



CITY OF LOMITA CITY COUNCIL REPORT

Item No. PH 9

TO: City Council

FROM: Trevor Rusin, City Attorney, and Ryan Smoot, City Manager

MEETING DATE: September 6, 2022

SUBJECT: Public Hearing #2 to Receive Public Comments on Transition to District-Based Elections Under the California Voting Rights Act

RECOMMENDATION

Open the public hearing, receive input and questions regarding the process and composition of the districts, and close the public hearing.

BACKGROUND

In recent years, a number of cities in California have been sued under the CVRA. Typically, plaintiffs allege that the defendant city's at-large election system has resulted in "racially polarized" voting, which is defined in the CVRA as "voting in which there is a difference . . . in the choice of candidates of other electoral choices that are preferred by voters in a protected class, and in the choice of candidates and electoral choices that are preferred by voters in the rest of the electorate." (Elec. Code, § 14026 (e).) The lawsuits usually request that the defendant city transition to a by-district system. In a by-district election system, a council candidate must reside within an election district that is a divisible part of the jurisdiction and is elected only by voters residing within that election district.

Since the CVRA was signed into law, many local government entities have converted (or are in the process of converting) to by-district elections. The move toward by-district election systems is not surprising in light of the cost of litigating under the CVRA. For example, Palmdale settled a CVRA lawsuit for \$4.5 million, Modesto paid \$3 million to settle a similar case and Anaheim settled in 2014 for an amount reported to be possibly as high as \$2 million. These numbers do not include the cities' costs in paying their own attorneys to defend the lawsuits. In 2016, the California legislature adopted AB 350 amending Elections Code section 10010 to cap the attorneys' fees a prospective plaintiff may recover if a public agency adopts a resolution of intention to change to a by-district system of elections within 45 days following the receipt of a letter from that prospective plaintiff alleging a CVRA violation.

On January 18, 2022, the City received exactly such a letter from Southwest Voter Registration Project (SVRP) challenging the City's current election system and asserting that the City's at-large election system violates the California Voting Rights Act (CVRA). This letter forced the City to consider by-district elections or risk litigation with SVRP.

On February 28, 2022, the City Council adopted a resolution of intent pursuant to Elections Code section 10010(e)(3)(A). The City has reached agreement with the SVRP to extend the period during which the City must transition from at-large to by-district elections in order to avoid being susceptible to attorneys fees claims above \$30,000. It does not require the City to transition to by-district elections, but rather creates an arrangement where SVRP will refrain from filing suit so long as the City takes specific steps to initiate and conduct the hearings required for a transition to by-district elections. If the City transitions to by-district elections according to the agreed upon schedule, SVRP shall receive a settlement payment of \$30,000. If the Council fails to conduct the hearings as required, or chooses not to transition to by-district elections, SVRP would be able to file suit against the City and would not be capped at \$30,000 in attorneys fees.

Under the CVRA there are two general steps for transitioning to by-district elections: (1) engaging in the public hearing process required to set district boundaries, and (2) adopting an ordinance transitioning to by-district elections. The City has created the following schedule which will culminate in the presentation of proposed districts to the City Council who will then decide whether to adopt the maps and move to by-district elections starting with the November 2024 general election:

- (1) Conduct public outreach to explain the districting process and to encourage public participation;
- (2) Hold at least two public hearings at which the public is invited to provide input regarding the composition of the districts and to consider district boundaries as provided in Elections Code Section 10010;
- (3) Publish draft maps based on those hearings;
- (4) Hold at least two more public hearings at which the public is invited to provide input regarding the content of the draft map or maps and the proposed sequence of elections;
- (5) Hold a public hearing at which the City Council will consider the introduction of an ordinance establishing district elections, including the adoption of a district boundary map and the sequence of the district elections; and
- (6) Present an ordinance at a regular meeting of the City Council which would adopt the districts map and move to by-district elections.

