimously by all present.

Ayes: Councilmembers Cunningham, Lentz, Mackin, and Mayor O'Connell

Noes: None

Absent: None

Abstain: Councilmember Davis

C. Adopt a Resolution Establishing the 2024 Business License Tax for Liquid Storage Facilities as to Kinder Morgan/SFPP

After Council questions, Chris Florkowski made a comment that there are technological advancements that can help in accurate data reporting for liquid storage facilities. Interim City Manager Holstine asked for staff to bring the item back at a future meeting.

OLD BUSINESS

F. Receive Results of Parking Pilot Program Letter (Tulare and Thomas)

Councilmember Cunningham recused herself from the item and left the meeting room. Assistant Engineer Santoyo-Velazquez and Deputy Public Works Director Kinser reported on the results of the Parking Pilot Program Letter with door to door outreach on Tulare and Thomas. Half of the Tulare residents who responded were not in favor of the Parking Pilot Program on their street. Nearly 80% of the Thomas residents who responded to the letter were in favor of a Parking Pilot Program on their street. After council questions, no public comment, and council discussion, Councilmember Davis made a motion, seconded by Councilmember Lentz, to approve the Parking Pilot Program in Thomas. The motion passed with a 3 to 1 vote.

Ayes: Councilmembers Davis, Lentz, and Mackin

Noes: Mayor O'Connell

Absent: None

Abstain: None

Recusal: Councilmember Cunningham

G. Consider Introduction of Parking Ordinance, Waiving First Reading, Revising 10.26 of the Brisbane Municipal Code Concerning "Residential Parking Permit Program"

City Engineer Breault reported that the current residential parking program has been codified since 1998, but with the program requiring citizens to obtain 70% concurrence from their neighbors it has never been successfully implemented. He added that the primary changes in the ordinance if adopted will do the following:

- Lower the percentage of residents required to request a designated permit area to "not less than a majority of the dwellings on each side of the street"
- Provide Council the authority to impose residential parking restrictions by resolution.
- Provide structure for the implementation of the program, defines the vehicles impacted, and assigns oversight responsibilities to various city departments

After some questions, no public comment, and council discussion, Councilmember Davis made a motion, seconded by Councilmember Lentz, to introduce Parking Ordinance, Waiving First Reading, Revising 10.26 of the Brisbane Municipal Code Concerning "Residential Parking Permit Program". The motion was carried unanimously by all present.

Ayes: Councilmembers Cunningham, Davis, Lentz, Mackin, and Mayor O'Connell

Noes: None

Absent: None

Abstain: None

STAFF REPORTS

H. City Manager's Report on Upcoming Activities

Interim City Manager reported on the upcoming events and latest City news. Councilmembers will also schedule a budget workshop in May for an overview of the Fiscal Year 2024-2025 Budget with department presentations.

MAYOR/COUNCIL MATTERS

I. Countywide Assignments and Subcommittee Reports

Councilmembers provided their subcommittee meeting reports and countywide meeting reports.

J. Written Communications

Council received the following written communications:

- Lawrence (04-09-2024) San Mateo County Law Library
- Salmon (04-17-2024) noise pollution

ORAL COMMUNICATIONS NO. 2

Chris Florkowski spoke on the Pilot Parking Permit Program and the importance of Council building a vision for the City.

ADJOURNMENT

Mayor O'Connell adjourned the meeting at 8:42 P.M.

Ingrid Padilla
City Clerk

File Attachments for Item:

F. Approve Minutes of City Council Closed Session Meeting of May 2, 2024



BRISBANE CITY COUNCIL**ACTION MINUTES**

BRISBANE CITY COUNCIL CLOSED SESSION MEETING**THURSDAY, MAY 2, 2024***HYBRID MEETING, 50 PARK PLACE LARGE CONFERENCE ROOM,
BRISBANE, CA***6:30 P.M. CLOSED SESSION**

- A. Approval of the Closed Session Agenda**
- B. Public Comment. Members of the public may address the Councilmembers on any item on the closed session agenda**
- C. Adjournment into Closed Session**
- D. Liability Claim: Claimant Lundeborg, pursuant to Government Code, section 54956.95**
- E. Personnel Matters: Public Employment, pursuant to Government Code, section 54957(b) Title: City Manager**
- F. Conference with Legal Counsel-Anticipated Litigation. Significant exposure to litigation pursuant to paragraph (2) of subdivision (d) of Section 54956.9 (One potential case)**

ADJOURNMENT

Mayor O'Connell called the meeting to order at 6:35 P.M. Councilmember Davis made a motion, seconded by Councilmember Lentz, to approve the Closed Session Meeting Agenda as it stands. The motion passed unanimously by all present.

Ayes: Councilmembers Cunningham, Davis, Lentz, Mackin, and Mayor O'Connell.

Noes: None

Absent: None

Abstain: None

There was no public comment. Mayor O'Connell adjourned the meeting into Closed Session.

REPORT OUT OF CLOSED SESSION

City Attorney McMorrow reported that Councilmembers rejected the claim. Councilmembers were also provided an update on the Personnel Matters Item E and Anticipated Litigation Item F and no action was taken.

ADJOURNMENT

The meeting was adjourned at 7:21 P.M.

Ingrid Padilla, City Clerk

File Attachments for Item:

G. Approve the Friends of the Brisbane Library's City-Wide Yard Sale as a Co-Sponsored Event



CITY COUNCIL AGENDA REPORT

Meeting Date: 5/16/2024

From: Jeff Franco, Recreation Coordinator
Noreen Leek, Parks & Recreation Director

Subject: Application for Event cosponsorship

Community Goal/Result

Community Building

Purpose

Promote cultural and social events that encourage community engagement and provide assistance to local non-profit organizations.

Recommendation

Approve the Friends of the Brisbane Library’s (FOBL) City-Wide Yard Sale as a co-sponsored event.

Background

The City-Wide Yard Sale is open to the general public and includes flea market style shopping opportunities at both the Brisbane Community Park and participating resident homes throughout Brisbane. A map of all the garage/yard sales locations will be distributed to the public. Hosted by the Friends of the Brisbane Library, this annual yard sale is the Friends’ biggest fundraiser. Brisbane community members register early to sell on the day of the event, and their registration fees support FOBL efforts. This event brings community members together in a unique format to repurpose household supplies/clothing and promote sustainability. It also supports Council’s goal of providing aid to non-profit organizations.

Discussion

This year’s event is being proposed for July 27, 2024, at the Community Park and along San Francisco Avenue. Event set up would begin at 5:00am and clean up would be completed by 6:00pm.

Fiscal Impact

FOBL is requesting support from the City in the way of promotion and community announcements which have no financial impact. They have requested closure of a portion of San Francisco Avenue for the purpose of the event. Therefore, some staff time from the Public Works crew will be necessary to place public notifications onsite prior and to conduct the closure itself on the day of the event. A permit for doing so will be routed by staff in accordance with the City’s policies for traffic encroachment permits.

Attachments

1. Cosponsorship Application

Jeff Franco

Jeff Franco, Recreation Coordinator

Noreen Leek

Noreen Leek, Parks & Recreation Director

Clay Holstine

Clay Holstine, City Manager



City of Brisbane

CO-SPONSORSHIP APPLICATION

This application must be submitted to the Parks & Recreation Department at least (90) working days prior to the requested event.

PHONE: 415-508-2140 | EMAIL: BRISBANEREC@BRISBANECA.ORG | OFFICE: 50 Park Place, Brisbane, CA 94005

APPLICANT INFORMATION

Name of Contact Person: Dawn David Contact Person's Phone: 415-823-3552

Contact Person's Email: _____

Name of Organization: Friends of the Brisbane Library Organization's Website: fobl.info

Organization's Address or P.O. Box: 163 Visitation Ave, Brisbane, CA 94005

Circle ONE of the following items below that best describes your organization.

- a. Brisbane Non-Profit Organization
 b. Non-resident, Non-Profit Organization (Outside of Brisbane)
 c. School District, School, or School Affiliated Group (ex. PTO)
 d. Private Group, Club, or Organization

What year did your organization begin serving the Brisbane community? 50 yrs +

How has your organization contributed to the Brisbane community in the past 2 years?

What is your organization's mission and/or purpose?

We are a nonprofit organization that provides assistance to the Brisbane Library. We organize, develop, and produce events and resources to sustain our small but treasured library.

EVENT DETAILS

Name of Event: Brisbane Citywide Yard Sale Event Set-up Start Time: 5:00 AM

Event Date (mm/dd/yy): 07/27/24 Event Start Time: 8:00 AM

Event Day of Week: Saturday Event Close Time: 6:00 PM

Event Location: San Francisco Ave / Community Park

Reservation Permit Number (if applicable): _____

Describe what can be expected from this event? (ex. Performance, shopping, activities, etc.)

City wide yard sale

Will there be any fundraising at this event? If yes, what will the funds raised be used for? Friends of the Brisbane Library

Are there any admission fees for this event? If yes, please list them here: \$257 Booth

If this event is NOT open to the general public, what are the restrictions for who may attend? (ex. Age, membership, residency, etc.)

N/A

I G. INDOOR FACILITY ACCESS REQUEST

City Staff must be present to accommodate the use of any of our indoor facilities. The following schedule will be used to ensure someone will be available when you need access. (If you are not requesting indoor facility use, you may skip to the next section)

Date of Facility Access (mm/dd/yy): _____ Opening Time: _____ Closing Time: _____

Date of Facility Access (mm/dd/yy): _____ Opening Time: _____ Closing Time: _____

Date of Facility Access (mm/dd/yy): _____ Opening Time: _____ Closing Time: _____

EQUIPMENT USE REQUEST

<Insert Equipment Use Liability Notice>
Indicate the equipment you wish to borrow for this event.

Bluetooth Speaker? _____ with Microphone? _____

Projector & Screen? (Mission Blue Only) _____

Theater Risers? (Mission Blue Only) _____

Theatrical Lighting? (Mission Blue Only) _____ Lighting Technician? _____

Other: _____

Quantity:	Item:
_____	6ft Long Rectangle Tables
_____	5ft Diameter Round Tables
_____	Chairs
_____	10ft x 10ft Canopy/Pop-up Tent
_____	Weighted Sandbags

PERMITS

Food & Beverage Permits

Will any food or non-alcoholic beverages be sold at your event? _____ If yes, this permit is required smchealth.org/food-program

Will alcoholic beverages be served or sold at your event? _____ If yes, you must attach a copy of an Alcoholic Beverage Permit
*Full Liquor Liability: If beer or wine is available for consumption and money is transacted in any form (i.e. for donation, for a ticket, for a meal, for entry to the event, for the beverage) then full liquor liability premiums are necessary.

Traffic Permits

Will this event require any street or parking closures? If yes, you must obtain a Brisbane Encroachment Permit

Amplified Sound Permits

Do you wish to use amplified sound at this event? _____ If yes, you must submit an Brisbane Amplified Sound Permit Application

ADDITIONAL SUPPORT

Do you need any promotional support for this event?

Signboards? _____

Social Media? _____

Digital Graphics / Flyers? _____

Programs? _____

Other: Spray Chalk / Map

USE AGREEMENT & LIABILITY RELEASE

To the fullest extent allowed by law, I agree to indemnify and defend the City of Brisbane, its directors, officers, agents, employees and volunteers and hold them harmless from and against any and all loss, liability, expense, claims, costs, suits, and damages, including attorneys' fees, arising out of the use or occupancy described in this application. I agree to waive all rights of subrogation against the City, its elected or appointed officers, officials, agents and employees for losses paid under the terms of any policy which arise from the use or occupancy described in this application.

X Applicant Signature [Signature]

Date 4/30/24

File Attachments for Item:

H. Approve the Mothers of Brisbane's CPR/First Aid Training as a Cosponsored Event



CITY COUNCIL AGENDA REPORT

Meeting Date: 5/16/2024

From: Jeff Franco, Recreation Coordinator
Noreen Leek, Parks & Recreation Director

Subject: Application for Event Cosponsorship

Community Goal/Result

Community Building & Fundraising

Purpose

Promote cultural and social events that encourage community engagement and provide assistance to local non-profit organizations.

Recommendation

Approve the Mothers of Brisbane’s CPR/First Aid Training as a cosponsored event.

Background

The Mothers of Brisbane (MOB) is a, 501 (c)(3), non-profit parents’ club and a welcoming community of support for parents of young children in Brisbane, and surrounding communities. Established in the summer of 2005, the MOB is a place where families come together to make friends, learn about community resources, hold family events, arrange playgroups and childcare, share information, and support, and generally have a good time together. The MOB currently consists of single, partnered, married, gay, straight, working, stay-at-home, and self-employed parents. They come from different backgrounds, cultures, and experiences, but through it all, they are families.

Discussion

The CPR/First Aid Training will take place at the Mission Blue Center on Sunday, August 25th, 2024, from 10:30am-12:30pm. The instruction and presentation will be provided by certified CPR/First Aid instructors from the Brisbane Police Dept and North County Fire Authority. The purpose of this event is to educate families around First Aid and CPR so that they are equipped to respond in the event of an emergency. The event will provide vital life skills to adults, and youth, in attendance. This event is designed as a fundraiser and there is a suggested donation of \$20/adult or \$30/family to benefit the MOB. The Mothers of Brisbane meets Group II requirements with the event open to the general public qualifies them for free use of the facility and waives the deposit requirement.

Fiscal Impact

The MOB is requesting support from the City as summarized in the table below. They have requested use of the Mission Blue Center for the aforementioned event. Although use of the facility and the deposit are waived as part of their Group II designation, they are also asking the City to waive costs associated with event insurance.

FINANCIAL IMPACT SUMMARY BASED ON APPLICATION

Hourly Rental of Mission Blue Center	Approximately 4.5 hours @ \$350/hour = \$1,575 <i>(including set up/clean up)</i>	Waived per City policy for Non-profit use
Mission Blue Rental Deposit	\$500 <i>(Typically refundable absent damages)</i>	Waived per City policy for Non-profit use
Indoor Event Insurance	Approximately \$100-\$250/event. <i>(Renters are typically required to procure insurance on their own and provide a copy to the city.)</i>	Requesting requirement be waived
Promotional and Marketing Support	Waived	

Attachments

- 1. Cosponsorship Application

Jeff Franco

 Jeff Franco, Recreation Coordinator

Noreen Leek

 Noreen Leek, Parks & Recreation Director

Clay Holstine

 Clay Holstine, City Manager



City of Brisbane CO-SPONSORSHIP APPLICATION

This application must be submitted to the Parks & Recreation Department at least **(90) working days** prior to the requested event.

PHONE: 415-508-2140 | EMAIL: BRISBANEREC@BRISBANECA.ORG | OFFICE: 50 Park Place, Brisbane, CA 94005

APPLICANT INFORMATION

Name of Contact Person: Mika Frisk Contact Person's Phone: (415) 378-2883

Contact Person's Email: mikajuliafrisk@gmail.com

Name of Organization: Mothers of Brisbane Organization's Website: https://sites.google.com/site/mothersofbrisbane/

Organization's Address or P.O. Box: N/A (mobboardcomms@gmail.com)

Circle ONE of the following items below that best describes your organization.

- a. **Brisbane Non-Profit Organization**
- b. Non-resident, Non-Profit Organization (Outside of Brisbane)
- c. School District, School, or School Affiliated Group (ex. PTO)
- d. Private Group, Club, or Organization

What year did your organization begin serving the Brisbane community? 2005

How has your organization contributed to the Brisbane community in the past 2 years?

MOB has hosted many events in the community, including but not limited to: the annual Easter event, recurring playgym sessions at the community center, health and wellness night and Diwali. MOB has also been a source of information and resources for the community, by circulating information for families and being a presence at day in the park.

What is your organization's mission and/or purpose?

MOB's mission is to connect the community through events for both parents and children as well as through sharing resources and facilitating communication amongst the community.

EVENT DETAILS

Name of Event: CPR/First Aid Training hosted by Mothers of Brisbane Event Set-up Start Time: 9:00 a.m.

Event Date (mm/dd/yy): 08/25/24 Event Start Time: 10:30 a.m.

Event Day of Week: Sunday Event Close Time: 12:30 p.m.

Event Location: Mission Blue

Reservation Permit Number (if applicable): _____

Describe what can be expected from this event? (ex. Performance, shopping, activities, etc.)

Instruction /presentation from certified CPR/First Aid Instructors from Brisbane PD and North County Fire

Will there be any fundraising at this event? Yes If yes, what will the funds raised be used for? MOB's continued activities in the community

Are there any admission fees for this event? Yes If yes, please list them here Suggested donation of \$20 per adult (\$30 per family)

If this event is NOT open to the general public, what are the restrictions for who may attend? (ex. Age, membership, residency, etc.)

No restrictions

INDOOR FACILITY ACCESS REQUEST

City staff must be present to accommodate the use of any of our indoor facilities. The following schedule will be used to ensure someone will be available when you need access. (If you are not requesting indoor facility use, you may skip to the next section)

Date of Facility Access (mm/dd/yy): 8/25/24 Opening Time: 9:00 a.m. Closing Time: 1:30 p.m.
 Date of Facility Access (mm/dd/yy): _____ Opening Time: _____ Closing Time: _____
 Date of Facility Access (mm/dd/yy): _____ Opening Time: _____ Closing Time: _____

EQUIPMENT USE REQUEST

<Insert Equipment Use Liability Notice>
 Indicate the equipment you wish to borrow for this event.
 Bluetooth Speaker? X with Microphone? X
 Projector & Screen? (Mission Blue Only) _____
 Theater Risers? (Mission Blue Only) _____
 Theatrical Lighting? (Mission Blue Only) _____ Lighting Technician? _____
 Other: _____

Quantity:	Item:
<u>2</u>	6ft Long Rectangle Tables
_____	5ft Diameter Round Tables
<u>50</u>	Chairs
_____	10ft x 10ft Canopy/Pop-up Tent
_____	Weighted Sandbags

PERMITS

Food & Beverage Permits

Will any food or non-alcoholic beverages be sold at your event? No If yes, this permit is required smchealth.org/food-program
 Will alcoholic beverages be served or sold at your event? No If yes, you must attach a copy of an [Alcoholic Beverage Permit](#)
 *Full Liquor Liability: If beer or wine is available for consumption and money is transacted in any form (i.e. for donation, for a ticket, for a meal, for entry to the event, for the beverage) then full liquor liability premiums are necessary.

Traffic Permits

Will this event require any street or parking closures? No If yes, you must obtain a [Brisbane Encroachment Permit](#)

Amplified Sound Permits

Do you wish to use amplified sound at this event? No If yes, you must submit an [Brisbane Amplified Sound Permit Application](#)

ADDITIONAL SUPPORT

Do you need any promotional support for this event?
 Signboards? Social Media? Color copies of flyers (approximately 100)
 Digital Graphics / Flyers? Programs?
 Other: _____

USE AGREEMENT & LIABILITY RELEASE

To the fullest extent allowed by law, I agree to indemnify and defend the City of Brisbane, its directors, officers, agents, employees and volunteers and hold them harmless from and against any and all loss, liability, expense, claims, costs, suits, and damages, including attorneys' fees, arising out of the use or occupancy described in this application. I agree to waive all rights of subrogation against the City, its elected or appointed officers, officials, agents and employees for losses paid under the terms of any policy which arise from the use or occupancy described in this application.

Applicant Signature  Date 4/30/24

File Attachments for Item:

I. Approve a Resolution Adopting a Project, the Overlay of Monterey Street between Visitacion Avenue and San Bruno Avenue, for fiscal year 2024-2025 funded by Senate Bill 1: the Road Repair and Accountability Act of 2017

(The Fiscal Impact of this Item: The project recommended for this year is to utilize 2024-25 RMRA funds to complete a mill-and-overlay of Monterey Street between Visitacion Avenue and San Bruno Avenue, as identified in the City's pavement management system. City will receive an estimated \$124,200 to fund the cost of this work.)



CITY COUNCIL AGENDA REPORT

Meeting Date: May 16, 2024

From: Karen Kinser, Deputy Director of Public Works

Subject: Adoption of Project as Intended Use of FY 2024-25 RMRA Funding

This work is categorically exempt from CEQA per CCR Title 14 §15302.

Community Goal/Result

(1) Safe Community

Purpose

To satisfy the Fiscal Year Road Maintenance and Rehabilitation Account eligibility, accountability, and transparency requirements established by SB 1 (2017, Beall); this action is consistent with the community’s value of being fiscally conservative.

Recommendation

Approve a Resolution adopting one (1) project, the Overlay of Monterey Street between Visitacion Avenue and San Bruno Avenue, for fiscal year (FY) 2024-2025 funded by Senate Bill 1 (SB 1): the Road Repair and Accountability Act of 2017.

Background

SB 1 (Beall) was filed with the Secretary of State on April 28, 2017. This bill established a Road Maintenance and Rehabilitation Account (RMRA) in the State Transportation Fund that is intended to address deferred maintenance on the state highway system and the local street and road systems. The bill also requires the California Transportation Commission (CTC) to adopt criteria to ensure efficient use of these funds.

The reason for recommending approval of the attached resolution is to satisfy the eligibility requirements of SB 1 while providing transparency to the community of the City’s intended use of the SB 1 funds and holding itself accountable for the efficient investment of public funds to maintain public streets and roads with the annual expenditure reporting requirements. The City will report to the Commission by December 1 of each year on its use of RMRA funds received and/or spent each FY and account for all projects proposed in that FY.

Fiscal Impact

The project recommended for this year is to utilize 2024-25 RMRA funds to complete a mill-and-overlay of Monterey Street between Visitacion Avenue and San Bruno Avenue, as identified in the City’s pavement management system. City will receive an estimated \$124,200 to fund the cost of this work.

Measure of Success

Compliance with the SB 1 Local Streets and Roads RMRA eligibility requirements by the CTC’s submittal due dates, allowing the City to receive its FY 2024-25 RMRA apportionment. Should the City fail to meet the eligibility requirements within the submittal period enforced by the CTC, the City will forfeit its RMRA apportionment, which will then be disbursed to other eligible Cities that fiscal year.

Environmental Review

This work is categorically exempt from provisions of CEQA in that the proposal is replacement or reconstruction of existing uses on the same site as the existing facilities with no change in purpose or expansion of capacity (California Code of Regulations, Title 14, Division 6, Chapter 3, Article 19, §15302 “Class 2 – Replacement or Reconstruction”).

Attachments

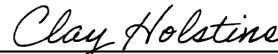
- 1. Resolution No. 2024-xx



Karen Kinser, Deputy Director of Public Works



Randy Breault, Director of Public Works/City Engineer



Clay Holstine, City Manager

RESOLUTION NO. 2024-__

RESOLUTION ADOPTING ONE (1) PROJECT, THE OVERLAY OF MONTEREY STREET BETWEEN VISITACION AVENUE AND SAN BRUNO AVENUE, FOR FISCAL YEAR 2024-2025 FUNDED BY SENATE BILL 1 (SB 1): THE ROAD REPAIR AND ACCOUNTABILITY ACT OF 2017

WHEREAS, Senate Bill 1 (SB 1), the Road Repair and Accountability Act of 2017 (Chapter 5, Statutes of 2017) was passed by the Legislature and Signed into law by the Governor in April 2017 to address the significant multi-modal transportation funding shortfalls statewide; and

WHEREAS, SB 1 includes accountability and transparency provisions that will ensure the residents of Brisbane are aware of the projects proposed for funding in our community and which projects have been completed each fiscal year; and

WHEREAS, the City must adopt by resolution a list of projects proposed to receive fiscal year funding from the Road Maintenance and Rehabilitation Account (RMRA), created by SB 1, which must include a description and the location of each proposed project, a proposed schedule for the project’s completion, and the estimated useful life of the improvement; and

WHEREAS, the City will receive an estimated \$124,200 in RMRA funding in Fiscal Year 2024-25 from SB 1; and

WHEREAS, this is the eighth year in which the City is receiving SB 1 funding and will enable the City to continue essential road maintenance and rehabilitation projects, safety improvements, repairing and replacing aging bridges, and increasing access and mobility options for the traveling public that would not have otherwise been possible without SB 1; and

WHEREAS, the City has undergone a robust public process to ensure public input into our community’s transportation priorities/the project list; and

WHEREAS, the City used a Pavement Management System to develop the SB 1 project list to ensure revenues are being used on the most high-priority and cost-effective projects that also meet the communities priorities for transportation investment; and

WHEREAS, the funding from SB 1 will help the City maintain and rehabilitate streets throughout the City this year and into the future; and

WHEREAS, the 2023 California Statewide Local Streets and Roads Needs Assessment found that the City’s streets and roads are in “Good to Excellent” condition and this revenue will help us maintain or increase the overall quality of our road system; and

WHEREAS, the SB 1 project list and overall investment in our local streets and roads infrastructure with a focus on basic maintenance and safety, investing in complete streets infrastructure, and using cutting-edge technology, materials and practices, will have significant positive co-benefits statewide.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Brisbane as follows:

1. The foregoing recitals are true and correct.
2. The Overlay of Monterey Street between Visitacion Avenue and San Bruno Avenue will be funded with Fiscal Year 2024-25 Road Maintenance and Rehabilitation Account revenues:
 - a. Anticipated Funding Sources: 2024-2025 RMRA funds (\$124,200)
 - b. Project Description: Mill-and-overlay of asphalt concrete surfacing.
 - c. Project Location: Monterey Street between Visitacion Avenue and San Bruno Avenue
 - d. Proposed Schedule: Release notice inviting bids to contractors spring 2025 and complete construction by summer 2025.
 - e. Estimated Useful Life: The city’s Pavement Management System calculates a new useful life of 20 years for this repaired roadway.
3. The Overlay of Monterey Street between Visitacion Avenue and San Bruno Avenue is adopted into the City’s FY 2024-2025 Capital Improvement program.

Terry O'Connell, Mayor
City of Brisbane

* * * *

I, the undersigned, hereby certify that the foregoing Resolution No. 2024-__ was adopted at a regular meeting of the City Council of the City of Brisbane on the 16 day of May, 2024 by the following vote:

AYES:
NOES:
ABSENT:

Ingrid Padilla, City Clerk
City of Brisbane

File Attachments for Item:

J. Elections Issues Update



CITY COUNCIL AGENDA REPORT

Meeting Date: May 16, 2024

From: Interim City Manager Clay Holstine

Subject: Update on Election Issues

Background

At your meeting of March 21st, the City Council reviewed a work program for the Elections Subcommittee and provided directions for City staff and Legal to review items under consideration.

On April 25th the subcommittee met and discussed all three issues of interest. Potential for District Elections, Term Limits and a directly elected Mayor.

City staff and City Attorney provided background information on San Mateo County cities as well as smaller cities in the State.

Directly Elected Mayor – two cities in San Mateo County, Belmont, and San Bruno.

District Elections – 10 of the 20 cities/towns in San Mateo County elect Councilmember by district.

Term Limits – Six cities have term limits.

Discussion

The subcommittee had a robust discussion and evaluated information provided and brainstormed alternatives. The following is a summary:

- Directly Elected Mayor – If the City Council wishes to pursue this a ballot initiative would need to be referred to the voters.
 - The Subcommittee recommended that the term of a Mayor be 2 years and restricted to two terms.
 - As an alternative the Council could draft a strict rotation policy and refer that to the voters.
 - Under either scenario the Subcommittee is recommending that the role of the Mayor remain unchanged.
- District Elections – Subcommittee reviewed census data and a community profile that was part of demographic work of the School District (School District boundaries include parts of Daly City and South San Francisco). The subcommittee asked for a meeting with a demographer. A meeting on Monday, May 13th with the demographer that worked with Woodside is scheduled. The Subcommittee will make an oral report to the Council at the May 16th meeting.

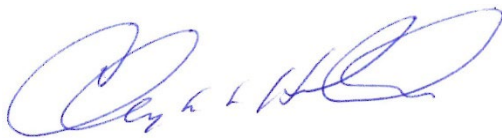
- Term Limits – Subcommittee reviewed data from San Mateo County cities. This item will require referral to the voters if the Council wishes to initiate that process. The subcommittee is recommending consideration of the following term limits:
 - Maximum of 12 consecutive years as an elected member of the City Council. An elected Mayor would be considered a member of the City Council and, thus could not serve more than 12 consecutive years between both positions (time served as an appointed member does not count towards term limits).
 - Upon a 2-year break Councilmember could run again.

Recommendation

Consider recommendations from the Council subcommittee and provide directions to staff.

