



*City
Council
Report*

Item: 13
Category: PUBLIC HEARINGS AND
 INTRODUCTION OF
 ORDINANCES
Meeting Date: April 2, 2019

TITLE: Public Hearing to Receive Input from the Community Regarding the Creation of a District-Based Election System (Resolution/Roll Call Vote)

RECOMMENDED ACTION

Staff recommends that the City Council receive public input on the criteria to be used for the creation of district boundaries for a district based election process. Staff also recommends that the City Council adopt a resolution setting forth the criteria and number of districts to be used for a district based election process.

BACKGROUND

On December 3, 2018 the City received a letter that threatened to seek judicial relief if the City does not go to district-based elections. The letter stated allegations that the City's at-large election system violates the California Voting Rights Act (CVRA). The letter was written by Malibu-based law firm Shenkman & Hughs, PC on behalf of clients, Southwest Voter Registration Education Project and its members. The letter alleges that there is evidence of "racially polarized voting" in the City of Campbell's at-large election system. The letter alleges that the City of Campbell's at large system dilutes the ability of Latinos (a "protected class") and impedes the emergence of Latino candidates from the protected communities.

As staff has presented to the City Council previously, the threshold to establish liability under the CVRA is extremely low, and prevailing CVRA plaintiffs are guaranteed to recover their attorneys' fees and costs. In fact, every government defendant in the history of the CVRA has either lost in court or settled, and every government defendant has ultimately been forced to pay at least some portion of the plaintiffs' attorney fees and costs.

Accordingly, staff previously recommended that the City Council consider establishing Councilmember districts and adopting a "by-district" election method beginning with the 2020 election, to remove any future exposure to the City for potential violations of the CVRA. On January 15, 2019, the City Council adopted a resolution declaring its intent to transition from at-large to district based elections. The Council also adopted a timeline setting forth the tentative dates for adopting an ordinance to achieve this. Since that meeting staff has obtained a 90 day extension to the timeline from the Plaintiff's

attorney. The tentative timeline has been revised to reflect the extension and is included as Attachment 3.

Elections Code Section 10010 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, at which time the public is invited to provide input regarding the composition of said districts. The City held its first public hearing on March 19. This meeting constitutes the second public hearing.

Since adoption of the Resolution of Intention, the City staff has begun the outreach efforts to inform the public about district elections and the process associated with developing the council election districts. The public hearing notice for this hearing was published in the newspaper. A page has also been developed for the City website that contains all relevant information and contains a section on frequently asked questions and answers. This webpage contains paper map that can be printed and used for drawing mapping suggestions and a link to the online mapping tool provided by the City's consultant. The City has also contacted the neighborhood associations to engage them in this process.

DISCUSSION

The purpose of this 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. This is the second of two public hearing prior to the City drawing any maps. The public may submit comments or suggested maps any time prior to May 14, 2019.

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; and
- E. Shared demographic characteristics, such as:
 - (1) Similar levels of income, education, or linguistic insolation;
 - (2) Languages spoken at home; and
 - (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.

- Each district shall not be drawn with race as the predominate 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.

At this meeting the City Council is being asked to decide the factors to be used in creating district boundaries. Staff recommends that the City Council consider adopting the proposed resolution setting forth these factors at the close of the public hearing. The City Council is also being asked to consider the number of districts that the City will consider transitioning to. The criteria and number of district determined by the Council can then be used by the public to develop district boundary suggestions either using a hard copy paper map or by using an online mapping tool provided by the City's consultant.

The City has retained Douglas Johnson, an expert demographer with extensive experience drawing districts in compliance with the requirements of both the FVRA and CVRA. Dr. Johnson will be attending the April 2 meeting to answer questions on the mapping criteria selection process. After this second public hearing Dr. Johnson will develop draft maps for the consideration of the public and the City Council. After the submittal of all maps the City will hold two additional public hearings to consider the maps (May 22 and June 4).

FISCAL IMPACT

The cost for professional support to pursue a transition to district based elections is estimated at \$80,000. In addition, the City staff anticipates approximately \$15,000 in communication, mailing and publication costs. These costs do not include staff time or overhead associated with this project.

ALTERNATIVES

Do not adopt a resolution setting forth the criteria and the number of districts to be used for district based elections, and provide additional direction to staff.

Prepared by:



Brian Loventhal, City Manager

Attachment:

1. Resolution-Districting Criteria
2. Resolution-Exhibit A -Criteria

3. Revised-District-Election-Timeline

RESOLUTION NO.

