

CITY OF SANTA ROSA
CITY COUNCIL

TO: MAYOR AND CITY COUNCIL

FROM: SUE GALLAGHER, CITY ATTORNEY

SUBJECT: PUBLIC HEARING – DISTRICT BASED CITY COUNCIL
ELECTIONS: COMPOSITION OF DISTRICTS (CALIFORNIA
VOTING RIGHTS ACT) – SECOND PUBLIC HEARING

AGENDA ACTION: PUBLIC HEARING

RECOMMENDATION

It is recommended by the City Attorney that the City Council hold a second public hearing to receive community input regarding the composition of new voting districts and the sequence of elections for the district-based election of Council members beginning in November 2018. At the close of the public hearing, it is recommended that the Council provide instruction and direction to the City's demographic consultant concerning considerations and criteria to guide the drafting of district map alternatives and a proposed sequencing of elections for each map alternative.

EXECUTIVE SUMMARY

On August 29, 2017, the City Council adopted a resolution declaring its intent to initiate proceedings to transition the City from at-large to district-based Council member elections pursuant to Elections Code Section 10010 and Government Code Section 34886 (RES-2017-13).

Pursuant to Elections Code Section 10010, the City Council is holding five public hearings in connection with the establishment of electoral districts and sequence of elections. Two of the public hearings must be held *before* any maps of the boundaries of the proposed voting districts are drawn. These two initial public hearings provide the public an opportunity to provide input regarding the criteria for, and composition of the proposed districts, as well as the sequence of elections, before the drafting begins. This is the second of those two initial public hearings. The first public hearing was held on February 6, 2018.

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After receipt of public comments, staff recommends that, through informal discussion, the Council provide direction to the City's demographer regarding the key criteria for the mapping of district boundaries and the sequencing of district elections.

Three additional public hearings will be held *after* the proposed maps are drawn. The second set of hearings will provide the public an opportunity to react to, and to provide input on specific proposed district boundary lines and proposed sequencing of elections. At the conclusion of the fifth and final public hearing, it is anticipated that the City Council will adopt an ordinance establishing district-based elections.

BACKGROUND

Pursuant to Section 4 of the City Charter, the City of Santa Rosa currently elects its Council members through an at-large voting system. In each election cycle, the candidates that receive the most votes city-wide earn a four-year term on the Council.

On July 17, 2017, the City received a certified letter alleging that the at-large voting system impairs the voting rights of the City's Latino population and thus violates the California Voting Rights Act, Elections Code sections 13025 through 14032. The letter threatens litigation if the City does not voluntarily transition to a district-based election system. Similar letters have been received by cities, school districts and other local governments across the state.

After consideration of potential liability and the costs and risks of litigation, the Council, on August 29, 2017, determined to initiate proceedings to transition the City from at-large to district-based Council member elections.

The Council's resolution set forth a schedule of public hearings in connection with the drawing of the electoral districts. The first of those public hearings took place on October 3, 2017. The remaining public hearings were postponed due to the impacts of the wildfires that swept into the City beginning on October 8, 2017.

On January 23, 2018, Council established a new schedule of public hearings to restart the process of composing new voting districts and establishing district-based Council member elections.

PRIOR CITY COUNCIL ACTION

On August 29, 2017, Council adopted a resolution stating its intent to initiate proceedings to transition the City from at large to district-based elections.

On October 3, 2017, Council held the first of a series of five public hearings to hear community comment on the composition of the proposed districts and sequence of elections.

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On January 23, 2018, Council determined to restart the hearing process and established a new schedule of public hearings on the composition of new voting districts and sequence of elections.

On February 6, 2018, Council held the first of the five public hearings to hear community comment on the composition of the proposed districts and sequence of elections.

ANALYSIS

This is the second of a series of five public hearings to be held by the City under Elections Code section 10010. The purpose of this second public hearing is to continue to inform the public about the districting process, and to hear from residents on the factors they believe should be taken into consideration when creating the new voting districts. The community is encouraged to offer its suggestions for both the drawing of district boundary lines and the sequencing of elections.