Attachments

1. Charter Cities & Elections Issues Subcommittee Meeting Packet 5/16/24
2. Charter Cities & Elections Issues Subcommittee Meeting Packet 5/16/24
3. Op Ed from the Daily Journal archives: “Thoughts on districting from a newly district-elected councilmember” By Gina Latimerlo
4. Article from the Daily Journal archives: Millbrae to discuss removing district-based elections



Clay Holstine, Interim City Manager



CITY of BRISBANE

Charter City & Election Issues Subcommittee Agenda

Thursday, April 25th, 2024 at 3:00PM • Hybrid Meeting
Brisbane City Hall, Large Conference Room, 50 Park Place, Brisbane, CA

The public may observe/participate in the Subcommittee meetings by using remote public comment options or attending in person. Subcommittee members shall attend in person unless remote participation is permitted by law. The Subcommittee may take action on any item listed in the agenda.

JOIN IN PERSON

Location: 50 Park Place, Brisbane, CA 94005 - Large Conference Room

Masks are no longer required but are highly recommended in accordance with California Department of Health Guidelines. To maintain public health and safety, please do not attend in person if you are experiencing symptoms associated with COVID-19 or respiratory illness.

JOIN VIRTUALLY

Join Zoom Webinar (please use the latest version: zoom.us/download):

Join Zoom: <https://us06web.zoom.us/j/84007136785?pwd=6KcZoqSzDZxwaab67DQpzuHarlDHcW.1>

Meeting ID:	840 0713 6785
Passcode:	399482
Call In Number:	1 (669) 900-9128

Note: Callers dial *9 to “raise hand” and dial *6 to mute/unmute.

The agenda materials may be viewed online at www.brisbaneca.org at least 72 hours prior to a Meeting. Please be advised that if there are technological difficulties, the meeting will nevertheless continue.

TO ADDRESS THE SUBCOMMITTEE

IN PERSON PARTICIPATION

To address the Subcommittee on any item on or not on the posted agenda, please wait until Public Comments are being accepted.

REMOTE PARTICIPATION

Members of the public may observe/participate in the Committee meeting by logging into the Zoom Webinar. Aside from commenting while in the Zoom meeting, the following email line will be monitored during the meeting, and public comments received will be noted for the record during Public Comment or during the Item.

Email: IPadilla@brisbaneca.org

SPECIAL ASSISTANCE

If you need special assistance to participate in this meeting, please contact Ingrid Padilla at (415) 508-2113 or IPadilla@brisbaneca.org. Notification in advance of the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting.

SUBCOMMITTEE MEMBERS:

Councilmember Davis, Councilmember Lentz

ROLL CALL

- A. Consider any request of a City Councilmember to attend the meeting remotely under the “Emergency Circumstances” of AB 2449

PRESENTATIONS AND DISCUSSION ITEMS

- B. Discuss Brisbane Election Options

PUBLIC COMMENT

ADJOURNMENT

J.

File Attachments for Item:

B. Discuss Brisbane Election Options



CITY COUNCIL SUBCOMMITTEE AGENDA REPORT

To: Council Subcommittee regarding Election Issues
Meeting Date: April 25th, 2024
From: Interim City Manager
Subject: Data Information for April 25th meeting

Background

To better understand the City's demographics, we will review with the subcommittee information from our latest census. We will also provide a couple of slides of information from a demographic study the Brisbane School District did in the last year.

The information will be provided at the meeting. We have a few graphics to show that provide some information on city demographics. The information is not conclusive and indeed generates more questions than it answers. To be fair, the question that would be asked in forming district elections has not been a direct subject of either our census or the school district work. Keep in mind that census data by nature lags in time and that the school district boundaries are not the same as the city.

At the March meeting of the City Council, I provided some general information on how much it would cost to hire a demographer. One of the demographers that I met with had a two-part process. That was noted in the staff report. The second demographer provided their complete services in one package. As I have mentioned before, if that is a direction the city ultimately would like to pursue, I would recommend that the subcommittee interview two or more firms. This will allow for exploration of the work to be done as well as to understand the various steps involved.

Attachment: CC March 21, 2024 Evaluating Various Election Issues Agenda Report



CITY COUNCIL AGENDA REPORT

Meeting Date: March 21, 2024

From: Clay Holstine, City Manager

Subject: Report back from Council Subcommittee evaluating various Election Issues

COMMUNITY GOAL RESULTS

Community Building

Purpose

The purpose of this agenda item is to get a sense of the City Council so that we can have as much clarity as possible on next steps as well as determine Councilmembers' ideas and concerns.

Recommendation

City Council review and discuss election issues and seek guidance from the City Attorney.

Background

The City Council appointed a subcommittee of Davis and Lentz to review three election issues.

- Term Limits for Councilmembers
- District Elections for City Council races
- Directly elected Mayor.

The Subcommittee met and reviewed these items and discussed next steps. City Council has had a policy that if an issue is taking more than two hours of staff and/consultant resources an estimate of potential staff time and consultant cost be brought back to the Council as Whole for discussion.

At our meeting we discussed the need to do the following:

- Have the City Clerk review **term limits** in other cities in San Mateo County and compile an analysis. Staff believes this may take up to 10 hours of time as responses from various cities often require follow-up to clarify data and input. Term limits must be approved by the voters.
- **District Elections** is a complicated issue requiring the use of outside subject matter experts. An inquiry was made by a firm that conducted a study of the Town of Woodside. Step 1 of the process includes developing a Demographic Analysis that would include total population and voting population by counts of race and ethnicity. Step 2 would be an analysis of feasibility of drawing one or more majority-minority

districts. This analysis may be complicated by the fact that Brisbane has only one census tract. Data will have to be teased out. This analysis would then provide information as to whether the Council wants to continue to evaluate different District options. Step 1 would cost \$6,500. Step 2 would cost approximately \$ 12,500. Additional cost for publicizing and community engagement would be on top of this cost. Staff oversight of the consultant is anticipated to take upwards of 20 hours for Step 1.

- **Directly elected Mayor.** A directly elected mayor is an option for California General Law cities like Brisbane. Whether to pursue this is a question for the City Council. Brisbane voters must approve of having the mayor directly elected.

Discussion

City Council review and discuss above information and seek guidance from the City Attorney, specifically on the following questions:

- What is the legal framework and issues related to Term limits.
- What is the legal framework and issues related to District Elections.
- What is the responsibility and authority of an elected Mayor contrasted with the responsibilities and authority of a Mayor selected by members of the City Council? Does having an elected Mayor alter the responsibilities and authority of the City Manager?

It is anticipated that each of these items will take no more than five hours of legal research and analysis, probably less.

After the City Council reviews and discussion there are several potential next steps. The Council could do any of the following:

- Direct staff to move forward with one or more of the three items or request additional information. Additional information could be brought back to the Council as Whole or sent to the Subcommittee.
- Council could set a Workshop to focus on one or more of these issues.

Fiscal Impact

It's important to note that elections costs are difficult to estimate since no two elections are alike with costs and the number of registered voters vary considerably from election to election. Cost estimates can also vary based on the number of jurisdictions participating in an election. The estimated cost to place 1 ballot on an even-year election is between \$19,000 to \$27,000.

Clay Holstine

Clayton Holstine, Interim City Manager



**CHARTER CITY AND ELECTION ISSUES
SUBCOMMITTEE AGENDA REPORT
MEETING DATE: APRIL 25, 2024
FROM: Ingrid Padilla, City Clerk
SUBJECT: Election Issues**

Purpose:

The purpose of this report is to provide further information on election issues as it pertains to the Cities and Towns of San Mateo County as well as provide case studies on cities having similar population size as the City of Brisbane.

Recommendation:

Direct staff on next steps regarding the election issues of term limits for councilmembers, by-district elections for City Council races and directly elected Mayor.

Background:

Staff was directed by council at their meeting on March 21, 2024 to return to the City Charter/Elections Subcommittee with more information and to continue to review 3 election issues:

- Term Limits for Councilmembers
- District Elections for City Council races
- Directly elected Mayor

Discussion:

The City of Brisbane has a population of 4,851. There are 2,966 registered voters in the City of Brisbane. In terms of language selected by the registered voters: 2,882 selected English, 21 selected Spanish, 46 selected Chinese, 1 selected Tagalog and 16 selected other languages.

The City of Brisbane currently holds at-large elections to elect their councilmembers. An at-large election is the selection of an officeholder by the voters of an entire governmental unit rather than by voters of a specific district or subdivision. This type of election allows candidates to be elected or appointed to represent an entire population or membership rather than a subset.

As an alternative choice, under a district-based election system, the City would be divided into equally-populated districts. A candidate for a seat on the City Council must reside within that seat's district and is elected only by voters residing within that same district. One possible scenario is that the City Council Members (each elected to a four- year term) each represent one district while the Mayor (elected for a two-year term) continues to represent the City as a whole, and is elected via at-large elections. Another possible scenario is that all City Council Members (each elected to a four-year term) each represent one district and the Mayor is selected by the Council.

Cities and Towns in San Mateo County:

Out of the 20 Cities and Towns within San Mateo County, 10 Cities and 1 Town hold by-district elections as a method to elect councilmembers. The City of Belmont and the City of San Bruno elect their Mayors (for two-year terms) directly via at-large elections. As for council term limits, 6 Cities in San Mateo County have council term limits.

Case Studies:

The majority of smaller municipalities hold at-large elections for councilmember elections. There are 2 cities, the City of Solvang and the City of Ojai, and 1 town, the Town of Woodside that are similar in population size to Brisbane that have switched to by-district elections as a method to elect councilmembers. The City of Solvang and the City of Ojai also hold at-large elections to elect their Mayors for two-year terms. The City of Solvang and the City of Ojai received demand letters containing allegations that their City's at-large electoral system prevents members of the Latino community from electing their preferred candidate(s) and violates the California Voting Rights Act ("CVRA"). The letter threatened the City of Solvang and the City of Ojai with litigation if their City declines to adopt a district-based electoral system.

The Town of Woodside initially had "from-district" elections to elect their councilmembers. Woodside historically had 7 districts, and the "from district" meant that the Councilmembers needed to live in that district; however, anyone in Town could vote for that candidate. Votes did not need to come from their specific districts as they do now. The Town on Woodside did not receive a demand letter. It was noted that moving forward with by-district elections will save the Town costs associated with either litigating a potential CVRA lawsuit or settling the issue with prospective plaintiffs that may issue a demand letter. They held 5 public hearings for public engagement.

Attachments:

Attachment 1: Survey of Cities and Town in San Mateo County

Attachment 2: Case Studies of City of Solvang (Page 9), City of Ojai (page 53), and Town of Woodside (Page 70)



Ingrid Padilla, City Clerk

Attachment 1: Survey of Cities and Towns in San Mateo County

City/Town/etc.	Municipal type	Population (2020 Census)	Charter or General Law City	District or At Large	Rotation or Elected Mayor	Term Limits
1. San Mateo	City	105,661	Charter	District (5)	Rotation	Maximum three consecutive terms in office
2. Daly City	City	104,901	General Law	At Large	Rotation	
3. Redwood City	City	84,292	Charter	District (7)	Rotation, Mayor term of 2 years	Maximum four consecutive terms in office
4. South San Francisco	City	66,105	General Law	District (5)	Rotation, The Mayor and Vice Mayor are selected by the Council from its members in non-election years. During election years, the Mayor and Vice Mayor are selected after election	

City/Town/etc.	Municipal type	Population (2020 Census)	Charter or General Law City	District or At Large	Rotation or Elected Mayor	Term Limits
					results have been tabulated.	
5. San Bruno	City	43,908	General Law	District (4)	At Large Mayor elected 2 year term (Note- same power as Councilmember- - The Mayor chairs the City Council meetings, issues proclamations of recognition, represents the City in certain intergovernmental affairs and is the ceremonial head of the City. Although the Mayor is expected to provide political leadership on City	No person may hold the office of mayor for more than six terms in succession or the office of councilmember for more than three terms in succession. This provision does not prohibit holding office for more than twelve years, provided that terms of office are not consecutive.

City/Town/etc.	Municipal type	Population (2020 Census)	Charter or General Law City	District or At Large	Rotation or Elected Mayor	Term Limits
					issues, the Mayor has no greater authority than any other City Council member. The Mayor and City Council as a collective body is the power of authority. The Mayor and City Council members have no authority as individuals; they must act by a majority to achieve their objectives.)	
6. Pacifica	City	38,640	General Law	District (5)	Rotation	Max two (2) terms of office as a Pacifica City Councilmember

City/Town/etc.	Municipal type	Population (2020 Census)	Charter or General Law City	District or At Large	Rotation or Elected Mayor	Term Limits
7. Foster City	City	33,805	General Law	At large	Rotation	No more than two terms in succession
8. Menlo Park	City	33,780	General Law	District	Rotation	
9. Burlingame	City	31,386	General Law	District	Rotation	
10. San Carlos	City	30,722	General Law	At large	Rotation	
11. East Palo Alto	City	30,034	General Law	At large	Rotation	

12. Belmont	City	28,335	General Law	District (4)	At Large Mayor to serve 2 year term	
13. Millbrae	City	23,216	General Law	District (5)	Rotation	Maximum two successive four-year terms
14. Half Moon Bay	City	11,795	General Law	District (5)	Rotation	
15. Hillsborough	Town	11,387	General Law	At Large	Rotation, maximum of two 1 year term	
16. Atherton	Town	7,188	General Law	At Large	Rotation	
17. Woodside	Town	5,309	General Law	District (5)	Rotation	
18. Brisbane	City	4,851	General Law	At Large	Rotation	
19. Portola Valley	Town	4,456	General Law	At Large	Rotation	
20. Colma	Town	1,507	General Law	At Large	Rotation	

Attachment 2

Case Study: City of Solvang

The City of Solvang received a letter via certified mail from attorney Kevin I. Shenkman of Shenkman & Hughes on behalf of his client Southwest Voter Registration Education Project. The letter contains unsubstantiated allegations that the City's at-large electoral system prevents members of Solvang's Latino community from electing their preferred candidate(s) and violates the California Voting Rights Act ("CVRA"). The letter threatens the City with litigation if the City declines to adopt a district-based electoral system. The City of Solvang's City Council started District Voting process in 2020 and in 2022 they transitioned to District Voting. The City of Solvang worked with NDC: National Demographics Corporation to produce the maps and provide demographic data. They held 5 public hearings and a map hearing for public engagement.

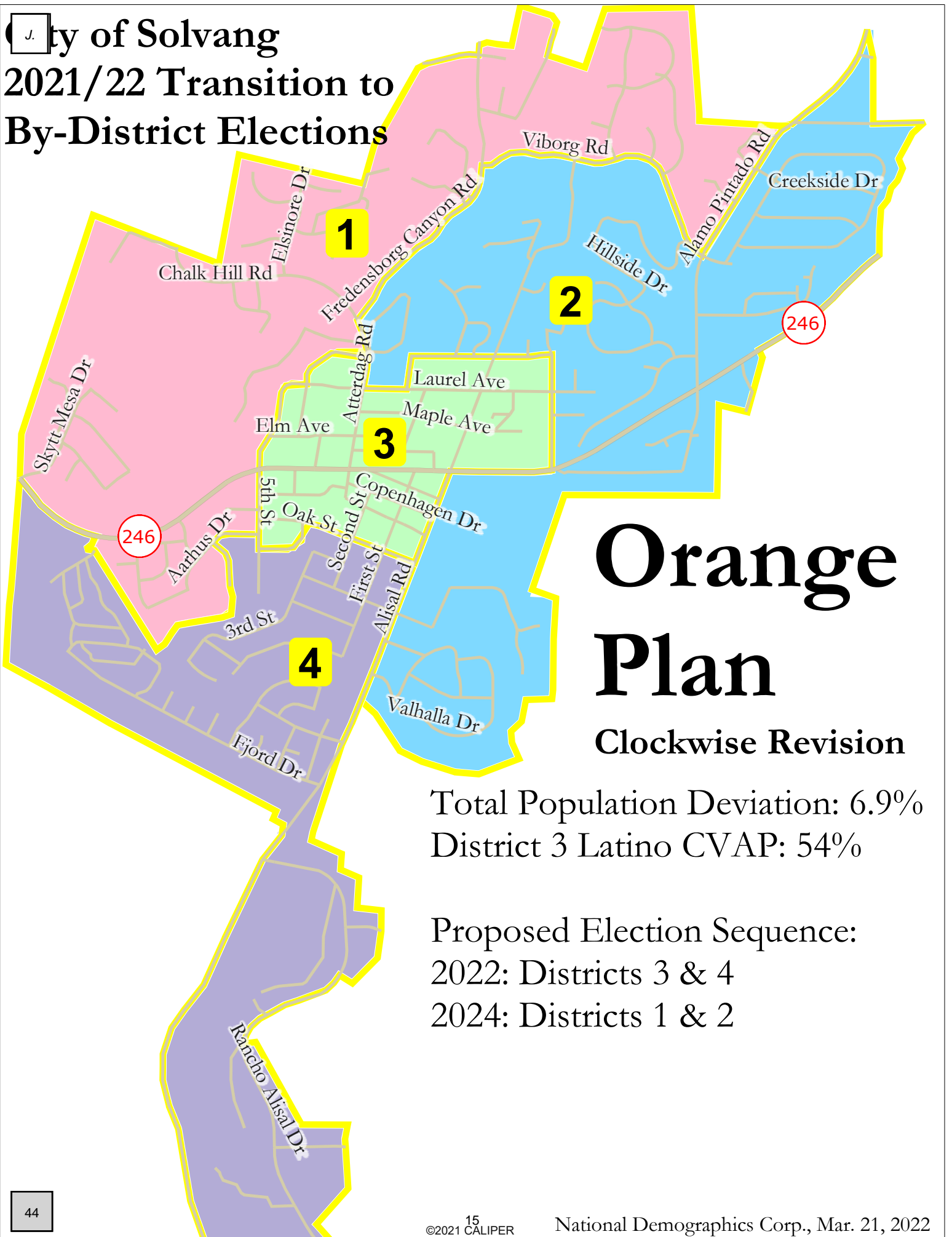
Total Area	City or Town	Population	Charter or General Law	District or At Large	Rotation or Elected Mayor	Term Limits
2.4 Square Miles	City	6,126	Charter	District (4)	Elected Mayor (2 year terms)	None

District Elections

New: The City Council voted to adopt the Clockwise Revision of the Orange Plan as the map for the new City Council districts, with the sequence of elections as posted on the map.

The City of Solvang, like hundreds of cities and school districts across the state, is making a change in how voters elect its City Council. Beginning in 2022, voters will vote for one City Council Member who lives in their district. This will replace the current

City of Solvang
2021/22 Transition to
By-District Elections



Orange Plan

Clockwise Revision

Total Population Deviation: 6.9%
District 3 Latino CVAP: 54%

Proposed Election Sequence:
2022: Districts 3 & 4
2024: Districts 1 & 2

City of Solvang - Orange Plan

Category	Field	1	2	3	4	Total
2020 Census	Total Population	1,606	1,558	1,492	1,479	6,135
	Population Deviation	72	24	-42	-55	127
	Pct. Deviation	4.69%	1.56%	-2.74%	-3.59%	8.28%
Total Pop.	Hispanic/Latino	26%	14%	55%	26%	30%
	NH White	67%	78%	39%	68%	63%
	NH Black	1%	2%	0%	1%	1%
	NH Asian/Pac.Isl.	6%	5%	4%	3%	4%
	NH Native Amer.	0%	1%	1%	1%	1%
Citizen Voting Age Pop	Total	1,000	1,233	1,031	1,320	4,584
	Hisp	16%	9%	56%	16%	23%
	NH White	79%	88%	40%	80%	73%
	NH Black	1%	1%	0%	0%	1%
	Asian/Pac.Isl.	5%	2%	4%	4%	3%
	Native Amer.	1%	0%	0%	3%	1%
Voter Registration (Nov 2020)	Total	1,124	1,032	774	1,088	4,018
	Latino est.	14%	8%	37%	11%	16%
	Spanish-Surnamed	13%	8%	34%	11%	15%
	Asian-Surnamed	1%	2%	2%	1%	1%
	Filipino-Surnamed	0%	1%	0%	0%	0%
	NH White est.	86%	89%	66%	88%	84%
	NH Black	0%	1%	0%	0%	0%
Voter Turnout (Nov 2020)	Total	1,028	949	653	1,000	3,630
	Latino est.	12%	7%	33%	10%	14%
	Spanish-Surnamed	11%	7%	31%	10%	13%
	Asian-Surnamed	1%	2%	2%	1%	1%
	Filipino-Surnamed	0%	1%	0%	0%	0%
	NH White est.	86%	89%	66%	88%	84%
	NH Black	0%	1%	0%	0%	0%
Voter Turnout (Nov 2018)	Total	820	773	425	794	2,812
	Latino est.	11%	7%	23%	7%	11%
	Spanish-Surnamed	10%	7%	22%	7%	10%
	Asian-Surnamed	1%	1%	3%	0%	1%
	Filipino-Surnamed	0%	1%	1%	0%	0%
	NH White est.	87%	90%	73%	91%	87%
	NH Black est.	0%	1%	0%	0%	0%
Age	age0-19	23%	16%	21%	25%	21%
	age20-60	49%	51%	60%	45%	51%
	age60plus	28%	33%	19%	30%	28%
Immigration	immigrants	17%	18%	16%	15%	16%
	naturalized	58%	58%	58%	58%	58%
Language spoken at home	english	64%	79%	58%	85%	72%
	spanish	31%	16%	34%	11%	23%
	asian-lang	1%	2%	2%	1%	1%
	other lang	4%	3%	6%	4%	4%
Language Fluency	Speaks Eng. "Less than Very Well"	21%	8%	18%	8%	14%
Education (among those age 25+)	hs-grad	42%	50%	51%	39%	45%
	bachelor	21%	30%	19%	31%	26%
	graduatedegree	14%	8%	11%	13%	12%
Child in Household	child-under18	26%	19%	28%	27%	25%
Pct of Pop. Age 16+	employed	73%	65%	79%	58%	68%
Household Income	income 0-25k	17%	10%	14%	11%	13%
	income 25-50k	13%	17%	17%	11%	14%
	income 50-75k	23%	14%	21%	21%	20%
	income 75-200k	30%	47%	38%	43%	40%
	income 200k-plus	16%	13%	9%	14%	13%
Housing Stats	single family	72%	92%	67%	89%	80%
	multi-family	28%	8%	33%	11%	20%
	rented	42%	45%	49%	29%	41%
	owned	58%	55%	51%	71%	59%

Total population data from California's adjusted 2020 Census data. Citizen Voting Age Population, Age, Immigration, and other demographics from the 2015-2019 American Community Survey and Special Tabulation 5-year data. Turnout and Registration data from California Statewide Database ("Latino" figures calculated by NDC using Census Bureau's Latino undercount by surname estimate).

system of at-large citywide elections in which voters have the ability to vote for all City Council Members. However, the Mayor will continue to be elected at-large.

Calendar of Workshops and Public Hearings

Date & Time	Location	Meeting Type	Links to Documents & Recordings
August 9, 2021 at 6:45pm	City Hall/Virtual	Public Hearing 1 Held prior to release of draft maps. Receive input on composition of districts.	Agenda Video (Time Stamp: 0 hr, 44 min)
August 23, 2021 at 9:00pm	City Hall/Virtual	Public Hearing 2 Held prior to release of draft maps. Receive input on composition of districts.	Agenda Video (Time Stamp: 3 hr, 12 min)
September 13, 2021 at 8:00pm	City Hall/Virtual	Public Hearing 3 Held prior to release of draft maps.	Agenda Video (Time Stamp: 1 hr, 52 min)

Date & Time	Location	Meeting Type	Links to Documents & Recordings
		Receive input on composition of districts.	
<i>California Data Release Early October 2021</i>		California Statewide Database releases California’s official ‘prisoner-adjusted’ 2020 population data.	
<i>Release Draft Maps February 7, 2022</i>		Must be posted 7 days prior to Public Hearing 4.	
March 7, 2022 at 5:00 pm	City Hall/Virtual	Public Hearing 4 Discuss and revise the draft maps and discuss election sequence.	Agenda Video (Time Stamp: 0 hr, 2 min)
March 28, 2022 at 7:00 pm	City Hall/Virtual	Public Hearing 5 Discuss draft maps and election sequence. Select	Agenda Video (Time Stamp: 1 hr, 40 min)

Date & Time	Location	Meeting Type	Links to Documents & Recordings
		map and introduce ordinance.	
April 11, 2022 at 7:00 pm	City Hall/Virtual	Map Adoption Hearing Final map adoption and second reading of ordinance.	Agenda Video (Time Stamp: 0 hr, 39 min)

FAQ: What criteria will our City Council use when drawing district lines?

1. Federal Laws
 - o Equal Population (based on total population of residents as determined by the most recent Federal decennial Census and adjusted by the State to reassign incarcerated persons to the last known place of residence)
 - o Federal Voting Rights Act
 - o No Racial Gerrymandering
2. California Criteria for Cities (to the extent practicable and in the following order of priority)
 - o Geographically contiguous (areas that meet only at the points of adjoining corners are not contiguous. Areas that are separated by water and not connected by a bridge, tunnel, or ferry service are not contiguous.
 - o Undivided neighborhoods and “communities of interest” (Socio-economic geographic areas that should be kept together for purposes of its effective and fair representation)

- Easily identifiable boundaries
 - Compact (Do not bypass one group of people to get to a more distant group of people)
 - Prohibited: “Shall not favor or discriminate against a political party.”
3. Other Traditional Districting Principles
- Respect voters’ choices / continuity in office
 - Future population growth

FAQ: What are Communities of Interest?

A community of interest is a “contiguous population that shares common social and economic interests that should be included within a single district for purposes of its effective and fair representation.”

Below are useful excerpts from the Local Government Redistricting Toolkit by Asian Americans Advancing Justice – Asian Law Caucus (2020).

Communities of interest are the overlapping sets of neighborhoods, networks, and groups that share interests, views, cultures, histories, languages, and values and whose boundaries can be identified on a map.

The following elements help define communities of interest:

- shared interests in schools, housing, community safety, transit, health conditions, land use, environmental conditions, and/or other issues;
- common social and civic networks, including churches, mosques, temples, homeowner associations, and community centers, and shared use of community spaces, like parks and shopping centers;
- racial and ethnic compositions, cultural identities, and households that predominantly speak a language other than English;
- similar socio-economic status, including but not limited to income, home-ownership, and education levels;
- shared political boundary lines from other jurisdictions, such as school districts, community college districts, and water districts.

Resources

New releases and other districting-related materials will be added here as they become available.

Online publications and guides to districting/redistricting:

- [From MALDEF, the NAACP and the Asian Justice Center](#)
- [From the Asian Americans Advancing Justice](#)
- [From the Brennan Center](#)
- [From the League of Women Voters](#)
- [From the California Independent Redistricting Commission FAQs](#)



Solvang City Council

STAFF REPORT

PREPARED BY: Chip Wullbrandt, City Attorney

MEETING DATE: May 11, 2020

SUBJECT: DEMAND BY ATTORNEY FOR SOUTHWEST VOTER REGISTRATION EDUCATION PROJECT THAT CITY CHANGE TO BY-DISTRICT ELECTORATE SYSTEM

RECOMMENDATION:

Consider demand letter received, take public comment and direct staff to prepare Resolution of Intent to change to by-district electoral system for Council members for consideration at Council meeting prior to June 18, 2020.

DISCUSSION:

In 2001, the California Legislature adopted the California Voter Rights Act (CVRA). The CVRA allows plaintiffs to challenge “at large” elections for Council members based on the theory that such method of election is racially biased. The CVRA sets a very low threshold of proof for the plaintiff, and financial incentives for attorneys representing such plaintiffs to bring litigation. Based on claims concerning the 2016 City Council election, the City has received the attached demand letter from an attorney for the “Southwest Voter Registration Education Project” and its Solvang members. As discussed in the attached League of California Cities general session presentation from May 2018 on legislation and Litigation Outcomes concerning the CVRA, the likely costs for a City sued under the CVRA are substantial and so far no city in California has successfully defended such a suit. The 2018 League of Cities discussion also explains a “safe harbor” process the City can follow if it adopts a Resolution of Intent to change to by-district elections within 45 days of receipt of a demand letter. In 2018, the City of Buellton received such a demand, and will be shifting to by-district elections for 2022. Lompoc and Santa Maria have similarly responded to such a demand.

FISCAL IMPACT:

There are no direct fiscal impacts associated with this item.

ATTACHMENTS:

J.

