



DATE: January 22, 2019
TO: Mayor and Members of the City Council
FROM: Claudia Quintana, City Attorney
SUBJECT: APPROVAL OF DISTRICT-BASED ELECTIONS TIMELINE AND UPDATE ON COMMUNITY OUTREACH

RECOMMENDATION

Receive an update on the transition to district-based elections and by motion, approve a new timeline regarding the consideration of district-based elections.

REASONS FOR RECOMMENDATION

On October 23, 2018, the Council adopted a resolution of intent to move to District Based elections in response to a demand letter issued by Attorney Kevin Shenkman. The letter alleged that Vallejo's at-large elections system violates the California Voting Rights Act and that "Vallejo's at-large system dilutes the ability of Latinos and African Americans (each a 'protected class') - to elect candidates of their choice or otherwise influence the outcome of Vallejo's council elections."

In order to prove a violation of the California Voting Rights Act, a plaintiff needs to prove only that "racially polarized voting" is occurring. Proof of an intent on the part of the voters or elected officials to discriminate against a protected class is not required.

The Election Code requires that the transition be completed within 90 days of the adoption of the Resolution of Intent. However, the City requested and received an extension of time from Mr. Shenkman to adopt an ordinance transitioning to district-based elections no later than July 31, 2019. Tonight's action will establish a timeline in which to continue to solicit public input, hold the required statutory hearings, and have the option to introduce and adopt an ordinance before the deadline.

BACKGROUND AND DISCUSSION

Following Council's adoption of Resolution No. 18-096, declaring its intention to transition from "at large" to "district-based" City Council member elections, staff engaged the public to publicize the process and seek input. The City created a website, began publicizing pertinent hearing dates and contacted community groups and interested individuals.

On November 8, 2018, the City hosted a community meeting at Diaz & Loera Centro Latino to discuss the districting process. The Council held public hearings on November 27 and on December 19, to solicit input on how the maps should be drawn. On January 5, 2019, the City hosted another public meeting where the public was invited to draw maps.

Further, staff negotiated an extension to the deadline previously given by attorney Kevin Shenkman, so that the city's redistricting process may conclude by July 31, 2019 and still avoid litigation. Therefore, the City Council will have to decide whether to approve an ordinance changing to district elections, and what the districts and staggered terms would look like prior to that date.

As noted above, the city has already completed the first two of the four required public hearings prior to adoption of an ordinance that defines the district boundaries. Given the additional time to complete this process, however, staff proposes a new timeline to allow community organizations to mobilize and submit their maps for consideration.

While the ordinance would be effective 30 days after adoption, the first election to be affected by the change would be the general election in 2020.

In addition to considering the proposed updated schedule, Council members have requested additional information on the pros and cons of districting, as well as information on whether cities who have changed from at-large to by-district elections have experienced greater diversity on their council. Finally, comments surrounding the undesirability of gerrymandering and a request for more information on gerrymandering will be addressed.

Pros and Cons of switching from At-Large Elections to District Elections.

Pros of switching to District Elections:

1. It avoids a costly lawsuit, with estimated defense costs (sunk costs) above \$5M.
If the lawsuit results in a loss, not only will the city have to pay Plaintiff's attorney fees and costs, but the city will lose its ability to select the districting map. This is because the Election Code requires the court, not the City, to implement an appropriate remedy, including the imposition of district based elections.
2. It ensures geographic representation of all Vallejo neighborhoods/communities of interest by people who are members of the neighborhood/community of interest.
3. It costs less for a political candidate to canvas 1/6 of Vallejo than the entire Vallejo area.
4. It results in greater ethnic/gender diversity in local councils.
5. It affords a new opportunity for people to participate and run for office who normally would not have done so.
6. Increases the chances of new candidates running and getting elected because the number of voters needed to win is reduced and the cost for running is less.

Cons of switching to district elections:

1. It leads to parochialism in politics (i.e., political loyalty to the smaller segment above loyalty to the whole).
2. The transition can be confusing to the public and to candidates, with at least one electoral cycle needed to synchronize all seats.
3. Critics of district elections say that, as a remedy, districting does not ensure that candidates from

protected groups that are unrepresented in the council actually get elected to local councils.

4. It may lead to elections where incumbents run unopposed.

Impacts of the Transition in Other Cities

Data from the November 2018 elections is not yet available as to the impact of CVRA-related changes.

However, our demographer was able to provide the following information.