A. Legal Requirements for Mapping:

Certain federal and state legal requirements apply to the creation of districts and must be observed. These include:

- Each council district shall contain a nearly equal population;
- A districting plan shall be drawn in a manner that complies with the Federal Voting Rights Act and the Equal Protection Clause of the U.S. Constitution; and
- Council districts shall not be drawn with race as the predominate factor in violation of the principles established by the United State Supreme Court in *Shaw v. Reno*, 509 U.S. 630 (1993).

In addition to these state and federal requirements, the City Charter requires:

- There be seven Council members;
- Each Council member be elected to a four year term;
- The elections be staggered such that four Council members are elected in one election and three in the next election cycle; and
- The Mayor be selected by vote of the seven elected Council members.

B. Optional Criteria for Mapping:

In addition to the above mandatory criteria, other factors may be considered in drafting district boundary lines. Examples of such factors are found in Elections Code section 21620 and in judicial opinions. A few of those examples are:

- Council districts may take into consideration communities of interest;
- Council districts may take into account the boundaries of other jurisdictions within the City to the extent relevant (such as school districts, community college districts, or supervisorial districts);
- The territory of each council district should be compact and contiguous;
- The cohesiveness and integrity of the territory may be considered;
- Topography and geography may be considered. In general, each council district border should follow visible natural and man-made geographical and topographical features to the extent feasible;
- Each council district should include public facilities to the extent feasible;
- Each council district should include commercial interests to the extent feasible; and
- In addition, the community and the Council may wish to consider how best to incorporate the newly annexed Roseland community and how to address or allocate the downtown area.

As noted previously, the above list of additional factors offers examples only, and not all the factors are necessarily applicable or appropriate for the City of Santa Rosa. The public is encouraged to provide input on some or all of these factors, and to suggest other criteria not mentioned above. The Council will be informed by the public input, but it retains discretion to balance criteria and choose to apply some, all, or none of these additional factors. Moreover, within the parameters of state and federal law and the City Charter, the Council remains free to develop alternative criteria that Council believes are appropriate to designing a districting plan for the City.

C. Potential criteria for sequencing of elections:

Once district lines are drawn, the Council will be required to establish a sequence of elections. Pursuant to the City Charter, just three Council seats will be up for election in November 2018. After receiving public comment, the Council must determine which of the newly drawn districts will be first for district representation. Among other options,

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the community may wish to discuss and the Council may wish to consider the following alternatives:

- Districts in which no incumbent resides up for election in 2018, with the sequencing of elections for the other districts determined by one of the methods described below.
- Random selection of the sequence of elections in the districts without regard to incumbency, understanding that the result may be that a particular district could have two incumbents, one newly elected by the voters in the district for a four-year term, and an incumbent elected at-large completing the last two years of his or her four-year term ending in 2020.
- Selection based upon current Council terms to allow for continuity, for example:
 - Those districts that have one resident currently serving as Council member could transition to district election at the time the current member's term ends;
 - Those districts that have more than one resident currently serving as a Council member could transition to district election at the time the first of those members' terms end; or
 - Those districts that have more than one resident currently serving as Council members could transition to district election at the time the last of those members' terms are up.
- Selection based on one of the above alternatives "giv[ing] special consideration to the purposes of the California Voting Rights Act of 2001 (Chapter 1.5 (commencing with Section 14025) of Division 14 of this code), and [taking] into account the preferences expressed by members of the districts" (Election Code § 10010(b)), which, depending on all the facts and circumstances, could suggest that any new district with significant Latino population be up for election at the earliest possible time in 2018, or alternatively, that any new district with significant Latino population be up for election in the Presidential election year, 2020, when turnout may be greater.

The public is encouraged to provide input on these options, and to suggest other alternatives not mentioned above. As with the drawing of the maps, the Council will be informed by the public input and the advice of its demographers. The Council, however, retains discretion to weigh these and other alternatives in determining the most appropriate sequencing approach for the City.