Attachment A – Demand Letter

Attachment B – League of California Cities –“The Voting Rights Act” Publication



28905 Wight Road
Malibu, California 90265
(310) 457-0970
kshenkman@shenkmanhughes.com

AP
MAY 4 20
RECEIVED

VIA CERTIFIED MAIL

April 30, 2020

Lisa Martin - City Clerk
City of Solvang
1644 Oak Street
Solvang, CA 93463

Re: *Violation of California Voting Rights Act*

I write on behalf of our client, Southwest Voter Registration Education Project and its members residing in Solvang. The City of Solvang (“Solvang” or “City”) relies upon an at-large election system for electing candidates to its City Council. Moreover, voting within the City is racially polarized, resulting in minority vote dilution, and therefore Solvang’s at-large elections violate the California Voting Rights Act of 2001 (“CVRA”).

The CVRA disfavors the use of so-called “at-large” voting – an election method that permits voters of an entire jurisdiction to elect candidates to each open seat. *See generally Sanchez v. City of Modesto* (2006) 145 Cal.App.4th 660, 667 (“*Sanchez*”). For example, if the U.S. Congress were elected through a nationwide at-large election, rather than through typical single-member districts, each voter could cast up to 435 votes and vote for any candidate in the country, not just the candidates in the voter's district, and the 435 candidates receiving the most nationwide votes would be elected. At-large elections thus allow a bare majority of voters to control every seat, not just the seats in a particular district or a proportional majority of seats.

Voting rights advocates have targeted “at-large” election schemes for decades, because they often result in “vote dilution,” or the impairment of minority groups’ ability to elect their preferred candidates or influence the outcome of elections, which occurs when the electorate votes in a racially polarized manner. *See Thornburg v. Gingles*, 478 U.S. 30, 46 (1986) (“*Gingles*”). The U.S. Supreme Court “has long recognized that multi-member districts and at-large voting schemes may operate to minimize or cancel out the voting strength” of minorities. *Id.* at 47; *see also id.* at 48, fn. 14 (at-large elections may also cause elected officials to “ignore [minority] interests without fear of political consequences”), citing *Rogers v. Lodge*, 458 U.S.

613, 623 (1982); *White v. Register*, 412 U.S. 755, 769 (1973). “[T]he majority, by virtue of its numerical superiority, will regularly defeat the choices of minority voters.” *Gingles*, at 47. When racially polarized voting occurs, dividing the political unit into single-member districts, or some other appropriate remedy, may facilitate a minority group's ability to elect its preferred representatives. *Rogers*, at 616.

Section 2 of the federal Voting Rights Act (“FVRA”), 42 U.S.C. § 1973, which Congress enacted in 1965 and amended in 1982, targets, among other things, at-large election schemes. *Gingles* at 37; see also Boyd & Markman, *The 1982 Amendments to the Voting Rights Act: A Legislative History* (1983) 40 Wash. & Lee L. Rev. 1347, 1402. Although enforcement of the FVRA was successful in many states, California was an exception. By enacting the CVRA, “[t]he Legislature intended to expand protections against vote dilution over those provided by the federal Voting Rights Act of 1965.” *Jauregui v. City of Palmdale* (2014) 226 Cal. App. 4th 781, 808. Thus, while the CVRA is similar to the FVRA in several respects, it is also different in several key respects, as the Legislature sought to remedy what it considered “restrictive interpretations given to the federal act.” Assem. Com. on Judiciary, Analysis of Sen. Bill No. 976 (2001-2002 Reg. Sess.) as amended Apr. 9, 2002, p. 2.

The California Legislature dispensed with the requirement in *Gingles* that a minority group demonstrate that it is sufficiently large and geographically compact to constitute a “majority-minority district.” *Sanchez*, at 669. Rather, the CVRA requires only that a plaintiff show the existence of racially polarized voting to establish that an at-large method of election violates the CVRA, not the desirability of any particular remedy. See Cal. Elec. Code § 14028 (“A violation of Section 14027 *is established* if it is shown that racially polarized voting occurs ...”) (emphasis added); also see Assem. Com. on Judiciary, Analysis of Sen. Bill No. 976 (2001–2002 Reg. Sess.) as amended Apr. 9, 2002, p. 3 (“Thus, this bill puts the voting rights horse (the discrimination issue) back where it sensibly belongs in front of the cart (what type of remedy is appropriate once racially polarized voting has been shown).”)

To establish a violation of the CVRA, a plaintiff must generally show that “racially polarized voting occurs in elections for members of the governing body of the political subdivision or in elections incorporating other electoral choices by the voters of the political subdivision.” Elec. Code § 14028(a). The CVRA specifies the elections that are most probative: “elections in which at least one candidate is a member of a protected class or elections involving ballot measures, or other electoral choices that affect the rights and privileges of members of a protected class.” Elec. Code § 14028(a). The CVRA also makes clear that “[e]lections conducted prior to the filing of an action ... are more probative to establish the existence of racially polarized voting than elections conducted after the filing of the action.” *Id.*

Factors other than “racially polarized voting” that are required to make out a claim under the FVRA – under the “totality of the circumstances” test – “are probative, but not necessary factors to establish a violation of” the CVRA. Elec. Code § 14028(e). These “other factors” include “the history of discrimination, the use of electoral devices or other voting practices or procedures that may enhance the dilutive effects of at-large elections, denial of access to those processes determining which groups of candidates will receive financial or other support in a given election, the extent to which members of a protected class bear the effects of past discrimination in areas such as education, employment, and health, which hinder their ability to participate effectively in the political process, and the use of overt or subtle racial appeals in political campaigns.” *Id.*

The City of Solvang’s at-large system dilutes the ability of Latinos (a “protected class”) – to elect candidates of their choice or otherwise influence the outcome of the City’s council elections.

As of the 2010 Census, Latinos comprised 29.2% of the City’s population, and likely a greater proportion today. However, Latinos have generally not been represented on the Solvang City Council, despite their significant proportion of the population and electorate. The contrast between the significant Latino proportion of the electorate and the historical underrepresentation of Latinos to be elected to the Solvang City Council is outwardly disturbing and fundamentally hostile towards participation from members of this protected class.

In light of the City’s underrepresentation of Latinos, it is no wonder why Latino residents do not emerge as candidates, feel marginalized, and have historically been excluded from meaningful participation in the City’s governance. During the City’s history, there have been only a few Latinos to emerge as candidates for the Oakley City Council. Most recently, Justin Rodriguez applied to fill a vacancy on the Solvang City Council. Though Mr. Rodriguez was acknowledged by all of the Solvang City Council members as being qualified for that position, the Solvang City Council nonetheless appointed a non-Hispanic white candidate, thus maintaining the complete homogeneity of the council and further discouraging potential Latino candidates. Opponents of fair, district-based elections may attempt to attribute the glaring lack of candidates within protected classes to a lack of interest from their respective communities within the City. On the contrary, the virtual absence of protected class candidates to seek election to the Solvang City Council reveals vote dilution. *See Westwego Citizens for Better Government v. City of Westwego*, 872 F. 2d 1201, 1208-1209, n. 9 (5th Cir. 1989).

The City of Solvang’s election history is additionally illustrative. In 2016, for example, Brian Baca received significant support from the City’s Latino community, Mr. Baca lost that election. This election evidences vote dilution which is directly attributable to the City’s unlawful at-large election system.

In addition to the “endogenous” elections involving candidates who are members of the protected class, the CVRA also directs an analysis of “elections involving ballot measures, or other electoral choices that affect the rights and privileges of members of a protected class.” See Elec. Code § 14028. Typically, Propositions 187, 209 and 227 are analyzed for this purpose in California voting rights cases. Each of these propositions, though strongly opposed by the Latino community, were supported by the majority non-Hispanic white electorate in Solvang.

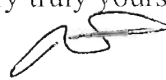
As you may be aware, in 2012, we sued the City of Palmdale for violating the CVRA. After an eight-day trial, we prevailed. After spending millions of dollars, a district-based remedy was ultimately imposed upon the Palmdale City Council, with districts that combine all incumbents into one of the four districts.

More recently, after a 7-week trial, we also prevailed against the City of Santa Monica, after that city needlessly spent millions of dollars defending its illegal election system – far in excess of what was spent in the Palmdale litigation - taxpayer dollars which could have been more appropriately spent on indispensable municipal services and critical infrastructure improvements. Just prior to the trial in that case, counsel for the City of Santa Monica – Kahn Scolnick, a partner at Gibson Dunn & Crutcher LLP proclaimed that, “the reality is that if Santa Monica fails the CVRA test, then no city could pass, because Santa Monica is doing really well in terms of full representation and success of minority candidates.” (“In Rare California Voting Rights Trial, Gibson Dunn Steps Up for Santa Monica”, Law.com, August 1, 2018). Notwithstanding Mr. Scolnick’s prediction, Plaintiffs succeeded in proving that Santa Monica’s election system was in violation of the CVRA and the Equal Protection Clause of the California Constitution.

Given the historical lack of representation of those from this protected class on the Solvang City Council in the context of racially polarized elections, we urge the City of Solvang to voluntarily change its at-large system of electing city council members. Otherwise, on behalf of residents within the jurisdiction, we will be forced to seek judicial relief. Please advise us no later than June 20, 2020 as to whether you would like to discuss a voluntary change to your current at-large system.

We look forward to your response.

Very truly yours,



Kevin I. Shenkman



The California Voting Rights Act: Recent Legislation & Litigation Outcomes

Thursday, May 3, 2018 General Session; 9:00 – 10:30 a.m.

Youstina N. Aziz, Richards, Watson & Gershon
 Douglas Johnson, President, National Demographics Corporation
 James L. Markman, City Attorney, Brea, La Mirada, Rancho Cucamonga and Upland

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The California Voting Rights Act: Recent Legislation & Litigation Outcomes

Prepared by:
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The California Voting Rights Act:
Recent Legislation & Litigation Outcomes

You are sitting at your office on a Thursday afternoon, and the city manager sends you an email letting you know that the city received a demand letter about a voting rights issue. You review the demand letter and realize that it is a letter from a prospective plaintiff’s attorney alleging that the city’s election system is in violation of the California Voting Rights Act (“CVRA”) and threatening litigation if the city does not voluntarily change its elections system. What do you do?

At least 88 cities have made the change to by-district elections and two more, the City of Goleta and the City of Carpinteria, agreed to make the change for 2022. Other cities, such as the City of San Clemente have decided to put the matter on the 2018 ballot for voters’ approval. Approximately eighteen other cities are in some form of legal dispute but have not yet decided to make the change to by-district elections. For context, only 28 cities employed by-district elections prior to passage of the CVRA. Cities are not the only public entities susceptible to a CVRA challenge. Thirty two community college districts, over 165 school districts, and at least 12 other special districts have made the change to by-district elections.

This paper provides an overview of the CVRA and recent developments in both legislation and litigation surrounding the CVRA. It summarizes the options cities have in responding to CVRA demand letters, the process cities are required to go through in order to change their election system, and issues that have arisen in the process of jurisdictions transitioning from at-large to district-based elections. This paper focuses on the process for changing to district-based elections for general law at-large cities; the process may be slightly different for charter cities depending on whether they have to amend their charter to change their election system.

I. Introduction

The CVRA, Elections Code Sections 14025-14032, was enacted to implement the California constitutional guarantees of equal protection and the right to vote.¹ The CVRA provides a private right of action to members of a protected class where, because of “dilution or the abridgment of the rights of voters,” an at-large election system “impairs the ability of a protected class to elect candidates of its choice or its ability to influence the outcome of an election.”² The CVRA defines a “protected class” broadly as a class of voters who are members of a race, color, or language minority group.³

To establish a violation under the CVRA, a plaintiff must show that “racially polarized voting” occurs in elections for members of the governing body of the political subdivision or in elections incorporating other electoral choices by the voters.⁴ Racially polarized voting means voting in which there is a difference in the choices of candidates or other electoral choices that

¹ Elec. Code § 14031.

² Elec. Code §§ 14027, 14032.

³ Elec. Code § 14026(d).

⁴ Elec. Code § 14028(a).

are preferred by voters in a protected class and the choices of the voters in the rest of the electorate.⁵ The occurrence of racially polarized voting is determined by examining (1) results of elections, with more weight given to elections in which at least one candidate is a member of a protected class, or (2) elections involving ballot measures or other electoral choices that affect the rights of the members of the protected class.⁶

While modeled after the federal Voting Rights Act of 1965 (“FVRA”), the CVRA lowers the threshold required to establish a voting rights violation. For example, unlike the FVRA, a protected class does not have to be geographically compact or concentrated to allege a violation of CVRA.⁷ Moreover, proof of intent on the part of the voters or elected officials to discriminate against a protected class is not required.⁸ The CVRA also eliminates the “totality of circumstances” test set forth in the FVRA, precluding introduction of other evidence as to why preferred candidates of the protected class lost elections. The deletion of the totality of circumstances factors makes CVRA litigation purely a statistical exercise.

Because of that lower threshold of proof, no jurisdiction has prevailed in a CVRA action as of the time this paper was written. Lacking an example of a successful defense, and because of the enormous financial cost involved in defending against – much less losing – such claims, and the majority of jurisdictions that receive a demand letter change to by-district elections without analyzing their election system to determine whether there is, in fact, racially polarized voting. The short time frame jurisdictions have in order to implement district-based elections under Elections Code Section 10010 also pushes jurisdictions toward by-district elections.

II. Recent Legislation

a. *Ability to Transition to District-Based Elections by Ordinance*

Before January 1, 2017, Government Code Section 34886 allowed cities with populations less than 100,000 to transition to district-based elections by ordinance. Cities with populations greater than 100,000 were required to place the issue on the ballot for voters to approve the transition. The population cutoff created an issue for larger cities that received demand letters to change their election system. For example, the City of Rancho Cucamonga received a letter on December 23, 2015 alleging that the city’s election system was in violation of the CVRA and urging the city to voluntarily change its at-large system of electing council members or face litigation. Because Rancho Cucamonga’s population was greater than 100,000, the city had to place the measure on the ballot for voters’ approval. After the city began analyzing its election system, but before it was able to place the issue on the November 2016 ballot, a CVRA action was filed against the city on March 10, 2016. After the voters approved the transition to district-based elections, the plaintiffs refused to dismiss the action alleging that the election system adopted by the city was flawed.

Recent legislative amendments to Government Code Section 34886 allow a city, regardless of population, to adopt an ordinance establishing district-based elections without

⁵ Elec. Code § 14026(e).

⁶ Elec. Code § 14028(b).

⁷ Elec. Code § 14028(c).

⁸ Elec. Code § 14028(d).

being required to submit the ordinance to the voters for approval. The elimination of the population cutoff in Section 34886 helps large cities avoid the scenario that occurred in Rancho Cucamonga by giving them the ability to adopt district-based elections by ordinance. Still some jurisdictions contemplate placing the issue on the ballot for voters’ approval after they receive a letter alleging that the city’s at-large election system violates the CVRA. If that is the case, the city should work with the potential plaintiff to reach a settlement to that effect. If a city decides to place the measure on the ballot, there is a risk that the voters will turn it down, leaving the city to choose between facing litigation or acting contrary to the voters’ decision.

b. Amendments to Elections Code 10010 - “Safe-Harbor Provision”

Following efforts to provide some protection to jurisdictions from the costs involved in CVRA-related litigation, the California Legislature amended Section 10010 of the Elections Code to include a “Safe-Harbor” provision that would give jurisdictions the opportunity to change their election system once they receive a demand letter, while capping the amount of attorney’s fees and costs that are recoverable by a prospective plaintiff(s).

Effective January 1, 2017, Elections Code Section 10010 requires a prospective plaintiff to send a written notice to the clerk of the city asserting that the city’s method of conducting elections may violate the CVRA.⁹ Section 10010 puts a 45-day stay on a prospective plaintiff’s ability to bring an action allowing the city to adopt a resolution outlining its intention to transition from at-large to district-based elections.¹⁰ If the city begins the process of switching to districts before receiving a notice letter or within 45 days of receipt of a notice and adopts a resolution to that effect, under Section 10010, a potential plaintiff cannot commence an action within 90 days of the resolution’s passage.¹¹

After adopting the resolution of intention, the city is required to hold two public hearings over a period of no more than 30 days before drawing draft maps.¹² During those hearings, the public is invited to provide input regarding the composition of the districts.¹³ After the city’s demographer draws the draft maps, the city must publish at least one draft map and, if members of the governing body of the city will be elected in their districts at different times to provide for staggered terms of office, the potential sequence of the elections.¹⁴ The city then holds at least two additional hearings over a period of no more than 45 days, at which the public is invited to provide input regarding the content of the draft maps and the proposed sequence of elections.¹⁵ The city has to publish the draft maps and sequencing at least seven days before those hearings.¹⁶

In short, a jurisdiction receiving a CVRA demand letter has 45 days to declare their intent to change their election system and then 90 days after that declaration to adopt the change.¹⁷ If

⁹ Elec. Code § 10010(e)(1).

¹⁰ Elec. Code § 10010(e)(2)-(3).

¹¹ Elec. Code § 10010(e)(3)(B).

¹² Elec. Code § 10010(a)(1).

¹³ *Id.*

¹⁴ Elec. Code § 10010(a)(2).

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ Elec. Code § 10010(e)(3)(A)-(B).

the city misses either of those deadlines, it could find itself in court and facing attorney fee demands well into the six or even seven figures.

Elections Code 10010 also offers some protection to jurisdictions in terms of exposure to a prospective plaintiff's attorneys' fees. If the jurisdiction meets the deadlines outlined above, the prospective plaintiff who sent the demand letter may only recover up to \$30,000 in attorneys' fees and costs from the city.¹⁸ The prospective plaintiff has to make the demand for reimbursement of costs with 30 days of the ordinance's adoption.¹⁹ If more than one prospective plaintiff requests a reimbursement of attorneys' fees and costs, the city shall reimburse the prospective plaintiffs in the order in which they sent the demand letter, but the cumulative amount of reimbursement to all prospective plaintiffs is capped at \$30,000.

c. Application of the Safe Harbor Provision

Back to your city: the first step after receiving the demand letter is to calculate 45 days from the date of the city's receipt. The date the letter is received is crucial because the city has 45 days of receipt of the letter to determine whether to change its elections system. If the city adopts a resolution by that date outlining its intention to transition from at-large to district-based elections, the prospective plaintiff is precluded from commencing an action under the CVRA for 90 days during which time the city goes through the process set forth above for transitioning to districts.

Second, you should place the matter on the next closed session agenda to inform the council of receipt of the demand letter and get direction regarding how they would like to proceed. Because of the 45-day deadline, you have limited opportunity to place the matter on closed session. Due to the complexity of the CVRA and related legislation, the city council may need more than one closed session to discuss the matter. You may also hold special closed sessions to discuss the matter, if necessary.

Third, because the council will most likely want to assess the accuracy of the allegations in the demand letter and the potential exposure, the jurisdiction's legal counsel should engage a demographer once you have received the demand letter. The demographer is instrumental in two aspects. First, if the city council decides to conduct a racially polarized voting analysis prior to determining whether to transition to district-based elections, the demographer conducts the analysis and presents it to the city council. Second, if the city council decides to initiate the process of transitioning to district-based elections, the demographer creates the district maps for the city council's consideration. In engaging the demographer, the city should consider retaining him or her through its city attorney in order to protect their work product to the extent possible.

Fourth, you should retrieve the election results for the city's most recent elections. Often times the demand letter contains allegations that are not entirely accurate because a prospective plaintiff's attorney is not familiar with the city's election history. For example, with some cities, prospective plaintiffs cited the absence of minorities on the city council as evidence of racially polarized voting. Because a prospective plaintiff relied on surnames to determine whether

¹⁸ Elec. Code § 10010(f)(3).

¹⁹ Elec. Code § 10010(f)(1).

minority candidates were elected to city council, plaintiff’s allegations failed to account for minority candidates who do not necessarily have minority surnames, such as a minority candidate who changed his or her last name after marriage. Reviewing the city’s election history to fact-check the allegations in the demand letter helps the city council make an informed decision.

d. District-Drawing Process

If the city council decides to proceed with the transition to district-based elections after analyzing the issue, the city council should adopt a resolution setting forth its intention to change its election system. Subsequently, the city must hold at least four public hearings before holding a hearing at which to vote on the ordinance establishing district-based elections. Two of the public hearings must be held before drawing the draft map(s). During those two public hearings, the city council would receive public input regarding the composition of the districts. Usually, these public hearings are held during regularly scheduled city council meetings; however, the city can also schedule them during special meetings. While Elections Code Section 10010 does not set forth the notice requirement for the first two public hearings, it is prudent for the city to apply the same notice requirement in Section 10010 for the second two public hearings which requires that any draft maps be published at least seven days before the hearing at which they would be considered. The city council cannot start the map drafting process without first holding those two public hearings. The first two hearings can be noticed in a single published hearing notice.

The focus of the first two hearings is on answering resident questions about the process and identifying the neighborhoods and communities of interest that should be used as the ‘building blocks’ to develop the draft district maps. Issues such as whether a community wants to be united in one district or included in multiple districts are often debated at this time. Most residential neighborhoods tend to lean toward being united in one district, while downtown business districts, port or industrial areas, and large active living senior communities typically lean toward having multiple representatives.

After the first two public hearings are held, the demographer drafts at least one draft map, but often times multiple maps are drawn. Interested residents may also submit maps, either using their own means or using tools provided by the demographer. Section 10010 requires that the first version of a draft map be published at least seven days before consideration at a hearing. If a draft map is revised at or following a hearing, it must be published and made available to the public for at least seven days before being adopted. After holding the four public hearings, the city council can then vote to approve or defeat the ordinance establishing district-based elections.

There are various ways residents can be encouraged and empowered to propose draft maps (in addition to the map(s) drafted by the City’s official demographer). Depending on the level of public interest, the Council may have only the demographer’s maps to consider, or as many as 20 or 40 resident-drawn proposals. Experienced demographers can provide tools to empower residents to draw maps as well as assistance guiding the city council through reviewing the pool of maps and arriving at a final selection.

The seven-day draft map publication provisions of Section 10010(a)(2) complicate the consideration of draft maps. The public is not barred from proposing new maps at each hearing, but the city council is barred from “considering” any new map that was not published at least seven days in advance. Section III. *a.*, *infra*, discusses the publication requirement set forth in Section 10010.

The timeline set forth in Elections Code 10010 does not leave much room for cities to conduct very robust community outreach programs regarding the city’s transition to district-based elections. While not required under Elections Code Section 10010, cities should still make the effort to hold community meetings and forums to get feedback from the public and answer questions regarding the process. Extensive outreach and notification about the transition to district-based elections will reduce the voters’ surprise and possible objections when the first by-district election is held.

e. Application of Process to Charter Cities

A charter city would need to review its charter to determine whether a charter amendment is necessary to change the city’s election system and whether the proposed charter amendment would be placed on the ballot. If the jurisdiction is a charter city, there is a preliminary question of whether the public hearing requirements of Elections Code 10010 would apply. On the one hand, Section 10010 specifically states that “[a] political subdivision that changes from an at-large method of election to a district-based election . . . shall do all of the following before a public hearing at which the governing body of the political subdivision votes to approve or defeat **an ordinance** establishing district based elections . . .” (Emphasis added). On its face, Section 10010 applies only when a city changes its election system by ordinance. At the same time, the CVRA explicitly provides that it applies to charter cities,²⁰ and Section 10010 specifically references the CVRA and incorporates some of the CVRA’s provisions.²¹

In placing a charter amendment on the ballot, a charter city needs to determine whether to apply the requirements set forth in Elections Code Section 10010. While there are no binding court decisions on the issue, it is prudent for a charter city to follow the process set forth in Elections Code Section 10010 to avoid potential challenges to its process. The city also needs to determine whether to hold the public hearings before or after it places the charter amendment on the ballot. On the one hand, there is an argument that the public hearings must be held before a charter amendment is placed on the ballot, because if the proposed amendment passes, that establishes district-based elections for the city council. On the other hand, because Section 10010 states specifically that it applies to an ordinance establishing district-based elections, there is an argument that a charter amendment is not an ordinance that is subject to the requirements set forth in that section.

A charter city should review its municipal laws to determine the process set forth therein for changing its election system and potential issues that may arise in attempting to comply with the requirements of Elections Code Section 10010.

²⁰ Elec. Code § 14026(c).

²¹ See Elec. Code § 10010(b), (d).

III. Notable Issues

There are a number of unresolved issues surrounding both the CVRA and the process of transitioning to district-based elections. While this paper does not attempt to discuss all the issues, it highlights a few topics that are important to keep in mind.

a. Notice and Publication

Section 10010(a)(2) requires that maps be “published at least seven days before consideration at a hearing,” but it does not define “publish” or specify how the maps are to be “published.” The Black’s Law Dictionary definition for “publish” is “to distribute copies (of a work) to the public.” Other provisions of the Elections Code requiring publication of materials specify that they be published in newspapers of general circulation with the alternative being posting the material conspicuously in three public places in the city.²²

While some cities have been able to publish their maps in newspapers of general circulation, smaller cities that have a local newspaper are often restricted by the newspaper’s timelines since they are published once a week. And cities that successfully encouraged public participation in the drafting of maps have ended up with more than twenty draft maps, making publishing all of them in a newspaper prohibitively expensive. Many cities have resorted to publishing notices of the public hearings in newspapers and listing a number of locations throughout the city where the maps will be available. If the City has a website that it maintains, it can also post the maps on its website and include that link in the notice.

Another issue to keep in mind is the federal Voting Rights Act requirement that election material be translated in various languages depending on the county where the election is held. For example, in Orange County, election material must be translated into at least four languages: Spanish, Chinese, Korean, and Vietnamese.²³ While the notices and other materials concerning a city’s transition to district-based elections does not relate to a specific election, the city should consider translating the materials concerning the public hearings in languages that are prevalent in that city.

b. At-Large Mayor Position Under California Law

There is a question of whether a by-district election system with an at-large mayor qualifies as an at-large election system that is vulnerable to a CVRA challenge. Only at-large election systems are susceptible to a CVRA challenge.²⁴ However, the CVRA’s definition of an at-large method of election is somewhat broad and misleading. Under the CVRA, an “at-large method of election” encompasses not only a system in which the voters of the entire jurisdiction elect the members of city council, but it also encompasses from-district election systems (election systems in which the candidates are required to reside in districts but are elected by the

²² See, e.g., Elec. Code §§ 9205, 12110-12111.

²³ <https://www.ocvote.com/voting/translatedelectionmaterials/>, last visited: April 11, 2018.

²⁴ Elec. Code § 14027.

voters of the entire city) and combination systems.²⁵ A combination system is an elections system that “combines at-large elections with district-based elections.”²⁶

The combination system can include a system in which a primary election may be conducted “by-district”, but the general election is conducted “from” those same districts, e.g., the top two vote winners in the primary in each district run for election “at-large” in the general election. A combination system may also be an election system in which some seats are elected at large and some are elected by-district. For example, a jurisdiction that has a seven-member city council with three members elected at-large and four members elected by-district is a combination system. Based on the plain language of the CVRA, however, a plaintiff can claim that a by-district election system with an at-large mayor qualifies as a “combination system.”

While the issue of whether a by-district election system with an at-large mayor qualifies as an at-large system has arisen in previous CVRA cases, there are no binding, appellate decisions on the issue. In previous CVRA cases, plaintiffs have made the argument that the election of even one member of a city council at-large, regardless of his or her title, makes the election system at-large and subject to challenge under the CVRA. For example, in the action involving the City of Rancho Cucamonga, the city placed the question of whether it should change its election system from at-large to a district-based system with an at-large mayor. Even after the ballot measure passed, plaintiffs refused to dismiss the case, arguing in part, that the city’s new election system remains an at-large system that violates the CVRA.²⁷ The parties in that case reached a settlement; therefore, the question was not decided by a court. Notably, the settlement agreement in the Rancho Cucamonga case kept the at-large mayor position intact.

In the case of *Jauregui v. City of Palmdale*, the trial court found that the mayor of Palmdale is a separately elected office and noted that Government Code Section 34900 expressly authorizes that form of government.²⁸ The court noted that while the mayor is a voting member of the council, he or she has additional duties, powers, and obligations. Therefore, the court found that the mayor in that case was a separately elected office, and the elimination of this office was not an appropriate remedy to address the CVRA violation.

Other provisions of California law provide support for the view that a by-district election system with an at-large mayor is a district-based election system, not an at-large system that is vulnerable to a CVRA challenge. The Government Code specifically allows for an at-large mayor position on the city council. Effective January 1, 2017, Government Code Section 34886 provides that the council “of a city may adopt an ordinance that requires the members of the legislative body to be elected by district or by district with an elective mayor, as described in subdivisions (a) and (c) of Section 34871, without being required to submit the ordinance to the voters for approval.”