Through 2017, 166 jurisdictions (32 cities and 134 school districts) changed to by-district elections in the CVRA era. Of those, 55 (33%) saw an increase in the number of Latinos elected. Of those 55, 12 were cities and 33 were school districts. So 12 of 32 cities (37.5%) that changed and held an election prior to 2018, and 33 of 134 school districts (24.6%), elected more Latinos post-districting than prior to districting.

In 2018, we know of at least 63 cities that held their first-ever by-district elections. There were also some school districts – we do not have a count of how many, but we believe it was fewer than the 63 cities. In addition, jurisdictions that held their first by-district elections in 2016 (21 cities and an unknown number of school districts) would be holding their first-ever election in half of their districts in 2018.

There are no similar counts of Asian-Americans or African-Americans available at this time. Anecdotally, a handful of jurisdictions in Orange County did elect more Asian-Americans after moving to by-district elections.

So between one-fourth and one-third of jurisdictions changing their election system because of CVRA have seen an increase in the number of Latinos elected. We anticipate that more of the jurisdictions that switched prior to 2018 will see an increase in Latinos elected in 2018 (because many had heavily-Latino districts that were not holding an election until 2018), but among those jurisdictions holding their first-ever elections in 2018 we expect the fraction experiencing an increase in Latino representation to decrease, because of the wide net thrown by Shenkman & Hughes between 2016 and 2018.

Gerrymandering

At the last hearing, council articulated concerns about gerrymandering and how to avoid it. According to Encyclopedia Britannica, Gerrymandering, in U.S. politics, is the drawing the boundaries of electoral districts in a way that gives one party an unfair advantage over its rivals. The term is derived from the name of Massachusetts Governor Elbridg Gerry, whose administration enacted a law in 1812 defining new state senatorial districts. The law was based on a map drawn by the Massachusetts legislature, which consolidated the Federalist Party vote in a few districts and thus gave disproportionate representation to Democratic-Republicans. The outline of one of these districts was thought to resemble a salamander. A satirical cartoon by Elkanah Tisdale appeared in the *Boston Gazette*; it graphically transformed the districts into a fabulous animal, “The Gerry-mander,” fixing the term in the popular imagination. (Picture attached.)

Gerrymandering has been condemned because it violates two basic tenets of electoral apportionment—compactness and equality of size of constituencies. A U.S. Supreme Court ruling of 1964 stated that districts should be drawn to reflect substantial equality of population. However, using studies of

regional voting behavior, the majority parties in certain state legislatures continue to set district boundaries along partisan lines without regard for local boundaries or even contiguity. For example, in some states, representatives from rural and small town districts seek to limit the representation of more densely populated urban centers.

Sometimes gerrymandering is defended as the only means of securing any representation for minority groups. It is argued that violating local boundaries in drawing districts is preferable to denying a politically cohesive group any voice in state government.

In Vallejo's process, our instructions to map drafters include instructions to create districts that are compact and of equal population size. Further, our demographers will flag and comment on maps submitted that have deficiencies in these areas.

Status and Next Steps

In response to Council's comments at the last meeting, staff reached out to Attorney Kevin Shenkman to obtain additional time for the community to weigh in and participate in this effort. Mr. Shenkman stipulated to three months of additional time, so that now the City must move to district-based elections by July 31, 2019 or face a lawsuit under the California Voting Rights Act.

In addition, Staff reached out to Tanya Pellegrini at MALDEF with a request to collaborate on some additional meetings. We made staff and the city's demographer available to present at their meetings, or if they prefer, to have them present at city-hosted meetings. As an alternative, staff requested to at least work to coordinate dates so that we could avoid inadvertent conflicts. Staff also asked to be invited to/allowed to attend MALDEF's meetings so that the city could be aware of the community's comments and input. Ms Pellegrini said the request would need to be escalated to a supervisor. In the meantime, MALDEF requested that council's consideration of maps be extended so that that they can submit a map after their January 12th community meeting.

The previous schedule proposed a January 11th deadline for map submissions, so that maps could be considered on January 22. Keeping MALDEF's request in mind, and in light of the additional time granted, staff's recommendation tonight is that the next public hearing be re-scheduled and follow the schedule below:

- January-April: Continued public outreach and meetings.
- April 23, 2019 by 5:15pm – Deadline to submit any and all proposed maps so that they may be professionally produced by our demographers.
- April 30, 2019 -- City staff will publish all maps to be considered by Council at Public Hearing #3, May 14 (allowing 2 weeks for review and comment, instead of the 7-day minimum in the statute).
- May 14: City Council Meeting: Public Hearing #3 – first meeting to considers maps.
- June 4, 2019 – Maps to be considered by Council at Public Hearing #4, June 11, will be published by City Staff. Note: These maps will be the ones selected for clarification, further review, further revision by Council at Public Hearing No. 3.
- June 11: City Council Meeting: Public Hearing #4 – second meeting to consider maps.
- July 9: Introduction of Ordinance – First Reading.