D. Related Issues:

Over the course of these proceedings, the Council and the community have raised a number of questions. The following is a brief summary of responses.

- Selection of Mayor:

Section 15 of the City Charter provides for selection of the Mayor by vote of the seven elected Council members. Any change to that process would require a voter-approved Charter amendment. No such change is proposed at this time.

- Change in the Number of Council Members:

Section 4 of the City Charter provides that the Council will have seven members. Any change to that number would require a voter-approved Charter amendment. No such change is proposed at this time.

- Primary elections:

Section 30 of the City Charter provides for general municipal elections on the first Tuesday after the first Monday in November of each even-numbered year. The initiation of primary elections would require a voter-approved Charter amendment. No such change is proposed at this time.

- Options for Hybrid or Cumulative Voting Systems:

Suggestions have been made that the City might adopt either (a) a hybrid voting system, in which some Council members would be elected by District and others by city-wide vote, or (b) a cumulative voting system, in which voters are given a certain number of votes and may allocate those votes to one or more candidates as they choose. While the City may have effective defenses, both hybrid voting systems and cumulative voting systems remain vulnerable to challenge under the CVRA. As a result, any such change would likely require a voter-approved Charter amendment.

- Ability of Incumbent Council Member to Run for Election in District in the Middle of Four-Year Term:

It is anticipated that the district-based election system will establish seven districts and that three of the districts will be slated for election in 2018. From 2018 to 2020, the Council will thus consist of three district-based Council members and four at-large Council members. The remaining four districts will be phased in in 2020. After 2020, all Council members will district-based.

Questions have been raised as to whether a Council member whose current term (as an at-large Council member) extends to 2020 may nevertheless choose to run in a District election in 2018. This situation could arise if the current Council member resides in a District selected for vote in 2018.

Yes, despite the fact that the Council member is in the midst of a four year term, the Council member may choose to run in the 2018 election for the district-based position. If the Council member wins in the 2018 district election, he or she will assume the new district-based position and will begin a new four year term. He or she will forfeit the prior at-large position, leaving a vacancy on the Council, to be filled in accordance with Section 31 of the City Charter.

If the Council member loses in the 2018 district election, he or she will retain the current at-large position and will serve out the remaining two years of the term.

E. Next Steps:

The demographers will begin to draft proposed district boundaries and to compose a proposed sequence of elections for each set of maps. It is anticipated that two or more alternatives will be offered. Draft maps and proposed election sequences are expected to be published in early March, and will be posted on the City's website (<https://srcity.org>) as soon as they are available.

The next public hearing before the Council is scheduled for Tuesday, March 13, 2018 at 5:00 p.m. At that hearing, the Council will receive and consider comments from the public concerning the proposed district maps and the proposed sequence of district elections.

The final two public hearings have been shifted to allow for additional time for community input and for map revisions. (Council's Resolution No. RES-2018-020 authorizes the City Manager to make adjustments to the schedule as he deems appropriate.)

The final two public hearings are now scheduled for Tuesday, April 10, 2018, at 5:00 p.m., and for Tuesday, April 17, 2018, also at 5:00. It is anticipated that, after receiving public comment at the meeting on April 10, 2018, the Council may introduce an ordinance to adopt district boundaries and to establish district elections. It is anticipated that the Council may consider final action on the ordinance after the public hearing on April 17, 2018.

In addition to the formal public hearings before the Council, Council members and staff have expressed willingness to participate in neighborhood or community meetings to allow for additional opportunities for public discussion and comment on the formulation of the City's new electoral districts.

A revised schedule of proposed public hearings and related events is attached as Exhibit A.

FISCAL IMPACT

Not known at this time.

ENVIRONMENTAL IMPACT

This action is exempt from the California Environmental Quality Act (CEQA) because it is not a project which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment, pursuant to CEQA Guideline section 15378.

BOARD/COMMISSION/COMMITTEE REVIEW AND RECOMMENDATIONS

Not applicable.

NOTIFICATION

Not applicable.

ATTACHMENTS

- Attachment 1 – Tentative Timeline

CONTACT

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