²⁵ Elec. Code § 14026(a).

²⁶ Elec. Code § 14026(a)(3).

²⁷ *Southwest Voter Registration Education Project v. City of Rancho Cucamonga*, San Bernardino Superior Court Case No. CIVDS 1603632.

²⁸ *Jauregui v. City of Palmdale*, Los Angeles Superior Court Case No. BC483039, Final Statement of Decision dated December 23, 2013.

Subdivisions (a) and (c) of Government Code Section 34871 in turn provide:

[T]he legislative body may submit to the registered voters an ordinance providing for the election of members of the legislative body in any of the following ways:

- (a) By districts in five, seven, or nine districts . . . [¶]
- (c) By districts in four, six, or eight districts, with an elective mayor

Section 34886 states that “[a]n ordinance adopted pursuant to this section shall include a declaration that the change in the method of electing members of the legislative body is being made in furtherance of the purposes of the California Voting Rights Act of 2001.” (Emphasis Added). Section 34886 provides support for the position that a by-district system with an at-large mayor is not susceptible to CVRA violation because that Section specifically allows the adoption of that election system “in furtherance of the purposes” of the CVRA. Nonetheless, the broad definition of at-large election systems in the CVRA can provide the basis for a prospective plaintiff to challenge a jurisdiction’s adoption of an at-large mayor position.

The risk of such a challenge is higher if creating an at-large mayor seat would potentially dilute the voting power of a protected class.²⁹ A jurisdiction’s decision to establish an at-large mayor seat would involve it adding a district it otherwise wouldn’t have or eliminating a district that it would otherwise have. Depending on the jurisdiction’s demographics and concentration of members of protected classes, dividing the city into more or less districts can affect the voting power of the city’s protected class(es). If changing the number of districts decreases the voting power of a protected class in the city, that would bolster a prospective plaintiff’s argument that the city’s decision to create an at-large mayor position violates the CVRA.

c. District Elections Ordinance and the Power to Petition for Referendum

Article 2, Section 9(a) of the California Constitution provides that “[t]he referendum is the power of the electors to approve or reject statutes or parts of statutes except urgency statutes, statutes calling elections, and statutes providing for tax levies or appropriations for usual current expenses of the state.” Based on the plain language of that provision, districting or reapportionment ordinances do not fall under any of these exceptions because they are not a statute calling elections; rather, the ordinances set forth the system of election and the conduct of the elections in the future. In dicta, the court in *Assembly of State of Cal. v. Deukmejian*, 30 Cal.3d 638, 654 (1982) noted that “[w]hile it is obvious that a reapportionment statute relates to elections, it is equally clear that such statutes do not call elections.” That case concerned a writ of mandate challenging the placement on the ballot of referenda challenging the state’s reapportionment statutes, and the Assembly, State Senate, and Congressional redistricting maps were successfully referended in 1982. In *Vandermost v. Bowen*, 53 Cal.4th 421, 437 (2012), the court noted that “if a referendum that is directed at a newly adopted redistricting map qualifies

²⁹ The CVRA defines a “protected class” as “a class of voters who are members of a race, color, or language minority group, as this class is referenced and defined in the federal Voting Rights Act of 1965 (52 U.S.C. Sec. 10301 et seq.).” Elec. Code § 14026(d).

for the ballot, triggering a stay of the new redistricting map pending the electorate’s vote on the referendum, this court has the responsibility of determining which voting district map should be used for the upcoming interim electoral cycle.” (Internal citations omitted). In *Ortiz v. Board of Supervisors*, 107 Cal.App.3d 866, 872 (1980), the court stated that “[c]hanges in supervisorial district boundaries is a legislative function and thus subject to the referendum.” (Internal citations omitted).

Even though these cases discuss reapportionment or redistricting plans, the same general principles would apply to ordinances establishing district elections because they do not fall under any of the exceptions set forth in Article 2, Section 9(a) of the Constitution, and districting ordinances are similar to reapportionment statutes in that while they relate to elections, they do not “call elections.” Therefore, an ordinance establishing district-based elections would ordinarily be effective 30 days after adoption.³⁰

In the past, perspective plaintiffs have made the argument that a local ballot measure cannot contravene state law (such as the CVRA) or policy, nor can a local ballot measure contravene the state's delegation of power to a local governing body. That argument also relies on the fact that California law was amended effective Jan. 1, 2017 to delegate the power to adopt district elections to city councils. However, there is nothing in the Elections Code that prevents a city from deciding to place the issue on the ballot for its voters, despite having the authority to change its election system by ordinance. Charter cities whose charters specify at-large elections must decide whether CVRA overrides the Charter or if a public vote on a charter amendment is necessary.

Making the ordinance effective thirty days after adoption creates an opportunity for referendum. If a petition for referendum is filed, however, and the matter has to be placed on the ballot, the city may face legal action by a prospective plaintiff claiming that the city’s election system violates the CVRA. There seems to be a gray area in the law and a need to balance between the power to petition for referendum and the need to apply state law.

IV. Litigation Update

a. Southwest Voter Registration Education Project v. City of Rancho Cucamonga

On December 23, 2015, the City of Rancho Cucamonga received a demand letter alleging violation of the CVRA. After receiving the letter, the city began analyzing the issue. On March 10, 2016, plaintiff Southwest Voter Registration Education Project³¹ filed an action against the city alleging that the city’s at-large election system violated the CVRA.³² On May 4, 2016, the City Council adopted a resolution submitting the question of district elections to the voters at the regular municipal election on November 8, 2016. The city’s electorate approved the measure at the November 2016 election.

³⁰ Gov. Code § 36937.

³¹ The plaintiff subsequently amended its complaint to add an individual plaintiff to the action.

³² *Southwest Voter Registration Education Project, et al. v. City of Rancho Cucamonga*, San Bernardino Superior Court Case No. CIVDS1603632.

Nonetheless, the plaintiffs pressed forward with the action on the ground that the adopted by-district election system with an at-large mayor was an at-large election system that was subject to the CVRA. The plaintiffs also challenged the map that the city's voters approved as part of the measure.

In November of 2017, the parties settled the action, and the only remaining issue to be decided in arbitration is plaintiffs' recovery of attorneys' fees from the city. The settlement agreement kept in place the election system approved by the voters during the November 2016 election. Pursuant to the settlement agreement, the parties shall work on adjusting the district map following the 2020 federal census.

b. Pico Neighborhood Association, et al. v. City of Santa Monica

On April 12, 2016, plaintiffs Pico Neighborhood Association, Maria Loya, and Advocates for Malibu Public Schools filed an action against the City of Santa Monica alleging, among other things that the city's election system violates the CVRA.³³ As of the date of drafting this paper, the case is set for trial on July 30, 2018.

On March 29, 2018, the City of Santa Monica filed a motion for summary judgment, or in the alternative, summary adjudication, on the ground that expert demographic analysis proves that no constitutionally or statutorily permissible remedy could enhance the Latino voting strength in the city. The city argues, therefore, that plaintiffs cannot meet their burden of demonstrating that an electoral scheme other than the city's current system would enhance Latino voting power. Based on the city's pleadings, the city's Latino population constitutes roughly 13 % of the city's citizen voting age population, and not a single voting precinct is majority-Latino. Therefore, the city argues, a district-based election system would dilute, not enhance, Latino voting strength. The city contends that a proof of racially polarized voting alone is not sufficient to establish a violation of the CVRA; rather, the plaintiff must show that the at-large election system has diluted the minority group's vote.

Alternatively, the city argues that the remedy plaintiff seeks—establishment of district-based elections—is not a constitutional remedy because any court order implementing district-based elections would separate voters on the basis of race. Such a remedy, the city argues, has to be narrowly tailored to accomplish a compelling state interest. The city argues that any district that attempts to group the city's Latino population in one district would be highly irregular in share that it would constitute racial gerrymandering.

The city is also seeking summary judgment on plaintiffs' claim for violation of the Equal Protection Clause on the ground that plaintiffs cannot draw a connection between the city's at-large system of election and any impact on Latino voting power in the city.

The city's motion is currently set for hearing on June 14, 2018.

³³ *Pico Neighborhood Association, et al. v. City of Santa Monica*, Los Angeles Superior Court Case No. BC616804.

c. Higginson v. Xavier Becerra, et al.

On October 4, 2017, plaintiff Don Higginson, a former mayor of the City of Poway, filed a federal action challenging the constitutionality of the CVRA.³⁴ The action was filed against Attorney General Xavier Becerra and the City of Poway after the City adopted district-based elections in response to a demand letter. The plaintiff alleged a cause of action under 42 U.S.C. §§ 1983 and 1988 for violation of his rights under the Fourteenth Amendment and alleged that the CVRA and the city’s adopted map violated the equal protection clause. The plaintiff sought an order declaring that the CVRA and the district map adopted by the city were unconstitutional and enjoining their enforcement and use.

Subsequently, on October 19, 2017, the plaintiff filed a motion for a preliminary injunction to temporarily enjoin the Attorney General from enforcing the CVRA and the city from using the district-map for elections during pendency of the action. The city took a neutral position in the litigation. On November 22, 2017, the Attorney General filed a motion to dismiss the claim asserting that the plaintiff lacked standing to bring the action and that he failed to state a claim upon which relief can be granted.

The court granted the Attorney General’s motion to dismiss on the ground that the plaintiff lacked standing to bring the action, and there was no subject matter jurisdiction. The court found that: (1) plaintiff has failed to plead facts to demonstrate that his injury is “fairly traceable” to requirements imposed on the City by the CVRA; (2) the complaint did not allege any existing or threatened enforcement action under the CVRA by the Attorney General or other state agency which motivated the city’s switch to by-district elections; and (3) plaintiff did not allege facts supporting an inference that the decision to adopt by-district elections was motivated by an effort to address racially-polarized voting in the City’s at-large elections or an effort to address a CVRA violation because the City stated during the process that this was a business decision to avoid litigation. The court also dismissed the case as to the City for the same reasons.

Based on the court’s decision with respect to the motion to dismiss, the court denied the preliminary injunction motion, noting that it cannot conclude that plaintiff has demonstrated a likelihood of success on the merits in light of the determination that the complaint failed to allege sufficient facts to establish subject matter jurisdiction.

On April 6, 2018, the plaintiff filed a notice of appeal in the Ninth Circuit.³⁵

V. Conclusion

While the constitutionality of the CVRA is currently being challenged in both federal and state courts, cities and other jurisdictions with an at-large election system remain susceptible to

³⁴ *Higginson v. Xavier Becerra, et al.*, United States District Court for the Southern District of California, Case No. 3:17-CV-02032-WQH-JLB.

³⁵ *Higginson v. Becerra, et al.*, 9th Cir. Case No. 18-55455.

receiving a CVRA demand letter. Elections Code Section 10010 provides a safe harbor for cities and other jurisdictions that decide to abide by its timeline and transition to district-based elections once they receive a demand letter. The process for charter cities may vary depending on the charter provisions that govern elections and charter amendments as well as the application of Section 10010 in light of the cities' municipal laws.



Solvang City Council

STAFF REPORT

PREPARED BY: Xenia Bradford, City Manager/City Clerk

MEETING DATE: August 9, 2021

SUBJECT: **PUBLIC HEARING TO RECEIVE INPUT FROM THE COMMUNITY REGARDING THE CREATION OF A DISTRICT-BASED ELECTION SYSTEM**

I. RECOMMENDATION:

Hold the first Public Hearing to receive input from the community regarding the creation of a district-based election system.

II. DISCUSSION:

On June 22, 2020, the City Council adopted Resolution No. 20-1112, declaring its intention to transition from at-large to district-based elections for the City Council commencing with the **General Municipal Election in November 2022**. Districting Process requires four public hearings. The second public hearing will be held on August 23, 2021 prior to release of draft maps. A dedicated website will be established for the redistricting process. Following education and solicitation of public input on the communities in the City, draft maps will be posted on the project website. Two public hearings will be held to discuss and revise the draft maps and to discuss the election sequence. Final maps will be posted for public review at least seven days prior to adoption of ordinance/resolution.

The purpose of today’s public hearing is to inform the public about the districting process and to hear from the community on what factors should be taken into consideration while creating district boundaries. National Demographic Corporation will be assisting the City in complying with the various requirements necessary to implement district-based elections. NDC has assisted many California communities in this process, and their representatives are available to respond to questions from the community regarding the process.

The public is requested to provide input regarding communities of interest and other local factors that should be considered while drafting district maps. A community of interest is a neighborhood or group that would benefit from being in the same district because of shared interests, views, or characteristics. Possible community features include, but are not limited to:

- A. School attendance areas
- B. Natural dividing lines such as major roads, hills, or highways
- C. Areas around parks and other neighborhood landmarks
- D. Common issues, neighborhood activities, or legislative/election concerns
- E. Shared demographic characteristics, such as:
 - (1) Similar levels of income, education, or linguistic insolation
 - (2) Languages spoken at home
 - (3) Single-family and multi-family housing unit areas

The City must ensure compliance with the following state and federally-mandated criteria:

- Each district shall contain a nearly equal population
- Each district shall be drawn in a manner that complies with the Federal Voting Rights Act and the California Voting Rights Act
- Each district shall not be drawn with race as the predominant factor in violation of the principles established by the U.S. Supreme Court in Shaw v. Reno, 509 U.S. 630 (1993), and its progeny

III. ALTERNATIVES:

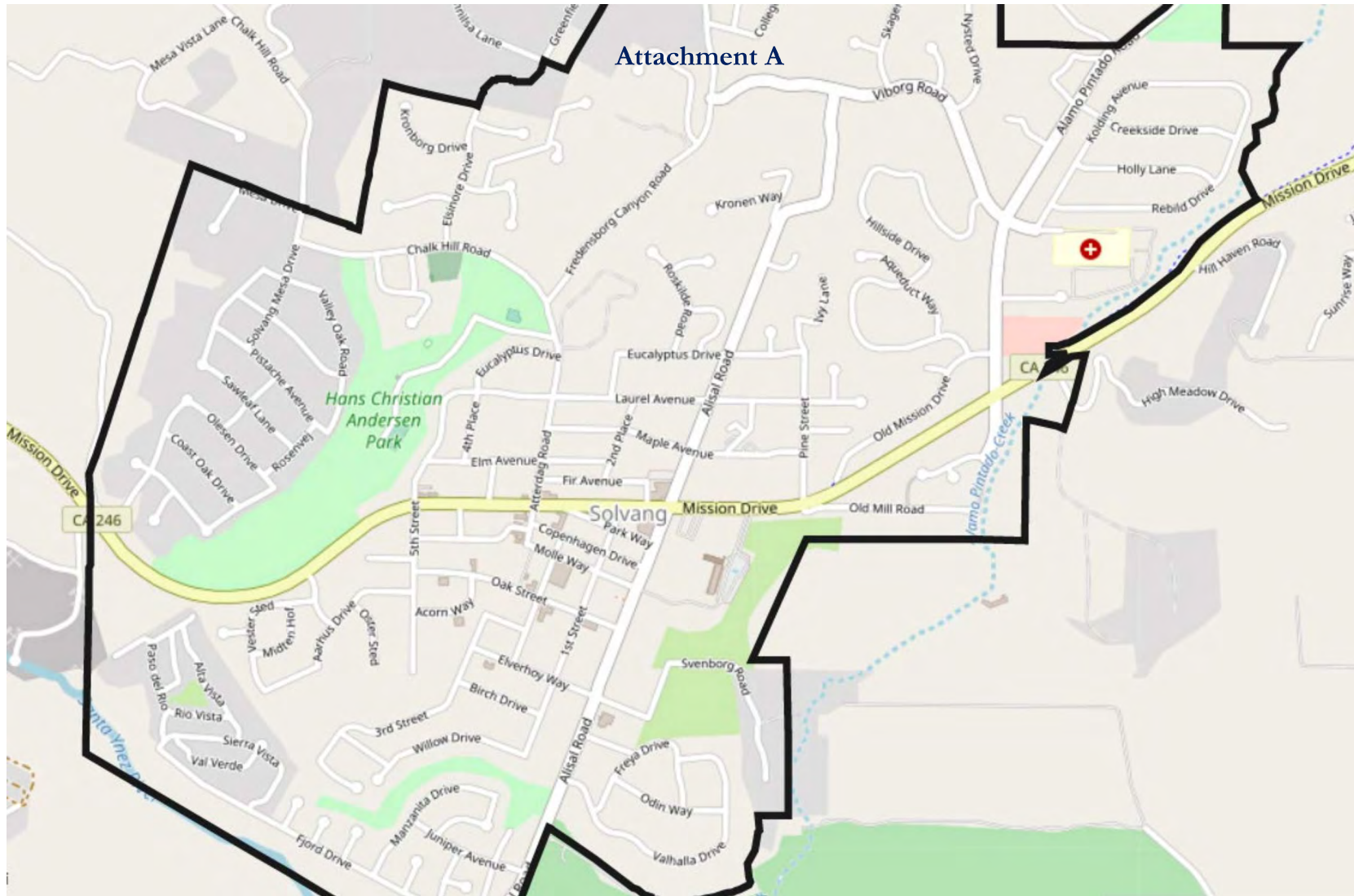
There are no alternative recommendations at this time.

IV. FISCAL IMPACT:

The contract with National Demographic Corporation for re-districting was previously approved by City Council and there is no additional fiscal impact.

V. ATTACHMENTS

Attachment A – Power Point Presentation



City of Solvang Introduction to Districting

Election Systems

1. “At Large”
2. “From District” or “Residence” Districts
3. “By District”

**The California Voting Rights Act
was written to specifically
encourage by-district elections**

J. California Voting Rights Act (CVRA)

- Under the Federal Voting Rights Act (passed in 1965), a jurisdiction must fail 4 factual tests before it is in violation of the law.
- The California VRA makes it significantly easier for plaintiffs to force jurisdictions into “by-district” election systems by eliminating two of the US Supreme Court Gingles tests:
 - ▣ Can the protected class constitute the majority of a district?
 - ▣ Does the protected class vote as a bloc?
 - ▣ Do the voters who are not in the protected class vote in a bloc to defeat the preferred candidates of the protected class?
 - ▣ Do the “totality of circumstances” indicate race is a factor in elections?
- Liability is now determined only by the presence of racially polarized voting

CVRA Impact

Switched (or in the process of switching) as a result of CVRA:

- At least 240 school districts
- 34 Community College Districts
- 154 cities
- 1 County Board of Supervisors
- 35 water and other special districts.

Cases So Far:

- Palmdale, Santa Clara and Santa Monica went to trial on the merits. Palmdale and Santa Clara lost. Santa Monica is awaiting a decision.
- Modesto and Palmdale each spent about \$1.8 million on their defense (in addition to the attorney fee awards in those cases).
- Santa Monica has spent an estimated \$7 million so far. Plaintiffs in Santa Monica requested \$22 million in legal fees after the original trial.

Key settlements:

- Palmdale: \$4.7 million
 - Modesto: \$3 million
 - Highland: \$1.3 million
 - Anaheim: \$1.1 million
 - Whittier: \$1 million
 - Santa Barbara: \$600,000
 - Tulare Hospital: \$500,000
 - Camarillo: \$233,000
 - Compton Unified: \$200,000
 - Madera Unified: about \$170,000
 - Hanford Joint Union Schools: \$118,000
 - Merced City: \$42,000
- An estimated \$16 million in total settlements and court awards so far.

Districting Process

Step	Description
Initial Pre-Draft Hearings: August 9 & 23	Held prior to release of draft maps. Education and to solicit input on the communities in the City. Identify “neighborhoods,” “communities of interest,” and “secondary areas.”
Initial deadline for draft maps: TBD	Deadline for the public to submit draft maps for inclusion in the next hearing packet and presentation
Release draft maps: TBD	Draft maps posted to project website
Two hearings on draft maps: TBD	Two meetings to discuss and revise the draft maps and to discuss the election sequence.
Map adoption: TBD	Map adopted via ordinance/resolution. Final map must be posted at least 7 days prior to adoption.

Districting Rules and Goals

1. Federal Laws

- Equal Population
- Federal Voting Rights Act
- No Racial Gerrymandering



2. California Criteria for Cities

1. **Geographically contiguous**
2. **Undivided neighborhoods and “communities of interest”**
(Socio-economic geographic areas that should be kept together)
3. **Easily identifiable boundaries**
4. **Compact**
(Do not bypass one group of people to get to a more distant group of people)

Prohibited:

“Shall not favor or discriminate against a political party.”

3. Other Traditional Districting Principles

- Respect voters’ choices / continuity in office
- Future population growth

J. Demographic Summary

Estimates using official 2020 demographic data and NDC's estimated total population figures.

Each of the 4 districts must contain about 1,500 people.

Solvang							
Category	Field	Count	Pct	Category	Field	Count	Pct
	2020 Est. Tot. Pop.	5,939					
Citizen Voting Age Pop	Total	4,487		Age	age0-19	1,267	21%
	Hisp	1,038	23%		age20-60	3,017	51%
	NH White	3,275	73%		age60plus	1,655	28%
	NH Black	23	1%	Immigration	immigrants	970	17%
	Asian/Pac.Isl.	99	2%		naturalized	567	58%
Voter Registration (Nov 2020)	Total	4,098		Language spoken at home	english	4,193	72%
	Latino est.	688	17%		spanish	1,307	23%
	Spanish-Surnamed	618	15%		asian-lang	71	1%
	Asian-Surnamed	54	1%		other lang	234	4%
	Filipino-Surnamed	17	0%	Language Fluency	Speaks Eng. "Less than Very Well"	797	14%
	NH White est.	3,281	80%		Education (among those age 25+)	hs-grad	2,021
NH Black	35	1%	bachelor	1,148		26%	
Voter Turnout (Nov 2020)	Total	3,703		graduatedegree	514	12%	
	Latino est.	549	15%	Child in Household	child-under18	605	25%
	Spanish-Surnamed	493	13%	Pct of Pop. Age 16+	employed	3,428	68%
	Asian-Surnamed	51	1%		Household Income	income 0-25k	312
	Filipino-Surnamed	16	0%	income 25-50k		344	14%
	NH White est.	3,034	82%	income 50-75k		485	20%
NH Black	33	1%	income 75-200k	950		39%	
Voter Turnout (Nov 2018)	Total	2,608		income 200k-plus	317	13%	
	Latino est.	296	11%	Housing Stats	single family	2,118	80%
	Spanish-Surnamed	266	10%		multi-family	530	20%
	Asian-Surnamed	28	1%		rented	975	40%
	Filipino-Surnamed	9	0%		owned	1,433	60%
	NH White est.	2,248	86%				
NH Black est.	18	1%					

Surname-based Voter Registration and Turnout data from the California Statewide Database. Latino voter registration and turnout data are Spanish-surname counts adjusted using Census Population Department undercount estimates. NH White and NH Black registration and turnout counts estimated by NDC. Citizen Voting Age Population, Age, Immigration, and other demographics from the 2015-2019 American Community Survey and Special Tabulation 5-year data. 2020 Est. Tot. Pop calculated by NDC starting from 2010 Census counts and adding in ACS-identified population growth, then subtracting out state prison populations.

Defining Neighborhoods

1st Question: what is your neighborhood?

2nd Question: what are its geographic boundaries?

Examples of physical features defining a neighborhood boundary:

- ❑ Natural neighborhood dividing lines, such as highway or major roads, rivers, canals and/or hills
- ❑ Areas around parks or schools
- ❑ Other neighborhood landmarks

In the absence of public testimony, planning records and other similar documents may provide definition.



Beyond Neighborhoods: Defining Communities of Interest

1st Question: what defines your community?

- Geographic Area, plus
- Shared issue or characteristic
 - *Shared social or economic interest*
 - *Impacted by city policies*
- Tell us “your community’s story”

2nd Question:

Would this community benefit from being “included within a single district for purposes of its effective and fair representation”?

- Or would it benefit more from having multiple representatives?

Definitions of Communities of Interest may not include relationships with political parties, incumbents, or political candidates.

Interactive Review Map

- Simple tool for viewing multiple data layers at once, and for reviewing draft maps once they are posted
- Can be found at this [link](#)
- Examples of data layers:
 - ▣ Voting eligible population by race/ethnicity
 - ▣ Land use/zoning
 - ▣ Renter housing
 - ▣ Education levels
 - ▣ Income levels
 - ▣ School attendance areas

Public Hearing & Discussion

- What are the neighborhoods of the city, and what are their boundaries?
- What other notable areas are in the city, and what are their boundaries?
- Any questions about the interactive review map?

Case Study: City of Ojai

The City of Ojai received a letter via certified mail from attorney Kevin I. Shenkman of Shenkman & Hughes on behalf of his client Southwest Voter Registration Education Project. The letter contains unsubstantiated allegations that the City's at-large 1 electoral system prevents members of Ojai's Latino community from electing their preferred candidate(s) and violates the California Voting Rights Act ("CVRA"). The letter threatens the City with litigation if the City declines to adopt a district-based electoral system. They held 4 public hearings.

Total Area	City or Town	Population	Charter or General Law	District or At Large	Rotation or Elected Mayor	Term Limits
10 miles (16 km) long by 3 miles (5 km) wide	City	7,610	General Law	District (4)	At Large Elected Mayor (2 year term)	None



Administrative Report

PUBLIC HEARING

TO: CITY COUNCIL

FROM: Steve McClary, City Manager
Matthew Summers, City Attorney

DATE REPORT PREPARED: October 17, 2018

MEETING DATE: October 23, 2018

SUBJECT: Public Hearing to Receive Input from the Community Regarding the Creation of a City Council District-Based Electoral System Pursuant to Elections Code Section 10010

Recommendation

Staff recommends the City Council conduct a Public Hearing (the first of four upcoming hearings) to receive public testimony on the composition, factors, and community characteristics to consider in drawing potential district maps for a district-based City Council electoral system pursuant to Elections Code section 10010.

Commission Recommendation

This item has not been considered by any City Commission.

Background

The City of Ojai currently elects its City Councilmembers and Mayor through an “at-large” electoral system in which each Councilmember and the Mayor can reside anywhere in the City and are elected by the voters of the entire electorate to provide citywide representation. At present, all voters are afforded the opportunity to elect three or one Councilmembers every two years, and the Mayor every two years, resulting in a five-member City Council elected to serve the entire City. On the November 6, 2018 ballot, the City’s voters will consider Measure J, which if adopted would repeal 2014’s Measure A (which created a directly-elected Mayor) and return the Mayor to an appointed position from among five elected City Councilmembers. The November 6, 2018 ballot also contains Measure K, which if adopted and Measure J fails, sets the directly-elected Mayor’s term at four years rather than the current two years. If the Council adopts district-based elections, the number of districts will be determined by the voters’ decision on Measure J, to be either four Council districts and a directly-elected Mayor or five Council districts, with the Mayor chosen by the City Council members.

On September 4, 2018, the City of Ojai received a letter via certified mail from attorney Kevin I. Shenkman of Shenkman & Hughes on behalf of his client Southwest Voter Registration Education Project. The letter contains unsubstantiated allegations that the City’s at-large

electoral system prevents members of Ojai’s Latino community from electing their preferred candidate(s) and violates the California Voting Rights Act (“CVRA”). The letter threatens the City with litigation if the City declines to adopt a district-based electoral system.

A district-based electoral system is one in which a city is divided into separate districts, each with one Councilmember who resides in the district and is chosen by the voters residing in that district. In a district-based electoral system, voters within each district may only vote for one candidate every four years. If adopted, a district-based electoral system in Ojai would either have four City Council districts and a Mayor elected at-large or five City Council districts, depending on the results of the November 6, 2018 election. If the voters retain the current directly-elected Mayor, the CVRA permits that position to remain elected at-large.

Elections Code section 10010 provides an opportunity for cities to limit their exposure to legal liability under the CVRA to \$30,000. Under Elections Code section 10010, a city must adopt a resolution of intention to transition to district-based elections, hold at least four public hearings over the course of ninety (90) days, and adopt an ordinance creating district maps and establishing district-based elections. A city does not admit any guilt or wrongdoing by taking advantage of the “safe harbor” provisions of Elections Code section 10010. Rather, it is an attempt to preserve a city’s resources and protect against potentially costly litigation.

On October 16, 2018, the City Council adopted the Resolution of Intention declaring the Council’s intent to consider whether to transition from at-large to district-based elections, and directing staff to analyze these matters in further detail as the process proceeds.

