



CALIFORNIA VOTING RIGHTS ACT:

COMPOSITION OF DISTRICTS FOR DISTRICT ELECTIONS

City Council Meeting
October 3, 2017

Sue Gallagher, City Attorney

BACKGROUND

- ❖ City currently elects its City Council members through an at-large voting system.
- ❖ Last July, the City received a certified letter alleging that the at-large voting system impairs the voting strength of the City's Latino voters and thus violates the California Voting Rights Act.
- ❖ Letter threatened litigation if City does not voluntarily convert to district based elections.

California Voting Rights Act

- ❖ Designed to protect the voting rights of minority voters
- ❖ Expands protections of the Federal Voting Rights Act
- ❖ Applies to Charter Cities
- ❖ Key provision:

Prohibits the use of an **at-large election system** “in a manner that **impairs** the ability of a **protected class** to elect candidates of its choice or to influence the outcome of an election.”

California Voting Rights Act

Four essential elements:

- ❖ **At-large election system:** Voters of the entire city vote for, and elect, all members of the City Council.
- ❖ **Presence of protected class:** Class of voters who are members of a race, color or language minority group, as defined by the Federal Voting Rights Act.

California Voting Rights Act

Four essential elements (con't):

- ❖ **Racially polarized voting:** Voters in the protected class prefer candidates and electoral choices that are different from those preferred by voters in the rest of the electorate, as set forth in federal case law.
- ❖ **Impairment of voting rights:** The votes of those in the majority non-protected class have the effect of defeating the preferences of the protected class.

Challenge to At-Large Elections

- ❖ Under CVRA, a claim is initiated by filing a certified letter with the City Clerk.
- ❖ On July 17, 2017, City received formal challenge to the City's at-large voting system.
- ❖ Filed by Southwest Voter Registration Education Project, represented by attorney Kevin Shenkman.
- ❖ Southwest Voter Registration Education Project has filed similar challenges throughout the state.

Challenge to At-Large Elections

- ❖ Alleges that racially polarized voting within the City has combined with the City's at-large election system to impair the ability of Latino voters to elect candidates of their choice or to influence the outcome of an election.
- ❖ Threatens litigation if the City does not voluntarily transition to a district-based election system.

Remedies

If demographic and statistical evidence indicate a violation of the CVRA, the remedies can be substantial:

- ❖ Court-ordered imposition of district elections, among other remedies
- ❖ Costs and attorneys' fees
 - From less than \$50,000 for quick settlement
 - To over \$4.5 million, plus interest, for a case fully litigated

Safe Harbor Provisions

Under Elections Code Section 10010, litigation will be postponed and attorneys' fees capped at \$30,000 if:

- ❖ Within 45 days of receipt of claim, Council adopts resolution stating its intent to transition to district elections.
- ❖ Within 90 days of resolution of intent, Council adopts ordinance establishing district elections.
- ❖ Five public hearings held within the 90 day period.
 - Two public hearings prior to drafting of maps.
 - Two public hearings to review draft maps.
 - Public hearing when ordinance adopted.

Creation of Districts

- ❖ Maps to be drafted in consultation with demographer
- ❖ Extensive public outreach and engagement
- ❖ Final district boundaries to be set by ordinance adopted pursuant to Government Code Section 34886
- ❖ District boundaries will be revisited after next census

Criteria for District Maps

- ❖ Each council district shall contain a nearly equal population
- ❖ District plan shall comply with the California and Federal Voting Rights Acts
- ❖ Race shall not be the predominate factor for district boundaries

Criteria for District Maps

By Charter:

- ❖ Seven Council members
- ❖ Mayor selected by vote of Council members
- ❖ Four year terms

Optional Additional Factors

- ❖ Communities of interest
- ❖ Respect for other jurisdictional boundaries, such as school districts
- ❖ Compact and contiguous
- ❖ Natural and man-made geographical or topographical features
- ❖ Each district to include public facilities
- ❖ Each district to include commercial interests

Optional Additional Factors (con't)

- ❖ How best to incorporate recently annexed communities
- ❖ How to address downtown area

Next Steps

- ❖ Receive initial public comment prior to mapping:
 - ❖ Two public hearings before Council
 - October 3, 2017
 - October 10, 2017
 - ❖ Community meeting
 - October 19, 2017
- ❖ Website / Public outreach

Next Steps (con't)

- ❖ Working with demographic firm, draft proposed district boundaries
- ❖ Two additional public hearings for input on draft maps and proposed sequencing of elections
 - November 1, 2017 (Special Meeting)
 - November 14, 2017
- ❖ Final public hearing and adoption of ordinance
 - November 21, 2017
- ❖ Note: Maps will be posted at least 7 days before adoption

Recommendation

It is recommended by the City Attorney that the City Council hold a public hearing to receive input from the community regarding the composition of districts to be established for district-based election of Council members beginning in 2018.

QUESTIONS?