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CAMPBELL ADOPTING
THE CRITERIA TO GUIDE THE ESTABLISHMENT OF CITY COUNCIL
ELECTORIAL DISTRICTS AND SETTING THE NUMBER OF DISTRICTS TO BE
ESTABLISHED**

WHEREAS, the City Council of the City of Campbell (“The City”) was elected under an “at large” election system whereby five (5) Councilmembers were elected by voters of the entire City; and

WHEREAS, On January 15, 2019, the City Council adopted Resolution 12402 declaring its intent to transition from at-large to district based elections and adopted a timeline setting forth the tentative dates for adopting an ordinance to achieve this; and

WHEREAS, On March 19, 2019 and April 2, 2019 the City Council conducted a public hearings at which time it received testimony from the public regarding appropriate criteria to be used to form the districts; and

WHEREAS, the City has retained an experienced demographer and special legal counsel to assist the City in establishing a by-district electoral system; and

WHEREAS, The City Council has fully considered the presentations of its consultants and all of the public comments received; and

WHEREAS, the City Council now wishes to adopt criteria to guide the establishment of electoral districts consistent with legal requirements; and

WHEREAS, the Federal Voting Rights Act (42 U.S.C. Section 1973) prohibits the use of any voting qualification, or prerequisite to voting, or standard practice or procedure in a manner which results in a denial or abridgement of the right of any citizen of the United States to vote on account of race or color; and

WHEREAS, federal law and the equal protection clause require that each district be equal in population to ensure compliance with the “one person, one vote” rule; however, deviations less than five percent (5%) greater than or less than the ideal, for a total of ten percent (10%) deviation are presumptively constitutional under the equal protection clause where required to meet an official criteria; and

WHEREAS, the City Council has instructed its demographer and city staff to develop draft maps that fully comply with legal requirements and intends to provide official criteria for any needed deviations.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Campbell does hereby adopt the criteria identified in Exhibit A to guide the establishment of districts for City Council elections; and

BE IT FURTHER RESOLVED, that the City Council does hereby direct that five (5) districts be established for the district based electoral system to be implemented beginning with the November 2020 City Council election.

PASSED AND ADOPTED this _____ day of _____ , by the following roll call vote:

AYES: Councilmembers:

NOES: Councilmembers:

ABSENT: Councilmembers:

APPROVED:

Richard M. Waterman, Mayor

ATTEST:

Wendy Wood, City Clerk

Attachment: Resolution-Districting Criteria (District Elections)

Exhibit A
Specification of Criteria to Guide the Establishment of Electoral Districts

1. Each Council District shall contain a nearly equal number of inhabitants; and
2. Council District borders shall be drawn in a manner that complies with the Federal Voting Rights Act; and
3. Council districts shall consist of contiguous territory in as compact form as possible; and
4. Council districts shall respect communities of interest as much as possible; and
5. Council district borders shall follow visible natural and man-made geographical and topographical features as much as possible; and
6. District borders shall respect the previous choices of voters by avoiding the creation of head-to-head contests between Councilmembers previously elected by the voters, insofar as this does not conflict with Federal or State Law.

**REVISED TIMELINE
CHECKLIST**

Letter Received by City Clerk's Office: December 3, 2018

45-Day Deadline [AB 350(e)(3)(A)]: January 17, 2019

90-Day Deadline [AB 350(e)(3)(B)]: April 15, 2019

Deadline Extended by 90 days (Elec Code 10010 (e)(3)(c)(i): July 15, 2019

No.	Task	Date / Timeline	Notes
1	Council Meeting – Initial Consideration of Topic – Item to Introduce Topic, Seek Council Direction on How to Proceed, Adopt Resolution	January 15, 2019	
2	Council Meeting/Public Hearing #1 Consider Public Input on Composition of Districts	March 19, 2019	Before Map(s) Drawn E.C. 10010(a)(1)
3	Council Meeting/Public Hearing #2 Consider Public Input on Composition of Districts	April 2, 2019	Before Map(s) Drawn – E.C. 10010(a)(1), within 30 days of Public Hearing #1
4	Deadline for Public Submission of Maps	May 14, 2019	
5	Publish Draft Map(s) and Sequencing	By May 22, 2019	E.C. 10010(a)(2), Published Once at Least 7 Days Prior to Public Hearing #3
6	Council Meeting/Public Hearing #3 Consider Draft Maps and Election Sequence for District Elections	June 4, 2019	After Map(s) and Sequencing Published E.C. 10010(a)(2), More than 7 Days After Draft Map(s) and Sequencing Publication
7	Council Meeting/Public Hearing #4 – Introduction/First Reading of Ordinance to Consider Draft Maps and Election Sequence, and Establishing District Elections	June 18, 2019	After Map(s) and Sequencing Published E.C. 10010(a)(2), within 45 days of Public Hearing #3
8	Council Meeting/Public Hearing #5 – Second Reading of Ordinance	July 2, 2019	Publish Entire Adopted Ordinance
	180 Days	July 15, 2019	
9	Ordinance Effective	August 2, 2019	Effective 30 days after adoption
10	Council Members Transition to Representing Their Respective Districts via Ordinance	November 2020 November 2022	

Attachment: Revised-District-Election-Timeline (District Elections)