The adoption of the Resolution of Intent does not directly impact the upcoming November 6, 2018 elections. If the City Council adopts the ordinance approving a district-based electoral system, then the Council offices up for reelection in November 2020 would be elected from districts. The number of districts will be determined after November 6, 2018, once the electorate votes upon whether the Mayor will be elected or appointed. Depending on the results, the district-based electoral system will provide for an elected Mayor and four City Council districts or five City Council districts.

Procedural Steps

Elections Code section 10010, subdivision (a)(1), provides that before any map or maps of the boundaries for the proposed districts are drawn, the City must conduct two (2) Public Hearings over a period of no more than thirty (30) days from the adoption of the resolution of intention, at which time the public is invited to provide input regarding the composition of said districts. The first such Public Hearing is scheduled for October 23, 2018.

The purpose of the First Public Hearing is to inform the public about the CVRA, the difference between at-large and district-based elections, and the “safe harbor” process under Elections Code section 10010, and to hear from the community regarding what factors to consider in creating district boundaries. The City Council may consider the following non-exclusive list of factors in creating district boundaries:

1. Topography;
2. Zoning designations;
3. Contiguity, integrity, and compactness of territory; and
4. Communities of interest.

The public is requested to provide input regarding communities of interest and other local factors that should be considered while drafting district maps. A community of interest is a neighborhood or group that would benefit from being in the same district because of shared interests, views, or characteristics. Possible community features include, but are not limited to:

1. School attendance areas;
2. Natural dividing lines such as major roads, hills, or other geographic features;
3. Areas around parks and other neighborhood landmarks;
4. Common issues, neighborhood activities, or legislative/election concern; and
5. Shared demographic characteristics.

Ultimately, the City Council may choose to include some, all, or none of these criteria; or may choose to rely on unique criteria it believes are applicable to Ojai. However, the City must ensure compliance with the following federal and state-mandated criteria:

1. Each district shall contain a nearly equal population, measured by natural persons.
2. Each district shall be drawn in a manner that complies with the Federal Voting Rights Act.
3. Each district shall not be drawn with race as a predominant factor in violation of the principles established by the U.S. Supreme Court in *Shaw v. Reno* (1993) 509 U.S. 630 and its progeny.

The *Shaw v. Reno* ruling still allows for race to be considered among other factors in drawing districts, but requires that race be only one of many factors evaluated. In this case, North Carolina had drawn a Congressional district that was long and narrow, widening only to encompass various urban areas with no apparent common connection to each other beyond a large African-American population. The Court held that a district with a shape and composition “so bizarre on its face that it is unexplainable on grounds other than race” is subject to strict scrutiny. (509 U.S. 630, 644 [citation omitted].) Strict scrutiny requires a challenged government action to further a compelling government interest, to be narrowly tailored to accomplish that interest, and to be the least restrictive means to do so. Applying that standard, the Court held that this district failed to survive strict scrutiny because it was evidently drawn with the sole purpose of creating a majority-minority district, without consideration of other factors such as communities of interest, compactness, contiguity, and other geographical and jurisdictional boundaries.

Next Steps

At the City Council Meeting on November 13, 2018, staff recommends that the City Council conduct a Second Public Hearing to seek community input and to provide direction on “communities of interest” and the composition of districts to its demographer. This would meet the requirement of holding the first two public hearings within 30 days of the adoption of the resolution of intent.

At the City Council Meeting on November 27, 2018, staff recommends that the City Council conduct a Third Public Hearing to seek public input on the composition of the draft district map(s) and sequence of elections. The City Council will be requested to select a preferred map and direct amendments as necessary. Draft maps under consideration at this Third Public Hearing will be published online and in the newspaper for public review and evaluation at least

7 days in advance of the hearing.

Staff recommends the City Council conduct a fourth Public Hearing on January 8 to adopt a preferred district map and to consider whether to adopt an ordinance to transition to a district-based electoral system. Alternatively, Council could choose to schedule the fourth Public Hearing and consider adoption on December 11.


Finally, a third option would be to schedule Special City Council meetings to hold the hearings. Council could also choose to hold the fourth Public Hearing and consider adopting an ordinance at separate meetings, but would need to complete the process within 90 days of adopting the resolution of intent.

City Council Goals

The City of Ojai is a sustainable and resilient City that preserves and protects its quality of life. Discussion of this item will allow the City Council, and members of the public, to discuss the composition of districts and their effect on residents' quality of life.

Fiscal Impact

There will be significant staff and City Attorney time needed to transition to a district-based electoral system due to the need to conduct multiple Public Hearings. In addition, the City will incur the cost of a demographics consultant, National Demographic Corporation, to assist in drafting district maps. Staff estimates these costs to be around \$15,000-\$20,000. Should the City Council adopt an ordinance transitioning to a district-based electoral system, the City could have to reimburse the plaintiff for its attorneys' fees and costs up to \$30,000, but will not be exposed to additional legal fees in defense of a CVRA lawsuit if it completes the transition in compliance with Elections Code section 10010. These additional expenses will need to be considered and budgeted for at the expected mid-year budget adjustment.



Prepared by:
Matthew T. Summers, City Attorney



Submitted by:
Steve McClary, City Manager

Attachment:
A — Resolution No. 18-51

**City of Ojai
RESOLUTION NO. 18-51**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY
OF OJAI DECLARING ITS INTENT TO TRANSITION
FROM AT-LARGE ELECTIONS FOR CITY COUNCIL TO
DISTRICT-BASED ELECTIONS FOR CITY COUNCIL
PURSUANT TO ELECTIONS CODE SECTION 10010**

WHEREAS, the Mayor and four members of the City Council of the City of Ojai (“City”) are currently elected in “at-large” elections, in which the Mayor and each City Councilmember are elected by the registered voters of the entire City; and

WHEREAS, Ojai has had a directly elected Mayor since 2016, when a ballot measure approved by a majority of the City’s voters in November 2014 took effect creating a directly elected at-large Mayor; and

WHEREAS, Government Code section 34886, in certain circumstances, authorizes the legislative body of a city of any population to adopt an ordinance to change its method of election from an “at-large” system to a “by-district” system in which each Councilmember is elected only by the voters in the district in which the Councilmember resides; and

WHEREAS, the City began evaluating the California Voting Rights Act’s implications for the City’s existing at-large electoral system in March 2018; and

WHEREAS, the City received a letter via certified mail on September 4, 2018, from Kevin I. Shenkman, Esq., on behalf of his client Southwest Voter Registration Education Project, containing unsubstantiated allegations that the City’s at-large electoral system prevents members of Ojai’s Latino community from electing their preferred candidate and violates the California Voting Rights Act (“CVRA”) and threatening litigation if the City declined to adopt a district-based electoral system; and

WHEREAS, despite Mr. Shenkman’s claims, the City has a history of inclusionary voting and supports the rights of all members of the City of Ojai community, including minority community members to elect the candidate of their choice; and

WHEREAS, the City denies that its at-large election system violates the CVRA or any other provision of law and asserts that Ojai’s election system is legal in all respects and further denies any wrongdoing whatsoever in connection with the manner in which it has conducted its Mayoral and City Council elections; and

WHEREAS, even with the City’s inclusionary voting and election record, the City Attorney has advised that, given the CVRA’s elimination of two elements of the U.S. Supreme Court’s requirements to establish a federal Voting Rights Act challenge under *Thornburg v. Gingles* (1986) 478 U.S. 30, a CVRA challenge is more easily made on the basis of an argument

City of Ojai
City Council Resolution No. 18-51

that “racially polarized voting” exists based solely on past voting records, regardless of whether racial minorities have successfully elected preferred candidates in the past under an at-large electoral system nor whether there is any history of racial discrimination in the electoral system based on the totality of the circumstances; and

WHEREAS, the City has a history of inclusive voting, including recent a Latino City Council Member having been elected to the City Council; and

WHEREAS, the cost of defending a challenge under the CVRA can exceed several hundred thousand dollars, no City has ever prevailed to date in defending a CVRA lawsuit challenging at-large electoral systems, and the risk of losing such a challenge includes the possible award of attorneys’ fees to the plaintiffs by a court; and

WHEREAS, the City may voluntarily begin the transition process to district-based elections under the AB 350 “safe harbor” provisions in which any attorneys’ fees, if owed, are capped at \$30,000; and

WHEREAS, although the demand letter cited above lacked any evidence of racially polarized voting, the City Council has concluded, with the advice of the City Attorney, that the public interest would be better served by considering a transition to a district-based electoral system pursuant to the “safe harbor” provisions of Elections Code section 10010 because of (1) the extraordinary cost to defend against a CVRA lawsuit, (2) the risk of losing such a lawsuit could result in a court order for the City to pay plaintiff’s attorney’s fees, and (3) reimburseable costs and plaintiff’s attorneys’ fees, if owed, are capped at a maximum of \$30,000 under the “safe harbor” provisions; and

WHEREAS, prior to the City Council’s consideration of an ordinance to establish boundaries for a district-based electoral system, Elections Code Section 10010 requires all of the following:

- 1) Prior to drawing a draft map or maps of the proposed boundaries of the districts, the City shall hold at least two (2) Public Hearings over a period of no more than thirty (30) days, at which the public will be invited to provide input regarding the composition of the districts.
- 2) After all draft maps are drawn, the City shall publish and make available for release at least one draft map and, if members of the City Council will be elected in their districts at different times to provide for staggered terms of office, the potential sequence of the elections shall also be published.
- 3) The City Council shall also hold at least two (2) additional Public Hearings over a period of no more than forty-five (45) days, at which the public shall be invited to provide input regarding the content of the draft map or maps and the proposed sequence of elections, if applicable.

City of Ojai
City Council Resolution No. 18-51

4) The first version of a draft map shall be published at least seven (7) days before consideration at a Public Hearing. If a draft map is revised at or following a Public Hearing, it shall be published and made available to the public at least seven (7) days before being adopted.

WHEREAS, the City will be utilizing the services of a professional demographer to assist the City to develop a proposal for a district-based electoral system; and

WHEREAS, the number of districts will be determined after the November 6, 2018 elections, once the electorate has an opportunity to vote upon whether the Mayor will continue to be elected at large or will instead be appointed from among the five Council Members, as the CVRA permits a directly elected Mayor, if retained by the voters, to be elected at large; and

WHEREAS, the adoption of this Resolution will not affect the seats up for election nor the results of the November 6, 2018 elections; and

WHEREAS, the adoption of a district-based electoral system will not affect the terms of any sitting Councilmember or Mayor in office at the time of the adoption of an ordinance instituting a district-based voting system, each of whom will serve out his or her current term.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Ojai that:

SECTION 1. The City Council hereby resolves to consider adoption of an ordinance to transition to a district-based electoral system as authorized by Government Code Section 34886 for use in the City’s General Municipal Election beginning in November 2020 for Members of the City Council and the Mayor, if the voters decide on November 6, 2018 that the Mayor shall be appointed from among the members of the City Council and not directly elected. If the voters decide on November 6, 2018 to reject Measure J and retain a directly elected Mayor, then the City Council would consider adoption of an ordinance creating a district-based electoral system just for the four City Council Members and the Mayor would continue to be elected at-large.

SECTION 2. The City Council directs the City Clerk, City Manager, and City Attorney to work with a professional demographer, and other appropriate consultants as needed, to further investigate the history of voting in the City of Ojai and the feasibility of transitioning to districts, to provide a detailed analysis of Ojai’s current demographics and any other information or data necessary to prepare a draft map that divides Ojai into voting districts in a manner consistent with the intent and purpose of the CVRA and the Federal Voting Rights Act. The City Council further directs staff to demand the basis for the Southwest Voter Registration Education Project’s allegations.

SECTION 3. The City Council directs staff to finalize a timeline for conducting a public process to solicit public input and testimony on proposed district-based electoral maps before adopting any such map.

City of Ojai
City Council Resolution No. 18-51



SECTION 4. The City Council directs the City Clerk to post information regarding the proposed transition to a district-based electoral system on the City's website including maps, notices, agendas and other information.

SECTION 5. The City Clerk of the City of Ojai shall certify to the passage and adoption of this resolution and its approval by the City Council and shall cause the same to be listed in the records of the City.

PASSED, APPROVED and ADOPTED this 16th day of October, 2018 by the following vote:

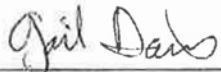
- AYES: Blatz, Francina, Haney, Johnston, Weirick
- NOES: None
- ABSENT: None
- ABSTAIN: None

CITY OF OJAI, CALIFORNIA


 John F. Johnston, Mayor


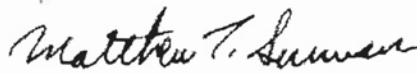
 Date signed

ATTEST:



 Gail Davis, Deputy City Clerk

APPROVED AS TO FORM:



 Matthew Summers, City Attorney

**CITY OF OJAI
ORDINANCE NO. 889**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OJAI, CALIFORNIA, ADDING A NEW CHAPTER 6 (“ELECTIONS”) OF TITLE 2 (“ADMINISTRATION”) TO THE OJAI MUNICIPAL CODE TO CHANGE THE CITY’S ELECTORAL SYSTEM FROM AT-LARGE TO BY-DISTRICT ELECTIONS WITH RESPECT TO ELECTING MEMBERS OF THE CITY COUNCIL, ESTABLISHING DISTRICT BOUNDARIES, AND SEQUENCING OF ELECTIONS WITHIN THE DISTRICTS AND DECLARING THE URGENCY THEREOF IN ACCORDANCE WITH GOVERNMENT CODE SECTIONS 36934 AND 36937

WHEREAS, the Mayor and four members of the City Council of the City of Ojai (“City”) are currently elected in “at-large” elections, in which the Mayor and each City Councilmember are elected by the registered voters of the entire City; and

WHEREAS, Ojai has had a directly elected Mayor with a two-year term since 2016, when a ballot measure approved by a majority of the City’s voters in November 2014 took effect creating a directly elected at-large Mayor, a system recently reconfirmed by the voters at the November 2018 election; and

WHEREAS, Government Code Section 34886, in certain circumstances, authorizes the legislative body of a city of any population to adopt an ordinance to change its method of election from an “at-large” system to a “by-district” system in which each Councilmember is elected only by the voters in the district in which the Councilmember resides; and

WHEREAS, the City received a letter via certified mail on September 4, 2018, from Kevin I. Shenkman, Esq., on behalf of his client Southwest Voter Registration Education Project, containing unsubstantiated allegations that the City’s at-large electoral system prevents members of Ojai’s Latino community from electing their preferred candidate and violates the California Voting Rights Act (“CVRA”) and threatening litigation if the City declined to adopt a district-based electoral system; and

WHEREAS, despite Mr. Shenkman’s claims, the City has a history of inclusionary voting and supports the rights of all members of the City of Ojai community, including minority community members to elect the candidate of their choice; and

WHEREAS, the City denies that its at-large election system violates the CVRA or any other provision of law and asserts that Ojai’s election system is legal in all respects and further denies any wrongdoing whatsoever in connection with the manner in which it has conducted its Mayoral and City Council elections; and

City of Ojai
City Ordinance No. 889

WHEREAS, although the demand letter cited above lacked any evidence of racially polarized voting, the City Council has concluded, with the advice of the City Attorney, that the public interest would be better served by transitioning to a district-based electoral system under the “safe harbor” provisions of Elections Code Section 10010 because of (1) the extraordinary cost to defend against a CVRA lawsuit, (2) no City has ever prevailed to date in defending a CVRA lawsuit challenging at-large electoral systems, (3) the risk of losing such a lawsuit could result in a court order for the City to pay plaintiff’s attorney’s fees, and (4) reimburseable costs and plaintiff’s attorneys’ fees, if required to be paid, are capped at a maximum of \$30,000 under the “safe harbor” provisions; and

WHEREAS, at its regular meeting on October 16, 2018, the City Council adopted Resolution No. 18-51 declaring the Council’s intent to consider whether to transition from an at-large to district-based electoral system, thereby initiating the “safe harbor” period; and

WHEREAS, Elections Code Section 10010(a)(1), provides that before any map or maps of the boundaries for the proposed districts are drawn, the City must conduct two (2) Public Hearings over a period of no more than thirty (30) days from the adoption of the resolution of intention, at which time the public is invited to provide input regarding the composition of the districts; and

WHEREAS, the first public hearing took place on October 23, 2018 and the second public hearing on November 13, 2018, during which City staff informed the public about the CVRA, the difference between at-large and district-based elections, and the “safe harbor” process under Elections Code Section 10010, and heard from the community regarding what factors to consider in creating district boundaries; and

WHEREAS, Elections Code Section 10010(a)(2), provides that the City Council shall also hold at least two (2) additional Public Hearings over a period of no more than forty-five (45) days, at which the public shall be invited to provide input regarding the content of the draft map or maps and the proposed sequence of elections; and

WHEREAS, the third public hearing took place on November 27, 2018 and the fourth public hearing took place on December 11, 2018, during which the City Council received public comment on the boundaries of draft district-based election maps; and

WHEREAS, if the CVRA is amended in a manner which qualifies the City to return to at-large elections, the City Council declares its desire for appropriate actions to be taken; and

WHEREAS, Government Code Section 36937, subdivision (b), authorizes the adoption of ordinances that take effect immediately if they relate to elections, provided such ordinances are approved by a majority vote of the City Council

City of Ojai
City Ordinance No. 889

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OJAI DOES ORDAIN AS FOLLOWS:

SECTION 1. Recitals. The above set forth Recitals and findings are true and correct and incorporated herein by reference, as if set forth herein in full.

SECTION 2. Text Amendment. Ojai Municipal Code Chapter 6 (“Elections”) of Title 2 (“Administration”) is hereby added to read as follows:

“Chapter 6 ELECTIONS

Article 1. City Council Members Elected By-District

Section 2-6.101. Purpose

The City Council declares that this change in method of electing members of the City of Ojai City Council is enacted in furtherance of the California Voting Rights Act of 2001.

Section 2-6.102. By-District Elections

Beginning with the municipal election in November 2020, the four members of the City Council shall be elected in the electoral districts established by Section 2-6.103 and subsequently reapportioned as provided by State law. Elections shall take place by-district as that term is defined in California Government Code Section 34871, meaning one member of the City Council shall be elected from each district by the voters of that district alone. Each member of the City Council shall serve a four-year term.

Section 2-6.103. District Maps

Members of the City Council shall be elected on a by-district basis from the four (4) City Council districts hereby established. The boundaries and identifying number of each district shall be as described on the City Council District Map attached hereto as “Exhibit A” and incorporated by reference.

Section 2-6.104. Election Sequence

Commencing with the general municipal election in November 2020 and every four years thereafter the voters in District 4 shall elect a member of the City Council by-district for a full four (4) year term. At the general municipal election in November 2022 and every four years thereafter, the voters in Districts 1, 2, and 3 shall elect members of the City Council by-district for full four (4) year terms.

Section 2-6.105. City Council Residency

Each member of the City Council elected by-district must reside in that district and be a registered voter in that district, and any candidate for City Council must reside in, and be a registered voter in, the district in which he or she seeks election at the time nomination papers are

City of Ojai
City Ordinance No. 889

issued pursuant to Government Code Section 34882 and Elections Code Section 10227. It is the intent of the City Council that no term of any member of the City Council that commenced on the same day as or before the effective date of this ordinance shall be affected by this Chapter. Any sitting City Council member elected at-large may reside anywhere within the City during the pendency of his or her term in effect on the effective date of this ordinance.

Section 2-6.106. Voter Residency

Registered voters signing nomination papers or voting for a member of the City Council shall be residents of the geographical area making up the district from which the candidate is to be elected.

Section 2-6.107. Termination of Residency

Termination of residency in a district by a member of the City Council elected by-district shall create a vacancy for that City Council District unless a substitute residence within the district is immediately declared and established within (30) days after the termination of residency. In the event that a vacancy is created as a result of termination of residency as provided herein, such vacancy shall be filled pursuant to the provisions of the Elections Code.

Section 2-6.108. Technical Amendments

If necessary to facilitate the implementation of this Article, the City Clerk is authorized to make technical adjustments to the district boundaries that do not substantively affect the populations in the districts, the eligibility of candidates, or the residence of elected officials within any district. The City Clerk shall consult with the City Manager and City Attorney concerning any technical adjustments deemed necessary and shall advise the City Council of any such adjustments required in the implementation of the districts.

Article 2. Mayor Elected At-Large

Section 2-6.201. Mayor Elected At-Large

The office of Mayor of the City of Ojai is a separate office with a term of two (2) years, which shall continue to be elected at-large, as approved by a majority of the City’s electorate in November 2014 by adoption of Measures A and B, under the provisions of Government Code section 34900. The at-large electoral system for the Mayor may only be changed by a vote of the City’s electorate.

SECTION 3. Urgency Findings. The City Council finds this Ordinance should take effect immediately as an “Urgency Ordinance” as it is an ordinance relating to the conduct of the City’s elections pursuant to Government Code Section 36937, subdivision (a).

SECTION 4. Severability. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council declares that it would have adopted this Ordinance,

City Council
Ordinance No. 889
Page 4 of 6

City of Ojai
City Ordinance No. 889

and each section, subsection, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more sections, subsections, phrases or portions might be declared invalid or unconstitutional.

SECTION 5. Certification. Upon adoption of this Urgency Ordinance, the Mayor shall sign and the City Clerk shall attest to the passage of this Urgency Ordinance. The City Clerk shall cause this Ordinance to be published once, within fifteen (15) calendar days after its passage, in the *Ojai Valley News*, a newspaper of general circulation, printed, published and circulated in the City, and shall cause a copy of this Ordinance and its certification, together with proof of publication, to be entered in the Book of Ordinances of the City.

SECTION 6. Effective Date. This Urgency Ordinance shall take effect immediately after its passage and adoption pursuant to California Government Code Section 36937, shall supersede any conflicting provision of any City of Ojai ordinance, and shall continue in effect until terminated by further action of the City Council in accord with applicable law.

CITY OF OJAI, CALIFORNIA


By 
John F. Johnston, Mayor
1-14-19

ATTEST:



Gail Davis, Deputy City Clerk

APPROVED AS TO FORM:




Matthew T. Summers, City Attorney

STATE OF CALIFORNIA)
COUNTY OF VENTURA)
CITY OF OJAI)

City of Ojai
City Ordinance No. 889

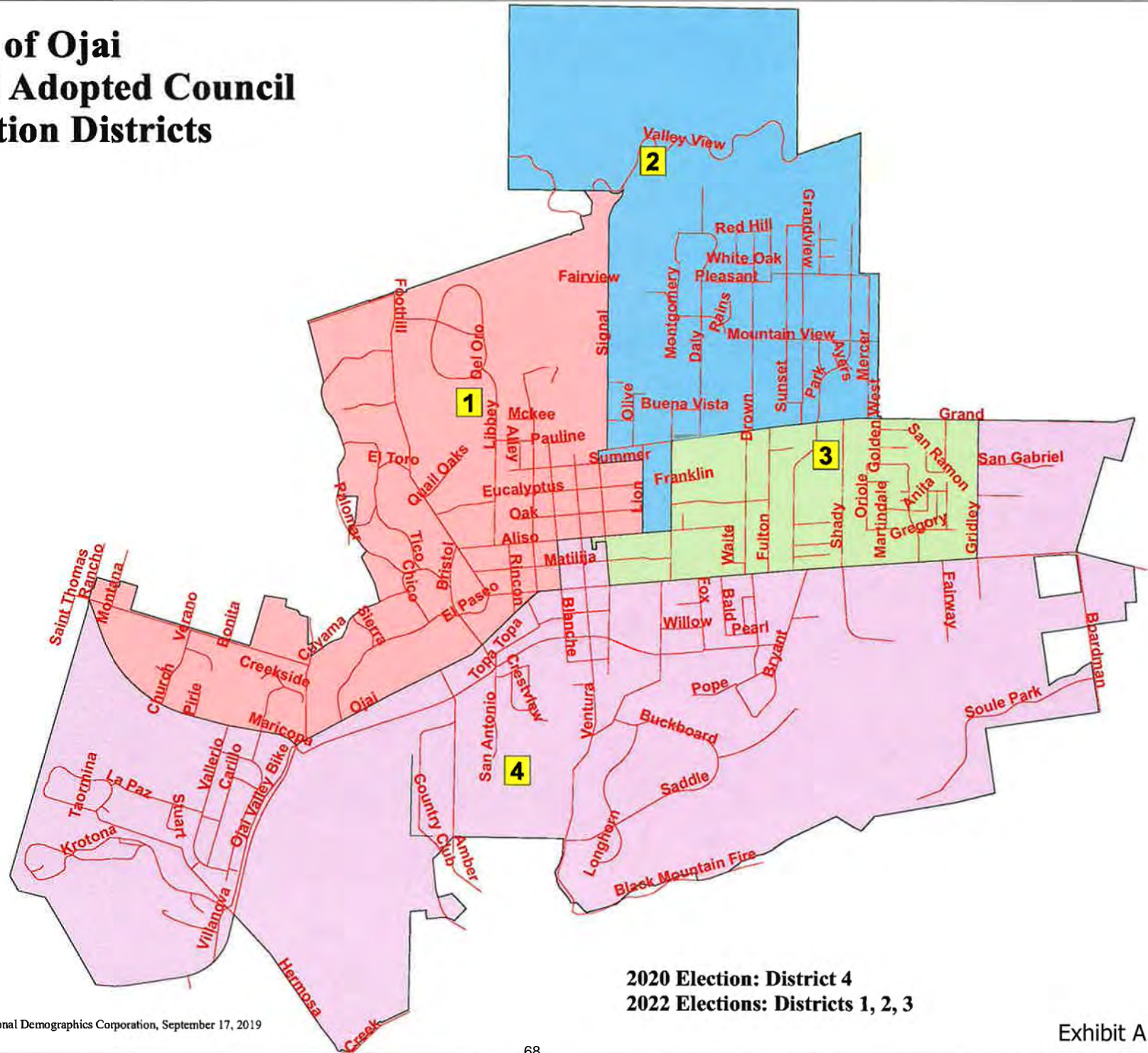
I, Gail Davis, Deputy City Clerk of the City of Ojai do hereby certify that the foregoing Urgency Ordinance was introduced at a regular meeting of the City Council of the City of Ojai held on December 11, 2018, and adopted by the following vote:

- AYES: Blatz, Francina, Haney, Johnston
- NOES: Weirick
- ABSTAIN: None
- ABSENT: None



 Gail Davis
 Deputy City Clerk for the City of Ojai

City of Ojai 2018 Adopted Council Election Districts



National Demographics Corporation, September 17, 2019

City of Ojai - Draft Map 101b

District		1	2	3	4	Total
Ideal	Total Pop	1,919	1,863	1,817	1,862	7,461
1,865	Deviation from ideal	54	-2	-48	-3	102
	% Deviation	2.90%	-0.11%	-2.57%	-0.16%	5.47%
Total Pop	% Hisp	14%	13%	28%	16%	18%
	% NH White	81%	82%	67%	78%	77%
	% NH Black	1%	0%	0%	1%	1%
	% Asian-American	3%	2%	2%	3%	3%
Citizen Voting Age Pop	Total	1,464	1,541	1,254	1,390	5,650
	% Hisp	11%	12%	21%	8%	13%
	% NH White	84%	87%	75%	88%	84%
	% NH Black	0%	0%	0%	2%	1%
	% Asian/Pac.Isl.	4%	1%	3%	0%	2%
Voter Registration (Nov 2016)	Total	1,249	1,326	1,112	1,343	5,030
	% Latino est.	9%	12%	13%	11%	11%
	% Spanish-Surnamed	8%	11%	11%	10%	10%
	% Asian-Surnamed	1%	1%	1%	2%	1%
	% Filipino-Surnamed	1%	0%	0%	1%	0%
	% NH White est.	81%	87%	86%	79%	83%
Voter Turnout (Nov 2016)	% NH Black	0%	0%	0%	2%	1%
	Total	1,082	1,098	926	1,129	4,235
	% Latino est.	8%	10%	11%	10%	10%
	% Spanish-Surnamed	7%	9%	10%	9%	9%
	% Asian-Surnamed	1%	1%	1%	2%	1%
	% Filipino-Surnamed	1%	0%	0%	0%	0%
Voter Turnout (Nov 2014)	% NH White est.	81%	88%	88%	80%	84%
	% NH Black	0%	0%	0%	2%	1%
	Total	739	937	378	758	2,812
	% Latino est.	5%	7%	7%	7%	6%
	% Spanish-Surnamed	4%	6%	6%	6%	6%
	% Asian-Surnamed	1%	1%	1%	1%	1%
ACS Pop. Est.	% Filipino-Surnamed	0%	0%	0%	0%	0%
	% NH White est.	86%	92%	92%	86%	89%
	% NH Black est.	0%	0%	0%	0%	0%
	Total	1,881	1,807	1,755	1,829	7,272
Age	age0-19	20%	21%	21%	20%	21%
	age20-60	43%	51%	54%	48%	49%
	age60plus	37%	29%	25%	31%	31%
Immigration	immigrants	14%	15%	15%	10%	13%
	naturalized	71%	56%	50%	43%	56%
Language spoken at home	english	84%	84%	84%	83%	84%
	spanish	8%	10%	11%	13%	10%
	asian-lang	1%	1%	2%	0%	1%
	other lang	7%	5%	4%	4%	5%
Language Fluency	Speaks Eng. "Less than Very Well"	3%	5%	6%	6%	5%
Education (among those age 25+)	hs-grad	44%	44%	44%	49%	45%
	bachelor	27%	27%	27%	23%	26%
	graduatedegree	22%	20%	18%	18%	19%
Child in Household	child-under18	21%	24%	27%	17%	22%
Pct of Pop. Age 16+	employed	48%	55%	58%	55%	54%
Household Income	income 0-25k	19%	17%	16%	24%	19%
	income 25-50k	19%	17%	16%	15%	17%
	income 50-75k	16%	18%	20%	14%	17%
	income 75-200k	33%	33%	33%	31%	32%
	income 200k-plus	13%	15%	16%	16%	15%
Housing Stats	single family	77%	82%	86%	89%	83%
	multi-family	23%	18%	14%	11%	17%
	rented	41%	42%	42%	35%	40%
	owned	59%	58%	58%	65%	60%

Total population data from the 2010 Decennial Census.