The City is proposing the following tentative schedule for the completion of these steps:

Date and Time	Event	Location
August 16, 2022, at 6:30 p.m.	Public Hearing #1	Council Chambers, 24300 Narbonne Avenue, Lomita, CA 90717 and via Zoom
September 6, 2022, at 6:30 p.m.	Public Hearing # 2	Council Chambers, 24300 Narbonne Avenue, Lomita, CA 90717 and via Zoom
September 15, 2022, at 7:00 p.m.	Community Workshop	Zoom
January 3, 2023	Deadline for the community to submit maps for consideration at the third public hearing	Tools to create and submit maps are available online via the City's website, but can also be submit to the City Clerk's Office
January 10, 2023	Draft Maps to Be Posted to the City's Website	City Website
Spring 2023, Date & Time TBD	Public Hearing # 3 (review and receive public comment on proposed maps)	Council Chambers, 24300 Narbonne Avenue, Lomita, CA 90717
Spring 2023, Date & Time TBD	Community Workshop	TBD
Spring 2023, Date & Time TBD	Proposed maps to be posted to the website	City Website
Spring 2023, Date & Time TBD.	Public Hearing # 4 (select map for adoption)	Council Chambers, 24300 Narbonne Avenue, Lomita, CA 90717

Public comments on both the potential transition to district elections and the proposed district maps are very important and all residents within the City are encouraged to participate in these hearings. The City will be conducting a robust outreach program to solicit input from residents on this issue, and has retained Tripepi Smith to assist with this outreach. Detailed information is available at <https://lomitacity.com/districting-faqs/> including a mapping tool and guidance on how to submit a draft map to the City.

ANALYSIS

The purpose of this meeting is to conduct the second public hearing and receive input from the public regarding the process, potential composition of the districts, and the criteria used for the creation of district maps. The map drawing process will begin after this public hearing. During the third and fourth public hearings proposed maps will be presented for public comment and review. The Council will also need to determine the “sequencing” of elections (which districts will have elections first) during the third and fourth public hearings.

Criteria for Establishing Districts

The drawing of districts is regulated by both state and federal law, including the CVRA and the Federal Voting Rights Act, which limits the criteria that may be used in constructing districts. For example, under federal law, districts may not be drawn with race as the predominate factor. (*Shaw v. Reno* (1993) 509 U.S. 630.) Further, under Health and Safety Code section 13846 (e) and Elections Code section 22000, districts must be drawn as nearly equal in population as possible according to the latest federal decennial census, and the districts must be contiguous. In establishing the boundaries, the City Council may give consideration to the following factors:

- (1) Topography (e.g., rivers, mountains, cliffs, and lakes);
- (2) Geography (e.g., land use patterns, major roadways, and railway lines);
- (3) Cohesiveness, Contiguity, Integrity, and Compactness of Territory; and
- (4) Communities of Interest (e.g., homeowner's associations, historic communities, school districts, and downtown areas).

The City has retained a professional demographer to assist with this process and the construction of districts to ensure the districts are compliant with the required standards.

Based on the input received at the public hearing, the City Council may wish to identify additional criteria to guide the establishment of districts. Districts cannot be based on, among other things, political parties or drafted based on where existing City Councilmembers or future candidates currently reside.

Criteria for Election Sequencing

In choosing to go to district-based elections, the Council can choose to stagger the terms of the future districts per Elections Code section 10010(a). In preparing sequencing, the Council must consider the following:

- (1) At the time of publishing the draft maps, the City must also publish and make available the potential sequence of elections (Elections Code section 10010(a))
- (2) No term of office may be cut short (Government Code section 34873)
- (3) The Council may consider the expiration of terms of office in setting the election rotation (Government Code section 34878)
- (4) In determining the final sequence of the district elections, the City must give special consideration to the purposes of the CVRA and must take into account the preferences expressed by members of the districts (Elections Code section 10010(b))

Environmental Review

The California Environmental Quality Act (CEQA) does not apply to activities that will not result in a direct or reasonable foreseeable indirect physical change in the environment or is otherwise not considered a project as defined by CEQA (Section 21605) and CEQA Guidelines sections 15060(c)(3) and 15378. Conducting public hearing for public input regarding transitioning to by-district elections and setting a schedule for future hearings meets the above criteria and is not subject to CEQA.

FISCAL IMPACT

There is no fiscal impact associated with the recommended action.

Prepared by:



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Approved by:



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