Surname-based Voter Registration and Turnout data from the California Statewide Database.

Latino voter registration and turnout data are Spanish-surname counts adjusted using Census Population Department undercount estimates. NH White and NH Black registration and turnout counts estimated by NDC. Citizen Voting Age Pop., Age, Immigration, and other demographics from the 2012-2016 American Community Survey and Special Tabulation 5-year data.

Case Study Town of Woodside

The Town of Woodside had “from-district” elections to elect their councilmembers. Woodside historically had 7 districts, and the “from district” meant that they needed to live in that district; however, anyone in Town could vote for that candidate. Votes did not need to come from their specific districts as they do now. The Town on Woodside did not receive a demand letter. It was noted that moving forward with by-district elections will save the Town costs associated with either litigating a potential CVRA lawsuit or settling the issue with prospective plaintiffs that may issue a demand letter. They held 5 public hearings for public engagement.

Total Area	City or Town	Population	Charter or General Law	District or At Large	Rotation or Elected Mayor	Term Limits
11.73 square miles	Town	5,309	General Law	District (5)	Rotation	None

ORDINANCE NO. 2022 - 626

ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF WOODSIDE REPEALING SUBSECTION 30.02, RESIDENCY OF COUNCIL MEMBERS IN DISTRICTS OF REPRESENTATION, TITLE III, ADMINISTRATION, CHAPTER 30, TOWN COUNCIL, OF THE WOODSIDE MUNICIPAL CODE AND ADDING SUBSECTION 30.02, ELECTION OF MEMBERS OF THE TOWN COUNCIL BY DISTRICT TO PROVIDE FOR THE ELECTION OF MEMBERS OF THE TOWN COUNCIL BY FIVE DISTRICTS, ESTABLISHING THE BOUNDARIES AND IDENTIFICATION NUMBER OF EACH DISTRICT, AND ESTABLISHING THE ELECTION ORDER OF EACH DISTRICT; CEQA DETERMINATION: EXEMPT PURSUANT TO STATE CEQA GUIDELINES SECTION 15378(b)(5), 15601(b)(3)

WHEREAS, the Town of Woodside has historically used a “from district” method of electing members to the Town Council, which is consistent with the guarantees of Section 7 of Article 1 and of Section 2 of Article II of the California Constitution; and

WHEREAS, California Government Code Section 34886 permits the Town Council to change the method of election by ordinance to a “by-district” system in which each member of the Town Council is elected only by the voters in the district in which the candidate resides, in accordance with California Government Code Section 34871; and

WHEREAS, a by-district system can also be consistent with the guarantees of Section 7 of Article I and of Section 2 of Article II of the California Constitution; and

WHEREAS, on March 23, 2021, the Town Council adopted Resolution Number 2021-7398 that initiated the process of establishing a by-district election system; and

WHEREAS, under the provisions of California Elections Code Section 100100, a town that changes from an at-large method of electing councilmembers to a by-district method of electing councilmembers must hold a total of five public hearings, which includes at least two public hearings regarding potential voting district boundaries prior to the release and consideration of any draft voting district maps, and two public hearings following the release of draft voting district maps; and

WHEREAS, on November 16, 2021 and December 9, 2021, pursuant to California Elections Code Section 10010(a)(1), the Town Council held public hearings where the public was invited to provide input regarding the composition of the Town’s voting districts before any draft maps were drawn, and the Town Council of the Town of Woodside considered and discussed the same; and

WHEREAS, on February 28, 2022 and March 15, 2022, pursuant to California Elections Code Section 10010(a)(2), the Town Council held public hearings where the public was invited to provide input regarding the content of the draft maps that had been released and published at least seven (7) days before each meeting, and the proposed sequence of the elections, and the Town Council of the Town of Woodside considered and discussed the same; and

WHEREAS, at its meeting on March 15, 2022, the Town Council directed staff to prepare a proposed ordinance adopting a voting district map for the Town Council’s consideration; and

WHEREAS, on April 5, 2022, the Town Council held a final public hearing on the proposal to establish district boundaries, reviewed and considered additional public input, formally selected the voting district map and the election sequence attached to, incorporated in, and set forth, in this Ordinance as Exhibit A, which was introduced for a first reading at the same meeting; and

WHEREAS, throughout the foregoing process, the Town engaged in a significant amount of public outreach and engagement above and beyond the public hearings and other procedures required by California Elections Code Section 10010; and

WHEREAS, the purpose of this Ordinance is to enact, pursuant to California Government Code Section 34886, an ordinance providing for the election of members of the Town Council of the Town of Woodside by district in five single-member districts as reflected in the voting district map attached as Exhibit A to this Ordinance, in furtherance of the California Voting Rights Act of 2001 (Chapter 1.5 [commencing with Section 14025] of Division 14 of the Elections Code) to encourage by-district elections as one method to implement the guarantees of Section 7 of Article I and of Section 2 of Article II of the California Constitution.

IT IS HEREBY ORDAINED by the Town Council of the Town of Woodside as follows:

SECTION ONE: The recitals set forth above are true and correct and are hereby incorporated herein by this reference as if fully set forth in their entirety.

SECTION TWO: Chapter 30, Town Council, of Title III, Administration, of the Woodside Municipal Code is hereby amended to repeal Section 30.02, Residency of Council Members in districts of representation, in its entirety.

SECTION THREE: A new Section 30.02, Election of members of the Town Council by district, is added to Chapter 30, Town Council of Title III, Administration, of the Woodside Municipal Code to read as follows:

Section 30.02 Election of members of the Town Council by district.

- (A) *Districts Established.* Five Town Council districts are hereby established in the Town of Woodside. The boundaries and identifying numbers of each district shall be as described and shown on the Council District Map attached as Exhibit A, and incorporated by reference.
- (B) *Election of members of the Town Council by-district.*
 - (1) Following the effective date of this Ordinance and upon the commencement of “by-district” elections in the order established by this Code Section, members of the Town Council shall be elected “by-district” as defined in the California Government Code Section 34871 or any successor statute. Any candidate for Town Council must have been a resident and elector of the

district in which they seek election by the time they pull nomination papers for such office, or such person’s appointment to fill a vacancy therein. No term of any member of the Town Council that commenced prior to the effective date of this Ordinance shall be affected by the adoption of this Ordinance. Should a vacancy occur in an office elected for a term scheduled to terminate after the November 2024 election prior to the scheduled end of that term, the Council may fill that vacancy for the remainder of that term pursuant to regular process of filling Council vacancies and, if by special election, that special election shall be “from district.”

- (2) Registered voters voting for a member of the Town Council shall be residents of the geographical area making up the district from which the member is to be elected.
- (3) The terms of the office of each member elected to the Town Council shall remain four (4) years.

(C) *Commencement of district elections.*

- (1) Commencing on the General Municipal Election in 2022 and every four years thereafter the voters in districts 2 and 3, shall elect members of the Town Council by district for four (4) year terms. At the General Municipal Election in 2024, and every four years thereafter, the voters in districts 1, 4, and 5, shall elect members of the Town Council by district for four (4) year terms.
- (2) The term of office of any councilmember who has been elected and whose term of office has not expired shall not be affected by any change in the boundaries of the district from which they were elected.

SECTION FOUR: Technical Adjustments and Metes-and-Bounds. If necessary to facilitate the implementation of this Ordinance, the Town Clerk is authorized to make technical adjustments to the district boundaries that do not substantively affect the populations in the districts, the eligibility of candidates, or the residence of elected officials, within any district. The Town Clerk shall consult with the Town Manager and Town Attorney concerning any technical adjustments deemed necessary and shall advise the Town Council of any such adjustments required in the implementation of the districts. The Town Clerk shall also direct the Town’s demographer to provide a metes-and-bounds description of each district as shown on the map attached as Exhibit A and incorporated herein by reference, which shall be submitted to the Town Council at its next regular meeting and kept on file in the Town Clerk’s office for public review.

SECTION FIVE: CEQA Determination. This Ordinance is not subject to the California Environmental Quality Act (CEQA) because it is not a “project” within the meaning of Section 15378 of the State CEQA Guidelines, since there is no potential of the Ordinance to result in direct or indirect physical change to the environment. In addition, the Ordinance is not subject to CEQA pursuant to State CEQA Guidelines section 15061(b)(3), as it can be seen with certainty that there is no possibility the Ordinance may have a significant effect on the environment.

SECTION SIX: If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance or any part thereof is for any reason held to be unconstitutional or invalid, or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of the Ordinance or any part thereof. The Town Council

hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional or invalid or ineffective.

SECTION SEVEN: Pursuant to Section 36937(a) of the Government Code of the State of California, the Ordinance shall take effect immediately upon its passage.

SECTION EIGHT: The Town Clerk shall cause this Ordinance to be published in accordance with the requirements of Section 36933 of the Government Code of the State of California.


* * * * *

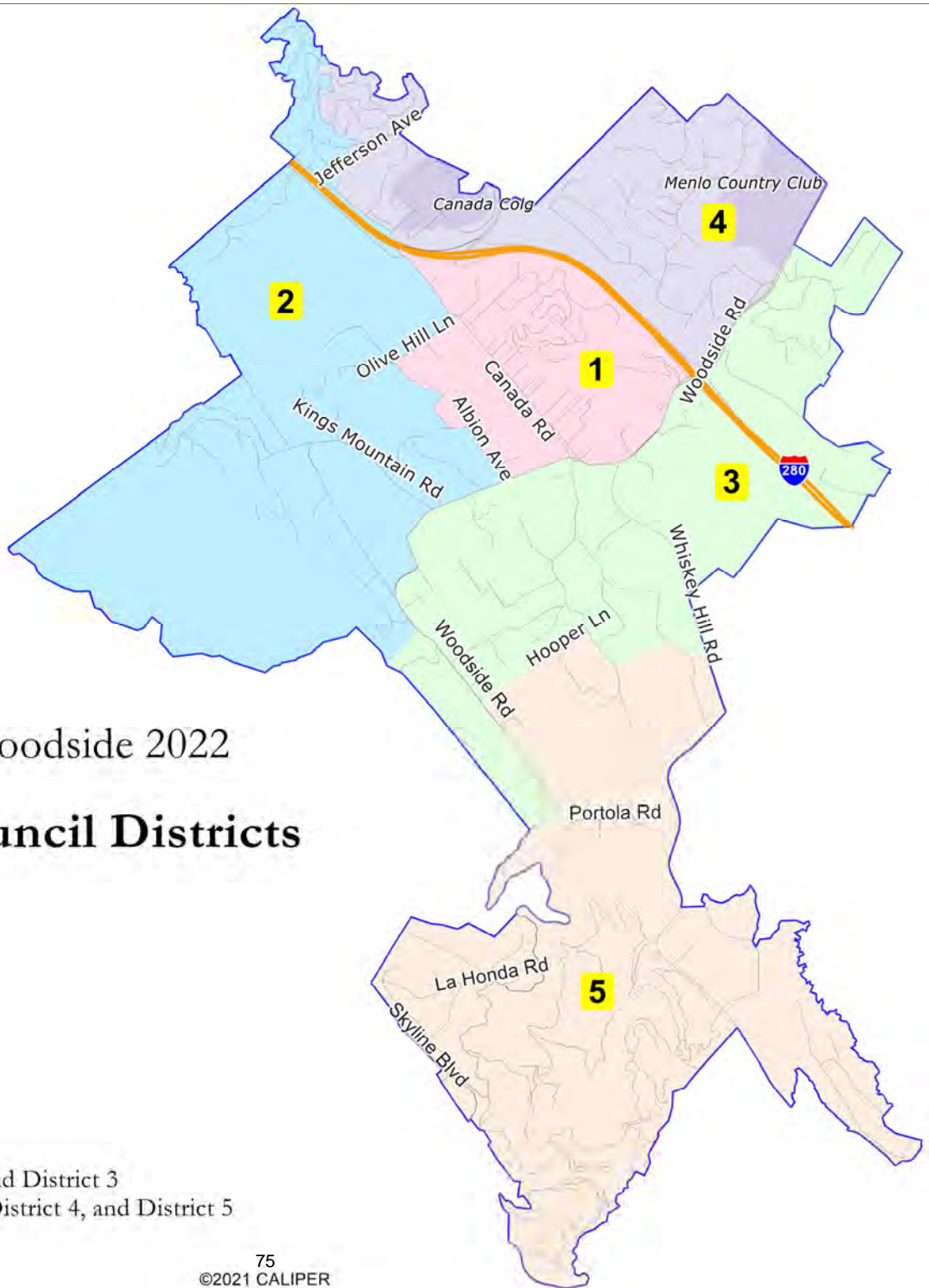
I, the undersigned, hereby certify that the foregoing Ordinance is a full, true and correct copy of Ordinance No. 2022-626 of the Town of Woodside entitled as above; that it was introduced on the 5th day of April, 2022 and was passed and adopted by the Town Council on the 12th day of April of, 2022, by the following vote:

AYES, Councilmembers: Carvell, Dombkowski, Shaw, and Mayor Brown
NOES, Councilmembers: Fluet
ABSENT, Councilmembers: Scott and Wall
ABSTAIN, Councilmembers:


Clerk of the Town of Woodside

APPROVED:


Mayor of the Town of Woodside



Town of Woodside 2022
Adopted Council Districts

2022 Elections: District 2 and District 3
2024 Elections: District 1, District 4, and District 5

Public 101 Revised

J.	District	1	2	3	4	5	Total
	Total Pop	1,047	1,085	1,031	1,074	1,076	5,313
	Deviation from ideal	-16	22	-32	11	13	54
	% Deviation	-1.51%	2.07%	-3.01%	1.03%	1.22%	5.08%
Total Pop	% Hisp	6.1%	7%	6%	5%	13%	8%
	% NH White	82%	79%	78%	73%	72%	77%
	% NH Black	1%	1%	1%	1%	1%	1%
	% Asian-American	9%	9%	10%	18%	10%	11%
Citizen Voting Age Pop	Total	756	705	822	898	849	4,030
	% Hisp	4%	7%	3%	4%	10%	6%
	% NH White	90%	85%	85%	78%	85%	84%
	% NH Black	0%	0%	3%	3%	0%	1%
	% Asian/Pac.Isl.	6%	8%	9%	15%	6%	9%
Voter Registration (Nov 2020)	Total	857	828	881	910	798	4,274
	% Latino est.	4%	3%	5%	2%	4%	3%
	% Spanish-Surnamed	4%	3%	5%	2%	4%	3%
	% Asian-Surnamed	4%	4%	6%	7%	6%	6%
	% Filipino-Surnamed	0%	0%	1%	0%	0%	0%
	% NH White est.	91%	93%	86%	89%	88%	89%
	% NH Black	0%	0%	2%	1%	0%	1%
Voter Turnout (Nov 2020)	Total	774	713	773	803	692	3,755
	% Latino est.	4%	3%	4%	2%	3%	3%
	% Spanish-Surnamed	4%	3%	4%	2%	3%	3%
	% Asian-Surnamed	4%	4%	6%	8%	7%	6%
	% Filipino-Surnamed	0%	0%	1%	0%	0%	0%
	% NH White est.	91%	93%	86%	88%	88%	89%
	% NH Black	0%	0%	2%	1%	0%	1%
Voter Turnout (Nov 2018)	Total	642	663	589	665	625	3,184
	% Latino est.	4%	2%	4%	2%	3%	3%
	% Spanish-Surnamed	4%	2%	4%	2%	3%	3%
	% Asian-Surnamed	4%	4%	4%	5%	4%	4%
	% Filipino-Surnamed	0%	0%	0%	0%	0%	0%
	% NH White est.	92%	93%	88%	91%	91%	91%
	% NH Black est.	0%	0%	3%	1%	0%	1%
ACS Pop. Est.	Total	1,148	1,018	1,073	1,142	1,177	5,559
Age	age0-19	33%	25%	24%	22%	22%	25%
	age20-60	47%	41%	42%	38%	54%	45%
	age60plus	21%	34%	34%	40%	24%	30%
Immigration	immigrants	18%	18%	17%	18%	15%	17%
	naturalized	78%	67%	69%	79%	62%	71%
Language spoken at home	english	85%	83%	84%	83%	84%	84%
	spanish	7%	4%	4%	4%	7%	5%
	asian-lang	4%	4%	3%	3%	4%	3%
	other lang	5%	9%	10%	10%	6%	8%
Language Fluency	Speaks Eng. "Less than Very Well"	0%	5%	3%	5%	5%	4%
Education (among those age 25+)	hs-grad	20%	14%	16%	16%	12%	16%
	bachelor	32%	31%	35%	31%	32%	32%
	graduatedegree	41%	45%	41%	47%	48%	45%
Child in Household	child-under18	47%	29%	29%	25%	36%	33%
Pct of Pop. Age 16+	employed	53%	58%	54%	56%	72%	59%
Household Income	income 0-25k	10%	5%	7%	3%	6%	6%
	income 25-50k	6%	5%	6%	7%	10%	7%
	income 50-75k	7%	3%	4%	3%	5%	4%
	income 75-200k	25%	27%	25%	17%	21%	23%
	income 200k-plus	52%	61%	57%	71%	58%	60%
Housing Stats	single family	100%	96%	98%	100%	100%	99%
	multi-family	0%	4%	2%	0%	0%	1%
	rented	13%	12%	14%	1%	17%	11%
	owned	87%	88%	86%	99%	83%	89%

Total population data from the 2020 Decennial Census.

Surname-based Voter Registration and Turnout data from the California Statewide Database.

Latino voter registration and turnout data are Spanish-surname counts adjusted using Census Population Department undercount estimates. NH White and NH Black registration and turnout counts estimated by NDC. Citizen Voting Age Pop., Age, Immigration, and other demographics from the 2015-2019 American Community Survey and Special Tabulation 5-year data.

TOWN OF WOODSIDE

Report to Town Council

Agenda Item A

From: Kevin Bryant, Town Manager

November 16, 2021

SUBJECT: REDISTRICTING: RECEIVE INPUT FROM THE COMMUNITY REGARDING THE TRANSITION FROM A "FROM-DISTRICT" TO A "BY-DISTRICT" TOWN COUNCIL ELECTION SYSTEM

RECOMMENDATION

It is recommended that the Town Council consider the districting process and permissible criteria to be considered to create district boundaries and conduct a public hearing to receive input on district boundaries.

BACKGROUND

On March 23, 2021, the Town Council adopted Resolution 2021-7398 initiating the process to transition from a "from-district" election system to "by-district" election system. Since the California Voting Rights Act (CVRA) was enacted in 2002, several cities and special districts throughout the State have received demand letters, requiring that those cities/special districts move to "by-district" elections to avoid a lawsuit alleging a violation of the CVRA. Under a "by-district" election system, residents from each district only vote for candidates vying for their district's seat, rather than for candidates from each district.

The Town did not receive a letter threatening a CVRA lawsuit. The Council did determine that voluntarily transitioning to "by-district" elections would save the costs associated with either litigating a potential CVRA lawsuit or settling the issue with prospective plaintiffs that may issue a demand letter in the future. In unanimously approving the Request for Proposals for demographers to assist with the transition to "by-district" elections, the Council also identified exploring the question of whether seven or five Council members best serves the Town.

DISCUSSION

The first step in the transition process is to hold two public hearings to invite public input regarding the composition of the Town's new voting districts before any maps are drawn. After these two public hearings are complete, the Town Council must hold at least two additional public hearings on the draft map(s) of the districts themselves. The maps must be publicly available for at least seven days before the public hearing, and if a change is made to the map(s) after the first public hearing, the revised map(s) must be available at least seven days before the districts are adopted by ordinance.

The purpose of the first two public hearings is to inform the public about the districting process and to hear from the community on what factors should be taken into consideration while creating district boundaries. The public is requested to provide input regarding communities of interest and other local factors that should be considered while drafting district maps. A "community of interest" is a neighborhood or group that would benefit from being in the same district because of shared interests, views, or characteristics. Possible community features include, but are not limited to:

- School attendance areas;
- Natural dividing lines such as major roads, hills, or highways;
- Areas around parks and other neighborhood landmarks;
- Common issues, neighborhood activities, or legislative/election concerns; and
- Shared demographic characteristics, such as:
 - o Similar levels of income, education, or linguistic insolation;
 - o Languages spoken at home; and
 - o Housing types.

In creating the district boundaries, the Town must ensure compliance with the following state and federally-mandated criteria:

Federal Laws:

1. Each council district shall contain a nearly equal population as required by law; and
2. Each council district shall be drawn in a manner that complies with the Federal Voting Rights Act. No council district shall be drawn with race as the predominate factor in violation of the principles established by the United States Supreme Court in *Shaw v. Reno*, 509 U.S. 630 (1993), and its progeny.

California Criteria for Cities:

1. Geographically contiguous
2. Undivided neighborhoods and "communities of interest" (socio-economic geographic areas that should be kept together)
3. Easily identifiable boundaries
4. Compact (Do not bypass one group of people to get to a more distant group of people)

Other Traditional Districting Principles:

1. Respect voters' choices/continuity in office
2. Future population growth

NEXT STEPS

At a meeting on December 9, 2021, a second Public Hearing will be held to seek additional public input. Following that hearing, draft district maps and proposed election sequencing will be posted to the Town's redistricting website and be available at Town Hall. The draft maps will be posted at least seven days prior to Public Hearings #3 and #4, which will take place between January and March.

CONCLUSION

Transition from a "from-district" election system to a "by-district" election system will ensure that the Town is compliant with the California Voting Rights Act.



CITY of BRISBANE

Charter City & Election Issues Subcommittee Agenda

Monday, May 13th, 2024 at 2:30PM • Hybrid Meeting
Brisbane City Hall, Large Conference Room, 50 Park Place, Brisbane, CA

The public may observe/participate in the Subcommittee meetings by using remote public comment options or attending in person. Subcommittee members shall attend in person unless remote participation is permitted by law. The Subcommittee may take action on any item listed in the agenda.

JOIN IN PERSON

Location: 50 Park Place, Brisbane, CA 94005 - [Large Conference Room](#)

Masks are no longer required but are highly recommended in accordance with California Department of Health Guidelines. To maintain public health and safety, please do not attend in person if you are experiencing symptoms associated with COVID-19 or respiratory illness.

JOIN VIRTUALLY

Join Zoom Webinar (please use the latest version: zoom.us/download):

Join Zoom: <https://us06web.zoom.us/j/81353391725>

Meeting ID: 813 5339 1725

Call In Number: 1 (669) 900-9128

Note: Callers dial *9 to "raise hand" and dial *6 to mute/unmute.

The agenda materials may be viewed online at www.brisbaneca.org at least 72 hours prior to a Meeting. Please be advised that if there are technological difficulties, the meeting will nevertheless continue.

TO ADDRESS THE SUBCOMMITTEE

IN PERSON PARTICIPATION

To address the Subcommittee on any item on or not on the posted agenda, please wait until Public Comments are being accepted.

REMOTE PARTICIPATION

Members of the public may observe/participate in the Committee meeting by logging into the Zoom Webinar. Aside from commenting while in the Zoom meeting, the following email line will be monitored during the meeting, and public comments received will be noted for the record during Public Comment or during the Item.

Email: IPadilla@brisbaneca.org

SPECIAL ASSISTANCE

If you need special assistance to participate in this meeting, please contact Ingrid Padilla at (415) 508-2113 or IPadilla@brisbaneca.org. Notification in advance of the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting.

SUBCOMMITTEE MEMBERS:

Councilmember Davis, Councilmember Lentz

ROLL CALL

- A. Consider any request of a City Councilmember to attend the meeting remotely under the “Emergency Circumstances” of AB 2449

PRESENTATIONS AND DISCUSSION ITEMS

- B. Meet with National Demographics Corporation (NDC) President Douglas Johnson
- C. Follow Up Discussion on Brisbane Election Options

PUBLIC COMMENT

ADJOURNMENT

J.

File Attachments for Item:

B. Meet with National Demographics Corporation (NDC) President Douglas Johnson



March 8, 2024

Introduction

Since 1979, NDC has assisted local governments with demographic analysis, voting rights act liability studies, districting, and redistricting projects. The firm has completed well over 600 such projects with more than 475 local governments across California and Arizona.

Our local clients include South San Francisco, South San Francisco Unified, San Bruno, Pacifica, Half Moon Bay, Woodside, the San Mateo Board of Supervisors, San Mateo Union High School District, Sequoia Union High School District, and Cabrillo Unified High School District, among others.

In December 2023 NDC merged with Lapkoff and Gobalet Demographic Research (LGDR), adding the expertise of Drs. Lapkoff and Gobalet (both of whom have worked in this field since 1990) to our already best-in-class consulting team.

More information on NDC's experience, methodology and tools is in the background document that accompanies this proposal.

Step 1: Demographic Analysis

Demographic Summary and Test Map

Task A: Create the demographic database

This database will include 2020 Census data on total population and voting age population counts by race and ethnicity; California Statewide Database data on voter registration and recent turnout by Spanish- and Asian-American surnames; American Community Survey (ACS) data from the Census Bureau socio-economic data on language spoken at home, renters vs homeowners, age, education level, and other factors useful in identifying communities of interest, and the Census Bureau's ACS Special Tabulation data on Citizens of Voting Age by race and ethnicity (also known as "eligible voters").

Task B: Test District Map(s)

Task: NDC will analyze whether it is possible to draw one or more majority-minority districts based on each of the following demographic databases:

- Most recent available general election voter turnout by surname

- Most recent available general election voter registration by surname
- Citizen Voting Age Population (Using the most recent available Census Bureau Special Tabulation data)
- Citizen Voting Age Population (Using the most recent available Census Bureau American Community Survey)
- Voting Age Population (2020 Census)
- Total Population (2020 Census)

Deliverables:

- Spreadsheet of District demographics in electronic and PDF format.
- Interactive online map of demographic and socio-economic data.
- Demographic data on test district(s) and PDF map of test districts.

Step 2 – Districting Scope of Work (if requested)

At the conclusion of Step 1, the City may decide to conclude the project or the City may decide to implement by-district elections. If the City decides to move ahead, the districting “Step 2” would include:

- **Districting Project Setup and coordination:**
 - Incorporation of any Geographic Information System (GIS) data that the jurisdiction wishes to include and provides (often including school locations; school attendance areas; important local landmarks; or local neighborhood boundaries);
 - Initial telephonic discussion with about data, communities of interest, schedule, criteria and special concerns of the jurisdiction;
 - Assist jurisdiction with developing a communications plan for public outreach, including suggestions for webpage content and design, public feedback logistics, and strategies for engaging constituents;
 - Assist jurisdiction with developing a project plan, including a detailed timeline, goals and objectives, and specific deliverables list;
 - Provide progress reports on an as-needed basis as determined by the project manager and meet regularly with project team;
 - Any phone- or web-conference calls to discuss the project's progress or to answer any questions that may arise;
 - Provide education and guidance on required redistricting criteria, and advice on selecting optional redistricting criteria, for staff and elected officials;



- Preparation and delivery of reports required under Elections Code Section 21130(b);
- **Districting Plan Development:**
 - Creation of 2 to 4 initial draft maps;
 - Analysis and preparation for presentation of all whole or partial plans submitted by the public;
 - Conversion of all maps and reports to web-friendly versions;
 - Online posting of all maps to an interactive review website;
 - Create any requested additional and/or revised maps as requested;
- **Plan implementation:**
 - Provide spatial data in GIS-friendly format of any dataset used or created for this project to staff upon request;
 - Work with the County Registrar of Voters to implement the final adopted plan;
- **Project Options**
 - Number of virtual or in-person meetings (and resulting per-meeting fee);
 - Consultant-prepared and -managed project website;
 - Online mapping tool allowing residents to draw and submit maps;
 - Paper-based mapping tool allowing residents to draw and submit maps.

Project Pricing

Step 1 – Demographic Profile and Test Map(s)

Analysis, report and one phone/virtual presentation of results.....	\$ 2,000
Any additional virtual presentation (if requested by jurisdiction).....	\$ 1,500
Any in-person meeting presentation (if requested by jurisdiction).....	\$ 3,000

Step 2 – Districting (if necessary)

1. **Districting Project Elements** (Covers everything listed above except for per-meeting and optional expenses):..... \$ 8,000
2. **Per-Meeting expense:**
 - In-person attendance, per meeting \$ 3,000
 - Virtual (telephonic, Zoom, etc.) attendance, per meeting..... \$ 1,500

For each meeting, NDC will prepare meeting materials, including presentation materials and maps; present and explain key concepts, including mandatory and traditional redistricting criteria and “communities of interest”; facilitate conversations; answer questions; and gather



National Demographics Corporation
City of Brisbane
Scope of Work and Cost Proposal

feedback on existing and proposed boundaries. Per-meeting prices include all travel and other anticipated meeting-related expenses. Telephone calls to answer questions, discuss project status, and other standard project management tasks do not count as meetings and do not result in any charge.

3. Optional Project Elements:

- a) Project website \$ 6,500
- b) Public mapping tool options:
 - Online and paper system including all elements below \$ 3,500
 - DRA (an easy-to-use online mapping tool, also known as "Dave's Redistricting App")
 - Public Participation Kit paper- and Excel-based mapping tool
- c) Public Participation Kit mapping tool alone \$ 2,500

Project Timing

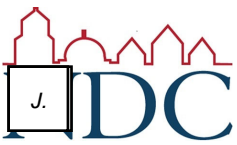
Step 1 (Demographic Analysis) can be completed in seven to ten days.

Step 2 (Districting) must follow extensive statutory requirements for districting projects.

When necessary, these requirements can be met in as little as two to four weeks, but that requires special meetings of the Council and results in a highly rushed project with little opportunity for public input.

A jurisdiction wishing to conduct extensive public outreach as part of its districting effort usually plans for a three- to six-month-long project.

To implement by-district elections for the November 2024 elections, the County Registrar of Voters usually requests to receive the final adopted map in mid- to late-May, but it is usually possible to implement if adopted by late June.



Proposal Acceptance

The terms of this proposal are available for 90 calendar days from its delivery to you. In most situations, NDC is open to extending that period of time to meet any particular needs of your jurisdiction.

If your jurisdiction has specific contract and/or letter of agreement language you prefer to use, please provide it and ignore the signature block below. If you prefer, simply sign two copies of this proposal in the signature block below and return them to NDC. Once signed by NDC, one copy will be returned to you.

Thank you.

For National Demographics Corporation

For City of Brisbane

Douglas Johnson, President

Date

Date



National Demographics Corporation

Company Background and Additional Details on Project Elements

By National Demographics Corporation

Douglas Johnson, President



Table of Contents

Brief History of National Demographics Corporation 2

Company Philosophy 3

 Professionalism 3

 Local Leadership and Non-Partisan Professionals 3

 Openness 4

 Public Engagement 4

 Project Software 4

The NDC Team 5

Recognition of the NDC’s Expertise 5

NDC Client Testimonials 10

NDC Approach to Public Engagement 12

 The Three E’s of Public Participation: Engage, Educate, and Empower 12

Districing and Redistricting References 16

Additional Details of Optional Project Elements 17

 Advisory or Independent Redistricting Commissions 17

 Outreach Assistance 17

 Project Website 17

 Online Mapping Tool for Public / Resident Use 18

 DRA Online Mapping Tool 19

 Paper-based Public Mapping Tool 20

Other Potential Project-Related Expenses: 20

Conclusion 21

Resumes of NDC President Dr. Douglas Johnson and
 Vice President Dr. Justin Levitt 22

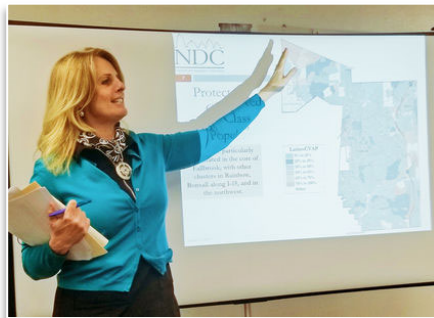


Brief History of National Demographics Corporation

Since our founding in 1979, NDC has served hundreds of local governments. While most of NDC’s work is in California and Arizona, the firm has performed projects in all regions of the country, serving clients as varied as the States of Mississippi, Arizona, Florida and Illinois; Clark County (Nevada); Jacksonville (Florida); numerous counties of all sizes across California and Arizona; the San Diego Unified School District; and relatively smaller jurisdictions such as the City of Bradbury, the City of Solvang, and Clay Elementary School District.

The company is especially well known for its districting and redistricting work with local governments. No company has been responsible for addressing the electoral demographic needs of more local governments, as NDC has conducted over 450 local government districting and/or redistricting projects, including 215 such projects in the 2021/2022 post-Census redistricting cycle alone. By our count, NDC performed the districting work for over 85% of the nearly 200 California cities that moved from at-large to by-district elections since the 2001 passage of the California Voting Rights Act.

Nationally recognized as a pioneer in good government districting and redistricting, NDC has unmatched expertise in the issues, questions, and decisions jurisdictions face in any discussion regarding districting, redistricting, the Federal and local state Voting Rights Acts, and related election system choices.



Company Philosophy

Professionalism

NDC's personnel are nationally recognized as leaders in the districting field and are responsible for numerous books and articles on the subject. NDC possesses all the hardware and software necessary to meet the districting and redistricting needs of any jurisdiction, and its personnel have unmatched experience in the line-drawing side of this work, as well as in developing the databases used for these purposes. But more important are the firm's interpersonal skills and the team's understanding of the perspective of all parties in this process.

Local Leadership and Non-Partisan Professionals

NDC is an advisor and technical resource. The firm's role is to assist our clients through the complicated demographic and legal framework for their project. NDC shares its experience and expertise, but the final plan is selected by the jurisdiction's elected leaders, not NDC. The firm is sometimes criticized, usually by people from outside of the client jurisdiction, for not acting as an advocate or proselytizer for what these outsiders think is "right" for the client. But NDC team members are expert advisors, not proselytizers. NDC guides our clients through the process to a map that meets all legal requirements and the goals of our client – not the goals of outside critics. NDC welcomes the chance to assist each client through this process following the direction of the jurisdiction's elected leadership, key staff members, and the entire community.

A common question in many districting or redistricting projects is whether there is any influence of any improper political bias on the process. NDC's four decades of success working for jurisdictions with all-Democratic leadership, jurisdictions with all-Republican leadership, and every possible combination in between, reflects our steadfast dedication to non-partisan service. At work, each of us puts our personal political feelings aside and focuses on implementing the policy goals and directions of our clients using NDC's non-partisan, professional and expert guidance regarding the requirements and options facing each client. We believe most of our clients would be hard-pressed to guess which NDC team members are registered as independents or with any political party, and we are proud to have satisfied customers and clients whose partisan leanings (even in their non-partisan local government offices) similarly cross the entire partisan spectrum.

Openness

Any change in election systems can have momentous implications for the distribution of political power in a jurisdiction and for access by groups and individuals to the governance process. Not surprisingly, such changes often attract considerable public attention, sometimes generate intense controversy, and may draw charges of manipulation and abuse of power. It is crucial, therefore, that the jurisdiction establish, at the beginning, a process that is not only fair, but that is seen to be fair, to all contending groups and individuals.

Public Engagement

NDC pioneered the “transparent districting” approach that involves the public at every stage of the process and the company invented the “public participation kit” back in 1990. But NDC’s most valuable service is the firm’s experience transforming often contentious and passionate debates into thoughtful, constructive discussions focused on the options and outcomes rather than individual personalities. NDC also has considerable experience working with translators in public forums and providing materials in English and Spanish.

NDC’s approach has been widely praised in the media, and NDC has worked extensively with all types of press including radio, television, newspaper, and new media.

Project Software

NDC uses Caliper Corporation’s Maptitude for Redistricting software for processing public map submissions and drawing NDC’s draft maps and Board-directed revisions. Maptitude for Redistricting can open and use the standard “Shapefile” and “File Geodatabase” GIS data formats, and Maptitude for Redistricting can export all files to “Shapefile” and “File Geodatabase” formats.

NDC uses ESRI’s ArcGIS Online to present those maps for Board, Staff and Public review in an easy-to-use, interactive format. NDC also uses ArcGIS Pro for some specialized Geographic Information System (GIS) analysis; for opening and reviewing data received from clients or from other jurisdictions; and when needed for final map post-adoption processing for delivery to the jurisdiction and to the County Registrar. Microsoft PowerPoint is also used for many presentations, along with the ArcGIS Online interactive maps.

The NDC Team

NDC's 40 years of service to local governments is grounded in our academic founding and decades of professional relationships with all forms of local governments. Each NDC team member has been extensively trained in the legal requirements, demographic details, and complicated personal and community interests involved in every districting and redistricting project. And every NDC team member has been briefed on the wide range of unusual and bizarre challenges NDC has encountered over our more than 250 successfully completed local government projects. Whatever question or situation arises, your NDC team can handle it.

NDC President Dr. Douglas Johnson leads all team training and closely monitors the progress of every client project. NDC President Dr. Johnson and Vice President Dr. Levitt are always available to all clients, and typically are personally involved whenever particularly unusual or complex situations arise. Each NDC team member brings their personal expertise in demographics, city governance, school district governance and/or special district management to every project. And each team leader has particular expertise and focus in specific geographic areas.

All team members profiles are available on www.ndcresearch.com/about-us/.

Recognition of the NDC's Expertise

Both national and local organizations have recognized NDC's unmatched experience and expertise in the Census, districting, and redistricting.

National Recognition

Nationally, the National Conference of State Legislatures hosted NDC as a panelist at five different forums held for state legislators and legislative staff from across the country. NDC President Douglas Johnson addressed these forums on the following topics:

1. *Citizen Voting Age Data from a line-drawer's viewpoint*
2. *Communities of Interest in Redistricting: A key to drawing 2011 plans (and for their defense)*
3. *The Key to Successful Redistricting*
4. *Communities of Interest In Redistricting: A Practical Guide*
5. *The Arizona Independent Redistricting Commissions' experiences with the first-ever independent redistricting*



In addition:

- The National League of Women Voters hosted NDC President Douglas Johnson at a 2006 conference on “Building a National Redistricting Reform Movement,”
- Texas Tech University hosted Dr. Johnson as a panelist at its “Symposium on Redistricting;”
- The Arizona League of Cities and Towns hosted Dr. Johnson as a panelist on “Redistricting Law and the Voting Rights Act: What It Means for Your City or Town in 2011” and
- The Arizona Bar Association hosted Dr. Johnson as a panelist on “Communities of interest and technology in redistricting.”

California League of Cities Recognition

The California League of Cities hosted NDC as panelists over a dozen times to date:

- General Meeting panel: 2006 and 2015
- Executive Forum panel: 2018 and 2020
- City Clerk Department panel: 2014, 2017, 2018, twice in 2019, and 2020
- City Manager Department panel: 2015 and 2019
- City Attorney Department panel: 2018
- Inland Empire Chapter presentation: 2016
- South Bay Chapter presentation: 2020 and 2021

Recognition by Additional California Organizations

Other California organizations and conferences since 2011 recognizing NDC’s expertise in this field include:

2020	California County Counsel Assoc.	2021 Redistricting - What Local Government Attorneys Need to Know
2020	“Voice of San Diego” Politifest	Redistricting--What it means for our community
2020	County Committee Secretaries Annual Summit	The California Voting Rights Act
2020	Rose Institute of State and Local Government	2021 Redistricting: New Rules for California Local Governments



2020	California Special Districts Association	California Voting Rights Act Challenge Factors
2020	Associated Cities of California – Orange County	2021 Redistricting: The Rules have Changed
2020	California Municipal Law Conference	Municipal Redistricting in 2021: New Rules of the Road
2019	California Association of School Business Officials	Transitioning to By-Trustee-Areas Elections
2019	USC City/County Fellowship Program	The Challenges of Municipal Election Districts
2019	California Special Districts Association	District Elections and the California Voting Rights Act
2018	California Special Districts Association	Converting From At-Large to By-District Elections Under the California Voting Rights Act
2018	Riverside County Bar Assoc.	Redistricting and the California Voting Rights Act
2018	California School Board Assoc.	Voter Districts: The Link Between Strong Community Engagement and a Successful Process
2017	California School Board Assoc.	15 Years with the California Voting Rights Act: Lessons Learned and Challenges Ahead
2017	UC’s National Public Service Law Conference	Moderator, “Voting Rights 101”
2016	Los Angeles County School Business Officials	CVRA: What CBO’s Need to Know
2016	Los Angeles County School Trustees Assoc.	The CVRA: What School Board Members Need to Know
2015	Associated Cities of California – Orange County	The California Voting Rights Act
2015	California School Board Assoc.	The California Voting Rights Act: What Board Members Must Know



2015	Los Angeles County School Boards Assoc.	CVRA & Districting: The Demographer’s Perspective
2011	Channel Cities Club	Lunch Keynote: “California's next experiment: independent, public redistricting”

Trusted Advisor to Local Government and Redistricting Reform Groups

NDC acted as an informal advisor to the California League of Cities and the California School Board Association during the debate over the AB849 “FAIR MAPS Act” in 2019.

NDC acted as an informal advisor to the California League of Cities during the debate over AB1276 (revising the FAIR MAPS Act provisions) in 2020.

NDC provided ideas, advice, maps and research to the 2008 Common Cause-led coalition that drafted and successfully advocated for Proposition 11, which created California’s State-level Independent Redistricting Commission.

Advisor to Charter Review Commissions on Redistricting Provisions

NDC advised the following groups on the redistricting and voting rights provisions of their charter revisions and ordinances:

2016	City of El Cajon charter revision and public education outreach
2015/16	Castaic Lake Water Agency and Newhall County Water District merger
2015/16	City of Corona Charter Revision
2011/12	Pasadena Unified advisor to Charter Revision Commission creating a redistricting commission and moving District to by-district elections
2009/10	City of Menifee advisor to by-district-elections ordinance language committee
2006-08	City of Modesto advisor to Charter Revision Commission creating an independent redistricting commission and public education outreach
2003	City of Goleta ordinance writing and public education outreach

Expert Witness and Litigation Consultant



National Demographics Corporation

NDC President Douglas Johnson served as an expert witness in the following election and redistricting law cases:

2020	Chestnut v Merrill (Alabama)
2019	City of Redondo Beach vs State of California
2019	Ruiz-Lozito vs West Contra Costa Unified School District
2019	Common Cause v Lewis (North Carolina)
2018	Phillip Randolph Institute v Smith (Ohio)
2018	League et al. v. Johnson (Michigan)
2017	Luna v County of Kern
2018	Covington v State of North Carolina
2016	Garrett v City of Highland
2015	Jamarillo v City of Fullerton
2015	Harris vs Arizona Independent Redistricting Commission
2015	Solis v Santa Clarita Community College District
2015	Jauregui et al vs City of Palmdale
2014	Diego v City of Whittier

NDC Staff also served as litigation consultants for jurisdictions in the following California Voting Rights Act cases:

- | | |
|--------------|---|
| 1. Anaheim | 7. Santa Clarita |
| 2. Carson | 8. Whittier |
| 3. Compton | 9. Santa Clarita Community College District |
| 4. Escondido | 10. Tulare Health Care District |
| 5. Modesto | |
| 6. Poway | |

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NDC President Douglas Johnson at Governor Schwarzenegger's press conference in support of redistricting reform.



(Left to right: Assembly Democratic Legislator John Laird, USC Senior Fellow Dan Schnur, Greenlining Institute representative (name unknown), AARP President Jeannine English, NDC President Douglas Johnson, Governor Arnold Schwarzenegger, League of Women Voters Senior Director Trudy Schafer, State Senate Republican Bill Leonard, League of Women Voters President Jacqueline Jacobberger, and three unidentified men).

NDC Client Testimonials

Here is a sampling of what NDC's people have to say about NDC:

"Here's a great expert. . . . today you bring him in for what sounds like good information, very smart man up here."

United States Fourth District Court Judge James A Wynn, Covington v North Carolina, United States District Court for the Middle District of North Carolina, Case No. 1:15CV399

"I have worked on Congressional, Legislative, Los Angeles County and Los Angeles City redistricting maps on behalf of the Latino Caucus and grassroots Latino organizations for over 30 years. Douglas Johnson is one of the top redistricting experts in California, and he is who I would pick to draw a map for me anywhere in the state."

Alan Clayton, retired Executive Director of the Los Angeles County Chicano Employees Association

"The excel spreadsheet is a fantastic tool. Just plug in the letter by district and on the tab see a running total of population by assigned district. It's cool."



National Demographics Corporation

Modesto resident's comment, June 16, 2008

"One of the first, and in retrospect one of the best, decisions made by our commission was to hire Douglas Johnson and his colleagues at National Demographics Corporation as our primary consultants. I have never had the opportunity to work with a more highly qualified, hard-working, dedicated, professional and classy individual or group than Mr. Johnson and his associates at NDC."

Jim Huntwork, Arizona Independent Redistricting Commissioner
(Republican)

"In addition to his technical expertise, Doug had a keen sense of how to help us navigate the complexities of the process. He understands redistricting better than any person I know. He has a unique ability to synthesize that which is very complicated and make it very understandable for the public. He frequently would present various options, without representing any position, clearly delineating differences and challenges of each option in a clear and succinct manner."

Josh Hall, Arizona Independent Redistricting Commissioner (Democrat)

"It was a great pleasure to work with Doug Johnson and NDC during the first Independent redistricting effort in Arizona. Doug and his staff were professional, efficient, responsive, and even-handed. They listened very carefully to the instructions given by the commission and performed each mapping task without bias of any kind. I would highly recommend NDC to any jurisdiction, or commission, wishing to have a successful redistricting process."

Steven W. Lynn, Chair, Arizona Independent Redistricting Commission
(Independent)

"Thank you for all of your hard work, assistance, and patience with me during this year of CVRA conversion to by-area trustee elections. Your continual reassurance and support in dealing with all of the details was sincerely appreciated. We all have jobs to do, but when working with all of you I felt that you always went the extra mile to support our District with excellent customer service. The multiple revisions, extra conference calls, and follow up suggestions made a difference to Scott, Linda, and me. I personally enjoyed joking around with each of you while remaining professional in all presentations. It was a pleasure working with all of you. "

Jennifer Williams, Ed. D., Fullerton Joint Union High School District,
Executive Director Administrative Services

"Thank you for taking time out of your busy schedule to participate in the City Official Roundtable I hosted on the 2020 U.S. Census at the Redondo Beach Performing Arts Center. I appreciate that you shared your expertise on the Census to the government officials

who were present. It is critical that we work together to ensure that everyone is counted in the upcoming Census.”

Ted W. Lieu, Member of Congress, California 33rd District.

NDC Approach to Public Engagement

The Three E’s of Public Participation: Engage, Educate, and Empower

NDC’s “Three E’s” approach recognizes the complex and daunting nature of districting and redistricting projects, while emphasizing the importance of public participation in such projects.

Given the complexity of the issue, the public cannot be expected to jump in with constructive ideas and input without encouragement. So NDC’s approach begins with the first “E”: **Engage**. NDC works with our clients to get the word out about why the project matters – and how input from residents can be a decisive element of the project.

Once their interest is engaged, the second “E” is **Educate**. Most media coverage of this topic focuses on congressional gerrymandering, giving the entire field a tainted and hopeless feel. NDC works with our clients to explain how local districting and redistricting is based on neighborhoods and communities – not national politics. We educate the public on the data, requirements and goals of redistricting, and on the many options residents have to formulate and share their own maps or other constructive input.

The third “E” is **Empower**. For those projects where the level of public interest and engagement justify the expense, NDC offers an unmatched array of paper, Excel-based, and online mapping tools that residents can use to draw detailed, population-balanced maps for consideration by the jurisdiction.

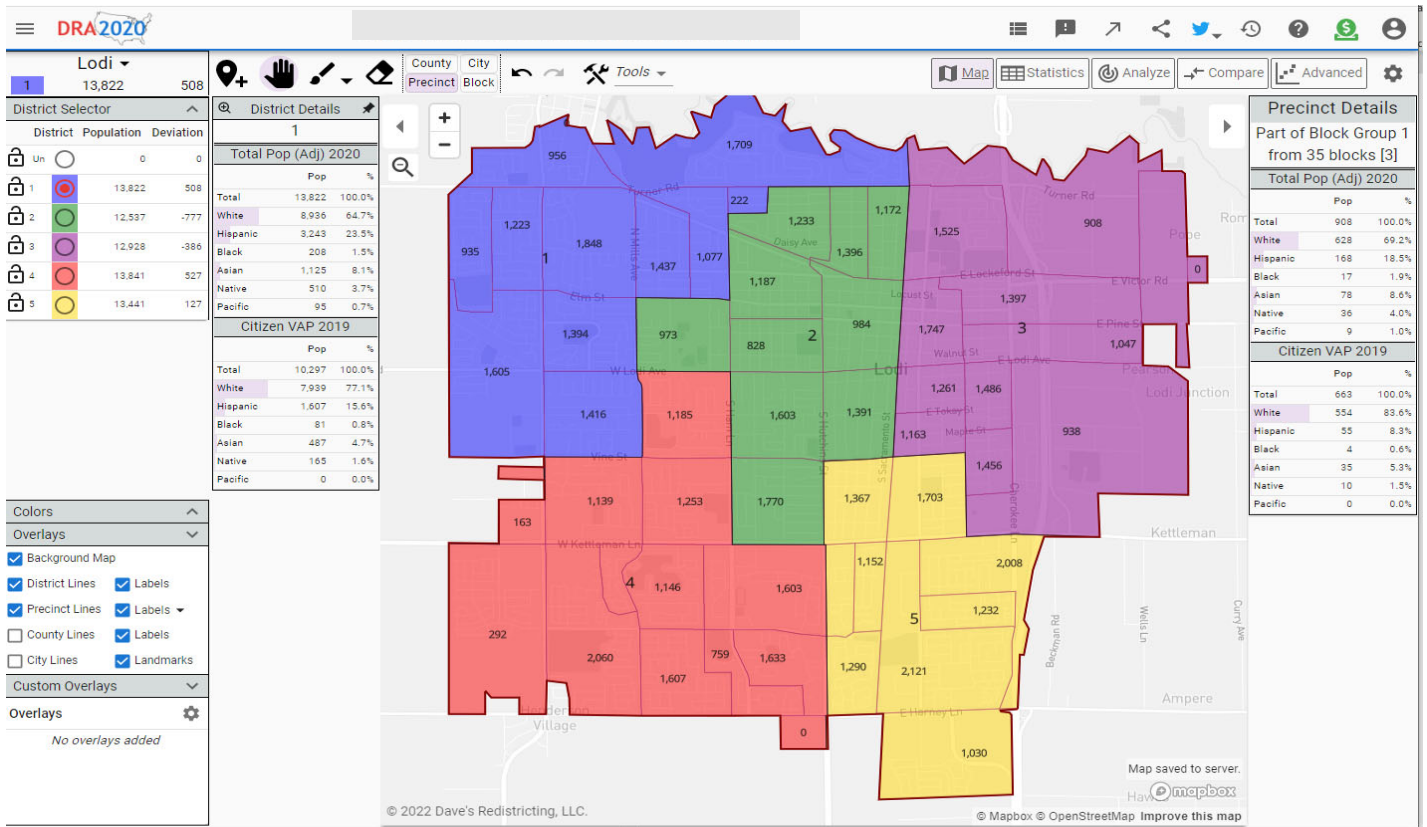
When included in a project, NDC has seen considerable public interest in these optional public participation tools. Often five, ten or even twenty or thirty draft maps are proposed by community residents. And NDC developed a highly refined and proven methodology for efficiently guiding our clients through selecting and refining a map, even when starting from 10, 20, 30 or more initial draft maps.

For those jurisdictions where the expense of the optional mapping tools is too high, NDC always welcomes any letters, comments, or hand-drawn maps that residents wish to submit during the districting or redistricting process.

For every project, at no extra expense, NDC includes an online “interactive review map” that allows residents to analyze draft maps zooming in and out, searching for specific addresses, and by changing between street maps, satellite images, and other underlying base maps.

Samples of these tools are shown on the following pages, and additional details on each of them appears later in this proposal.

Sample Online Mapping Tool



Sample Public Participation Mapping Tool

Public Participation Kit

Each number indicates the total population of that "population unit" area. Each district must have essentially equal population.

The population of each of the five districts must be close to 7,447, with no more than a 745 difference between the largest and smallest.

Name: _____

Phone or email: _____

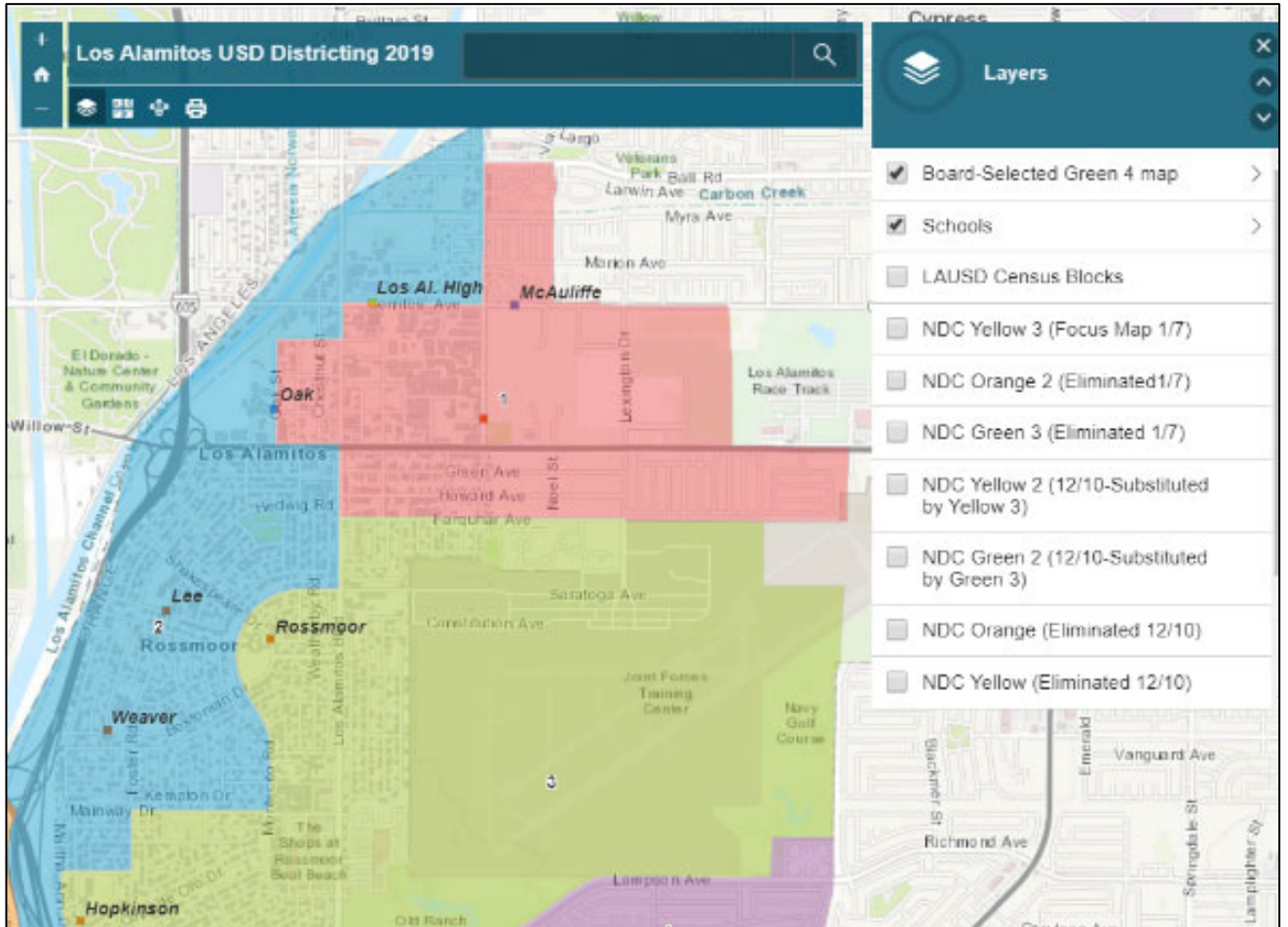
Please use a thick dark-colored pen to draw your map, then submit it at City Hall or directly to our project consultants:
 Submission@NDCresearch.com
 P/O Box 5271, Glendale, CA 91221
 You can hand-deliver, mail, fax, scan and email, or photograph and email your map.

National Demographics, October 8, 2018

An online version of this map that allows you to zoom in and out for more detail is available as a link from the City website.

◆2016 CALIPER

Sample NDC “Interactive Review Map”
(used to view and evaluate, not to draw, maps)



Districing and Redistricting References

All of NDC's former clients – without exception – can be contacted for references. The following is only a sample of references:

Mr. Graham Mitchell. City Manager. City of El Cajon. 200 Civic Center Way. El Cajon. CA 92020. (619) 441-1716. GMitchell@cityofelcajon.us.

Mr. Jason Stilwell. City Manager. City of Santa Maria. 110 E. Cook Street. Santa Maria. CA 93454-5190. (805) 925-0951 ext. 2200. jstilwell@cityofsantamaria.org.

Mr. Marcus Walton. Communications Director. West Contra Costa Unified. 1108 Bissell Ave., Room 211-215. Richmond, CA 94801. 510-205-3092. mwalton@wccusd.net.

Mr. Jonathan Vasquez. Superintendent. Los Nietos School District. 8324 S. Westman Ave., Whittier, CA 90606. (562) 692-0271 Ext. 3212 jonathan_vasquez@lnsd.net.

Mr. James Atencio. Assistant City Attorney. City of Richmond. 450 Civic Center Plaza. Richmond, CA 94804. 510-620-6509. James_Atencio@ci.richmond.ca.us.

Mr. Darrell Talbert. City Manager. City of Corona. 400 S Vicentia Avenue. Corona. CA 92882-2187. 951.279.3670. Darrell.Talbert@ci.corona.ca.us.

Mr. David Silberman. Deputy County Counsel. San Mateo County. 400 County Center. 6th Floor. Redwood City. CA 94063. 650-363-4749 dsilberman@smcgov.org.

Additional Details of Optional Project Elements

Advisory or Independent Redistricting Commissions

NDC anticipates that many California jurisdictions will create advisory or independent commissions to manage the redistricting process. NDC welcomes the use of such commissions, and our pricing does not change for jurisdictions creating commissions. But the creation, training, operation and reporting of such commissions often leads to more meetings (and a resulting increase in the “per meeting” project expenses) than a traditional redistricting process conducted primarily by the jurisdiction’s elected leadership.

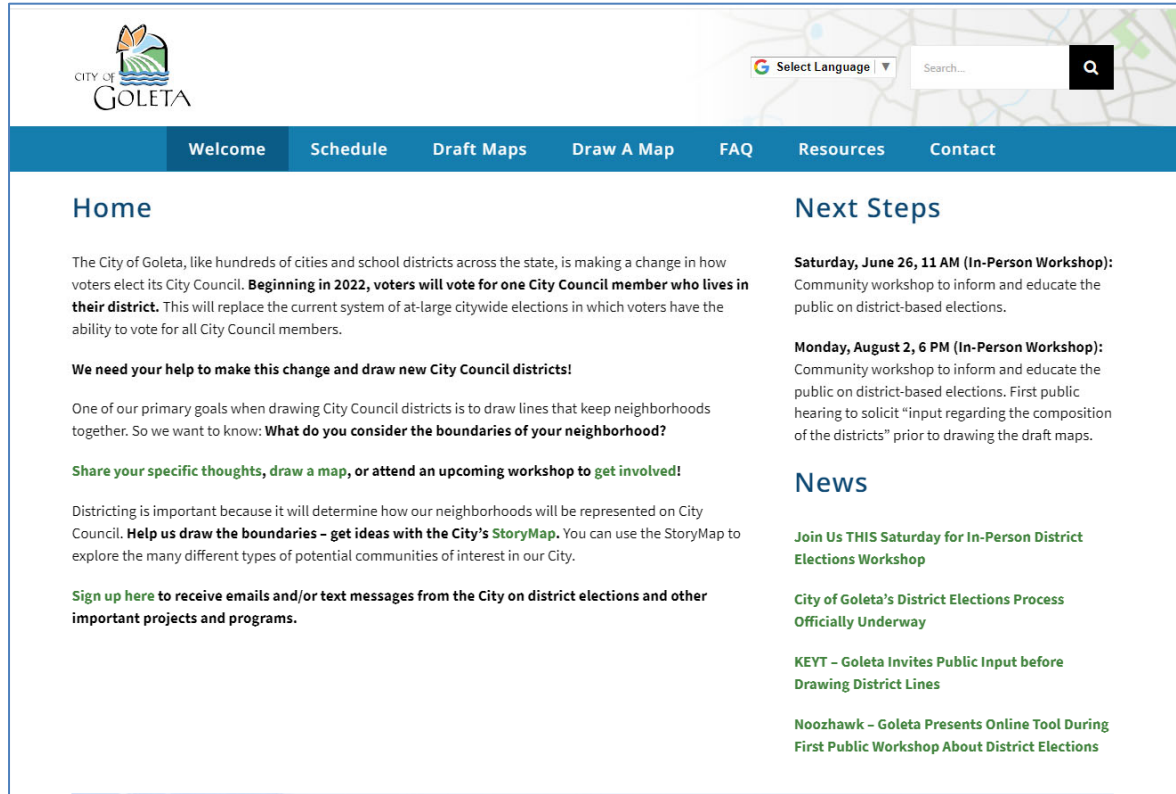
Outreach Assistance

NDC brings topical expertise to your jurisdiction’s outreach efforts, and NDC makes available to all clients our library of sample outreach materials including op-ed articles, postcards, utility bill inserts, flyers, and social media messages. NDC provides all of these materials along with our advice and input on outreach strategy and materials to any interested jurisdiction, but we do not have graphic artists to customize or design such materials in-house.

For larger-scale outreach efforts, especially where jurisdictions wish to send representatives out to regular meetings of existing community organizations, NDC typically works together with a jurisdiction’s in-house communications staff and/or with one or more outreach organizations. We often work with, and highly recommend, Tripepi-Smith, and some information on the services they offer is included at the end of this proposal. And we would be happy to work with any in-house team at the jurisdiction or with any firm or organization the jurisdiction selects. Many projects can be handled by a jurisdiction’s in-house or regular outreach and communications teams (with samples and topic expertise provided by NDC), but a number of jurisdictions seek supplemental outside communications assistance.

Project Website

NDC provides all project materials in website-friendly formats for posting on the jurisdiction’s website. At no cost, NDC will provide project website samples and website language for use on the jurisdiction’s project website. But for jurisdictions that prefer not to take on the challenge of creating and managing a rapidly-changing project website, NDC will create, host, and update project website (below is an image of one such site).



The City of Goleta logo is in the top left. A search bar and language selector are in the top right. The navigation menu includes: Welcome, Schedule, Draft Maps, Draw A Map, FAQ, Resources, Contact.

Home

The City of Goleta, like hundreds of cities and school districts across the state, is making a change in how voters elect its City Council. **Beginning in 2022, voters will vote for one City Council member who lives in their district.** This will replace the current system of at-large citywide elections in which voters have the ability to vote for all City Council members.

We need your help to make this change and draw new City Council districts!

One of our primary goals when drawing City Council districts is to draw lines that keep neighborhoods together. So we want to know: **What do you consider the boundaries of your neighborhood?**

Share your specific thoughts, draw a map, or attend an upcoming workshop to get involved!

Districting is important because it will determine how our neighborhoods will be represented on City Council. **Help us draw the boundaries – get ideas with the City’s StoryMap.** You can use the StoryMap to explore the many different types of potential communities of interest in our City.

Sign up here to receive emails and/or text messages from the City on district elections and other important projects and programs.

Next Steps

Saturday, June 26, 11 AM (In-Person Workshop):
Community workshop to inform and educate the public on district-based elections.

Monday, August 2, 6 PM (In-Person Workshop):
Community workshop to inform and educate the public on district-based elections. First public hearing to solicit “input regarding the composition of the districts” prior to drawing the draft maps.

News

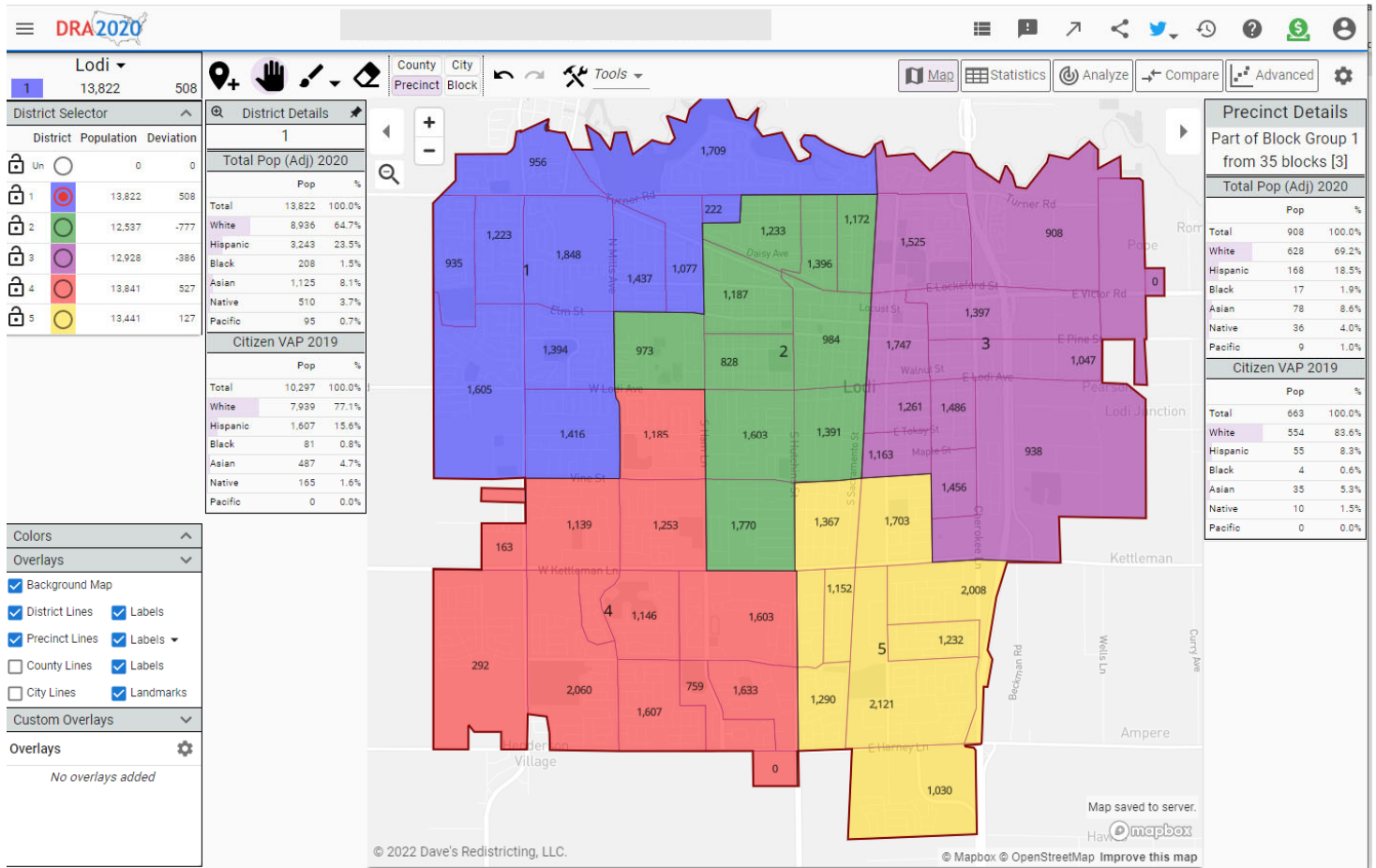
- [Join Us THIS Saturday for In-Person District Elections Workshop](#)
- [City of Goleta’s District Elections Process Officially Underway](#)
- [KEYT – Goleta Invites Public Input before Drawing District Lines](#)
- [Noozhawk – Goleta Presents Online Tool During First Public Workshop About District Elections](#)

Online Mapping Tool for Public / Resident Use

NDC is the unmatched leader in redistricting tools that empower residents to review draft maps and to develop and submit their own map proposals. NDC is the only firm that has used the online mapping solutions from both ESRI and Caliper Corporation in major redistricting projects.

In literally hundreds of local redistricting projects, NDC has successfully trained members of the public, processed public map submissions, and presented the public map proposals to public hearings and commission meetings. NDC’s online mapping tool options provide user support, hosting, managing, and processing submitted plans in an online interactive system that allows public to draw and submit proposed maps through a standard web browser. Our current preferred public online mapping tool is DRA (detailed below), however if the client prefers NDC also has extensive experience with a number of other options currently available (though often at significantly higher prices).

DRA Online Mapping Tool



DRA is a simple paintbrush-based tool the public can use to draw and submit proposed draft maps.

Residents simply go to the website link, overlay any of the many demographic shadings they wish to see, and then “paint” the Precincts or Census Blocks that are part of the neighborhood or community of interest they wish to see kept together.

NDC provides both short and in-depth “how to” videos on use of the DRA tool. It is both simple to use for everyone and full of powerful analytic analytics for the “power user” who want them.

Paper-based Public Mapping Tool

While online mapping tools are very popular, NDC never forgets those residents who do not have internet access or who simply prefer to not drawing maps online.

At no cost with every online mapping tool, and as a separate option for jurisdictions that for budget or other reasons do not include an online mapping tool, NDC offers our “Public Participation Kit.”

The Kit is a simple one-page map showing streets, city borders, and population counts for NDC-created “Population Unit” geographic areas. Residents draw the map they wish to propose and add up the population counts by hand until they get the right population count in each district. All of the directions needed are right on the single-page form. Examples of these tools, from our work for the City of Lake Forest, are available here: <https://drawlf.org/draw-a-map/>.

Public Participation Kit

An online version of this map that allows you to zoom in and out for more detail is available as a link from the City website.

Each number indicates the total population of that "population unit" area. Each district must have essentially equal population.

The population of each of the five districts must be close to 7,447, with no more than a 745 difference between the largest and smallest.

Name: _____

Phone or email: _____

Please use a thick dark-colored pen to draw your map, then submit it at City Hall or directly to our project consultants:
 Submission@NDCresearch.com
 PO Box 5271, Glendale, CA 91221
 You can hand-deliver, mail, fax, scan and email, or photograph and email your map.

National Demographics, October 8, 2018

#2D16 CAL/PER

Other Potential Project-Related Expenses:

The most common additional project expenses would be any site or staff costs for conducting the community forums and the cost of printing or copying paper copies of the “Public Participation Kit.” In NDC’s experience, most participants will download and print the Kits in their own homes or offices.

Conclusion

Since its founding NDC has been the nation's preeminent company devoted to local election systems. To summarize:

1. NDC has more experience in the field of municipal political election systems than any other company.
2. NDC's experience and expertise has been recognized by our hundreds of clients, the California League of Cities, the California School Board Association, the California Special District Association, and the National Conference of State Legislatures.
3. NDC, founded in 1979, has a demonstrated record of financial solvency.
4. NDC's hardware and software resources were specially designed and acquired for districting and redistricting purposes.
5. NDC's highly respected personnel have impeccable credentials in each aspect of the districting and redistricting processes.
6. NDC's suggested approach has been tested in many jurisdictions.
7. Any NDC client can be contacted for testimonials and reference.
8. NDC has demonstrated experience over many years in working with the press and media on local election system issues.
9. Neither the Justice Department nor any Court has ever rejected any of the hundreds of local government districting or redistricting plan submitted by NDC.

NDC takes pride in tailoring each project to the needs and goals of each individual client. NDC is open to any feedback, concerns, requests, or changes regarding this proposal.

NDC looks forward to the opportunity to work with you on this project.

J.

File Attachments for Item:

C. Follow Up Discussion on Brisbane Election Options



**CHARTER CITY AND ELECTION ISSUES
SUBCOMMITTEE AGENDA REPORT
MEETING DATE: MAY 13, 2024
FROM: Ingrid Padilla, City Clerk
SUBJECT: Election Issues**

Purpose

Provide information to subcommittee members on by-district elections using two small cities as a case study.

Background

At the 4/25/24 Elections Issues Subcommittee Meeting, staff was directed to bring back an update on how the City of Solvang and City of Ojai are faring after making the switch from electing their city councilmembers from at large elections to by-district elections.

Discussion

The City of Solvang held their first by-district election in November 2022. At this election, one councilmember won by 11 votes in their district and one former Councilmember lost in the District race.

The City of Ojai held their first by-district election in 2020. In this election, a former City Councilmember won the District race. In the November 2022 elections, district maps were redrawn. Two measures impacting the shape of Ojai's future city elections were also on the ballot.

- Measure L, which failed, would have returned the City Council to an elected five-member panel with the mayor's post rotating among council members. Some 1,876 residents voted against it, or more than 54%, while 1,593 voted in favor.
- Measure M, which passed, will change future council elections by abandoning district-based seats in favor of ranked-choice ballots that allow for an instant runoff. The measure passed with more than 55% of voters, or 1,909 in favor, while 1,510 were opposed. The new framework will start with the November 2024 general election.

Attachments:

1. City of Solvang Election November 2022 Results
2. City of Ojai Election November 2020 & November 2022 Results

Ingrid Padilla

Ingrid Padilla, City Clerk

City of Solvang Election November 2022 Results

November 2022 Election Results

City of Solvang Mayor

Mark L. Infanti: 1,138 (94.68%)

Write-In: 64 (5.32%)

City of Solvang City Council Member – District 3

David Brown: 81 (47.65%)

V. Louise Smith: 70 (41.18%)

Janice Mathews: 18 (10.59%)

Write-In: 1 (0.59%)

City of Solvang City Council Member – District 4

Elizabeth Orona: 220 (57.14%)

Robert Clarke: 165 (42.86%)*

Write-In: 0 (0.00%)

*During, the first Council meeting of 2023, the Solvang City Council discussed how to approach the seat left vacant by newly elected Mayor Mark Infanti, as two years remain on his City Council member term. The motion to appoint Robert Clarke to fill the vacancy passed after a 3-1 vote, with Elizabeth Orona dissenting.

City of Ojai Election* Results

*Election Sequence as Outlined in Ordinance 889

District 4: Commencing with the general municipal election in November 2020 and every 4 years

District 1, 2, & 3: At the November 2022 election and every 4 years

November 2020 Election Results

Betsy Stix and Suza Francina won their races for mayor and City Council in Ojai, according to election results released Tuesday night.

Mayor Race

Stix, a teacher, ran against William Weirick, a current city councilmember. The mayor's seat is a two-year term.

Tuesday's election marked the third time in city history that Ojai residents directly elected their own mayor. Prior to 2016, the mayor was chosen by the City Council.

- Betsy Stix 2,877 Votes (64.12%)
- William Weirick 1,610 Votes (35.88%)

Total Votes: 4,487

Ojai District 4

Two candidates also vied for a City Council seat in the city's first district-based election. Current city councilmember Suza Francina maintained a lead against real estate broker Jeri Becker to represent residents in the city's newly created District 4.

- Jeri Becker 506 votes (42.63%)
- Suza Francina 681 votes (57.37%)

Total Votes: 1,187

November 8, 2022 Election Results

The 2022 election saw the implementation of updated City Council Districts, a move that is required by the federal government in conjunction with the Census every 10 years, the re-election of Mayor Betsy Stix and the election of three new Council Members.

- Mayor Betsy Stix holds a two-year, at large term (2022-2024)
- Mayor Pro Tem Suza Francina represents District 4 through 2024
- Council Member Rachel Lang represents District 2 (2022-2026)
- Council Member Leslie Rule represents District 1 (2022-2026)
- Council Member Andrew Whitman represents District 3 (2022-2026)

District 1

The 1st District, which covers a central section of the city, had no incumbent.

- Leslie Rule won the seat with 338 votes, or nearly 49% of the total.
- Michelle Pineiro followed with 321 votes.
- A third candidate on the ballot, Lorelei Korn Grace, chose not to campaign but still garnered 31 votes.

District 2

Ojai's 2nd District, which includes the city's northeast, saw challenger Rachel Lang edge out incumbent Randy Haney.

- Lang had 466 votes, or more than 47% of the total. Haney had 431, or a little less than 44%.
- Haney initially led, but Lang later emerged as the frontrunner as more votes were tallied.
- A third candidate, Kathryn Donwen, had 85 votes.

District 3

In the northwest 3rd District, which had no incumbent, Andrew Whitman won with commanding lead of more than 18 percentage points.

- Whitman had 536 votes, or more than 59% of the total, while Carol "Renee" Roth had 370, or nearly 41%.

Measures L and M

Two measures impacting the shape of Ojai's future city elections were also on the ballot.

- Measure L, which failed, would have returned the City Council to an elected five-member panel with the mayor's post rotating among council members. Some 1,876 residents voted against it, or more than 54%, while 1,593 voted in favor.
- Measure M, which passed, will change future council elections by abandoning district-based seats in favor of ranked-choice ballots that allow for an instant runoff. The measure passed with more than 55% of voters, or 1,909 in favor, while 1,510 were opposed. The new framework will start with the November 2024 general election.

**Official Recount Results For Election Results Certification For
the Office of Ojai City Mayor In The November 8, 2022 Election**

The certified results for the election were announced on December 7, 2022 with the following vote count:

Elizabeth Stix	1,823 votes
Anson Williams	1,781 votes

The results of the recount held December 16-21 confirmed the original vote count results:

Elizabeth Stix	1,823 votes
Anson Williams	1,781 votes

The recount cost was estimated at \$28,500, requiring an initial deposit of \$8,000 and a daily rate of \$5,500 to be paid as the recount progressed.

From the Daily Journal archives

Thoughts on districting from a newly district-elected councilmember

By Gina Latimerlo Apr 7, 2023



Districting is new for many of the cities here on the Peninsula. As someone who is both a fan of districting and one of the new crop of officials elected this way, I do have to say I'm sorry it happened as a result of lawsuits.

Because it was a consequence of legal action, I think many veteran city officials felt the move to districting was forced upon them. Something they didn't choose. And it's human nature to have difficulty accepting decisions that are forced on you — even if those decisions are, objectively speaking, decent ideas.

We often resist choices that are made for us, but not with us. We all want input on the decisions that affect our lives.

Having input is important to me. I filed to run for the City Council even before districting happened in my city. My area hadn't had any significant representation on the council in almost 40 years, and it was time to change that. Then, official districting came along, and, in fact, changed it. And, changed it for my community moving forward. That's a positive result.

In talking to many officials from many cities, however, there seems to be a recurring fear that a negative result of districting will be tribalism — the idea that a district-elected official will focus only on their particular area and find it hard to make choices that are good for the entire city. But wanting to contribute input and having a myopic focus are very different things.

District-elected folks want to be on City Council for the very same reasons that citywide-elected folks do. We want to do right by our community, by our neighbors and by our town. If I didn't care about the entire city, I would have just stayed on as president of my neighborhood association for another 10 years. But, I chose the City Council because it allows me to care for both my city and my neighborhood at the same time.

Members of City Council have two primary roles — roles which actually benefit from a districting system.

First, we're ambassadors. We get good ideas from residents and pass them into city governance, as well as take good ideas from city governance and make them accessible to residents.

I think it's easy to see why a resident might feel more comfortable talking to a councilmember who is their neighbor or someone from their school. A district councilmember is a very accessible city ambassador. Will that encourage new ideas and participation? Yes. Do we all benefit from that? Yes.

Secondly, councilmembers are decision makers. We vote on the strategies, priorities and projects that shape our city's future.

In doing so, we understand a city is an organism — and that it makes evolutionary sense for us to not only ensure that the whole organism survives and thrives, but that each part of it stays healthy. And, as any health nut will tell you, it's absolutely possible to do both. You don't have to sacrifice one for the other; if you do, you're doing both a disservice. It's all interconnected.

So the idea that, as a district-elected official, I have to either 1). do the thing that's right for my particular district or 2). do the thing that's right for my whole city is 3). a complete fallacy. It's the result of a zero-sum philosophy that is more harmful than beneficial.

Governing with an "and" philosophy is a better way forward. The thing that's right for the whole city can also be the thing that's right for the district. The thing that's right for the district can also be the thing that's right for the whole city. If some choice is truly detrimental to one or the other, then it's probably not the right choice. Better solutions exist ... and having a council with district representatives is a great way to get to the most well-rounded, win-win ideas. A great way to serve both our city whole and our district parts at the same time.

While we may not love how we got into this new system, I hope we can all see districting in a positive light. It's a chance for city councils to govern better by knowing more. It's a chance for each locality to be fully considered in citywide decisions (fortunately, in my city, that's been true for over a decade). Most importantly, though, it's a chance for residents in every area to have an actual voice in the choices that a city government makes.

And, remember, we all embrace choices more fully when those choices are made with us, instead of simply made for us.

Gina Latimerlo is a member of the Belmont City Council. This perspective is her own.

From the Daily Journal archives

Millbrae to discuss removing district-based elections

Daily Journal staff report Mar 23, 2024 Updated Mar 26, 2024



Millbrae will discuss the possibility of removing district-based elections as well as electing an at-large mayor rather than using a rotating system at its upcoming March 26 meeting.

The request for conversation on the topic comes from Councilmember Gina Papan and Vice Mayor Maurice Goodman, according to a staff report.

“This is a great opportunity to unite our city,” Papan said. “Districts were very divisive. We are technically a small city, and in the past there’s been discourse on the mayor rotation, so let’s let the people decide.”

District-based elections were implemented in 2022 after Millbrae and nearly all San Mateo County cities were either served with threats of litigation that claimed at-large elections systems violated the California Voters Rights Act or decided to make the shift on their own.

A recent California Supreme Court ruling in a case alleging Santa Monica’s at-large voting system dilutes the rights of Latino voters left the lawsuit unresolved, according to the League of California Cities. However, it did find that CVA violations “must prove vote dilution and racially polarized voting,” among other findings.

The suit “opens the door for cities like ours” to consider the possibility of moving back to at-large voting systems, Papan said. She added that removal of district elections would give voters a larger selection of candidates from which to choose.

“I’m excited about it,” Papan said. “I think really is a wonderful opportunity to unite the city.”

The City Council meeting is 7 p.m. Monday, March 25, at City Hall, 621 Magnolia Ave. The council will also be deciding on a date for an upcoming recall election for two of its members, Goodman and Angelina Cahalan.

File Attachments for Item:

L. Countywide Assignments and Subcommittee Reports



CITY of BRISBANE

Council Subcommittee Update

From April 27th, 2024, to May 10th, 2024

Liaisons to the Complete Streets Safety Committee 5/1 Cunningham, Mackin

The liaisons joined the Committee members during the CSSC to review their draft 2024 CSSC workplan. The liaisons gave direction to the committee such as combining some of the items into one that pertain to driving safety. They also discussed the AB 413 project and steps moving forward.

Public Art Advisory Committee 5/6 Cunningham, Davis

The Committee met with the Nine dot Art consultants who are working on the City’s Public Art Master Planning process. The consultants drafted a public art survey for the committee to review. The committee gave direction to the consultants. The survey will be released to residents and local businesses in the next couple of weeks.

Planning Issues Subcommittee 5/7 Cunningham, Mackin

The subcommittee had questions regarding the processing of permits and how certain issues are handled. Staff will follow up on some of the concerns. Staff also let the councilmembers know that a new permit system is scheduled to be launched in August 2024, which will assist in permit tracking. The subcommittee also asked staff to advertise to the residents again regarding SMC Alert and signing up to follow city issued alerts.

Upcoming Subcommittees:

Charter Cities & Elections Subcommittee	5/13	2:30pm	Davis, Lentz
Public Art Advisory Committee	6/17	4:30pm	Cunningham, Davis