- July 23: Adoption of Ordinance.
- July 31: Deadline.

The above schedule maximizes the time for public input, meets the statutory requirements for the process and completes the process in advance of the extension provided by Mr. Shenkman. The council may ultimately decide to vote against district elections, however, the above timetable preserves the safe harbor.

FISCAL IMPACT

There is no fiscal impact associated with approving a new timeline to consider district-based elections.

ENVIRONMENTAL REVIEW

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.

ATTACHMENTS

1.	573px-The_Gerry-Mander_Edit
2.	CVRA-White-Paper
3.	CVRA All Meeting v4

CONTACT

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Quiet Revolution in California Local Government Gains Momentum

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November 3, 2016

A low-profile revolution in local government is happening this November as twenty-one California cities hold their first by-district city council elections. Prior to the 2002 passage of the California Voting Rights Act, only twenty-nine of California's nearly 500 cities held by-district elections: twenty-seven in purely by-district elections, and Downey and Oakland electing one councilmember "at large" (or citywide) and the rest of the council by-district (in Downey and Oakland the citywide councilmember is not the mayor). Between passage of the Act in 2002 and June of 2016, the CVRA prompted nine more cities to hold their first by-district elections. This November the total number of cities using by-district elections is jumping to fifty-nine.

From statehood in 1850 to passage of CVRA in 2002, all but the very largest cities in California tended to use at-large council election systems. In the fourteen short years since CVRA's passage, the number of cities using by-district elections has more than doubled.

This quiet tectonic shift in local government is accelerating. In eight more cities the voters are deciding in November 2016 whether to make the change; three other cities already made the change and their district elections will begin in 2018; in one city voters will decide in 2018 whether to make the change; and three cities currently are actively working toward changing to by-district elections for 2017 or 2018. If voters approve those changes or the councils follow through on their announced intentions to change, the number of cities electing by-district will increase from twenty-nine before CVRA to at least seventy-four by 2018 - an increase of 155 percent.

The California Voting Rights Act was written to promote the use of by-district elections to encourage the election of candidates preferred by previously "under-represented" voters such as Latinos and Asian-Americans. The law was slow to have effect. Signed by Governor Davis in 2002, it was almost immediately suspended by a superior court ruling that the law was unconstitutional. The law was then restored in a 2006 appeals court ruling. The shift to by-district city council elections began to gain momentum after Modesto agreed to a \$3 million settlement in 2008, and accelerated after Palmdale agreed to a \$4.5 million settlement in 2015.

This report presents the preliminary findings of a long-term Rose Institute research project considering the effects of the California Voting Rights Act. Future research plans include looking at the cities currently making the change to by-district elections; looking at the over 135 school districts that have made the change in election systems; reviewing the Community College and Special District jurisdictions that have made the change; expanding our review to include changes in the number of Asian-American and African-American candidates elected; comparing the changes in the newly by-district cities to those in cities staying at-large or already in districts; and studying what characteristics, demographics or dynamics cause some jurisdictions to see significant gains in Latino representation after the change, while others do not. For more information on the project, contact Douglas Johnson or Justin Levitt at the Rose Institute

Overall, the move to by-district elections has increased the number of Latinos elected to city councils, but that change has been driven by significant gains in a few cities (such as Sanger and Chula Vista) that offset a lack of any increase in others (such as Escondido and Wildomar).

Any analysis of municipal elections in California is challenging due to the independence of the state's nearly 500 cities and the lack of a certified central repository of municipal election results. Our research is indebted to the Center for California Studies at Sacramento State University for its efforts to compile a comprehensive list of local election results. Rose Institute researchers have supplemented the Center's data with reviews of County Registrar and City Clerk online records, and have added data from National Demographics Corporation. The database remains a work in progress and we encourage anyone with additional information to contact the Rose Institute.

Identifying ethnicities of elected officials is a less than perfect art, in no small part because the definition of "Latino" or "Hispanic" is not universally agreed upon and, for that and other reasons, some individuals change their self-identification over time. To identify Latino officeholders, we relied the listing of Latino officeholders compiled each year by the National Association of

Latino Elected and Appointed Officials (NALEO), supplemented by news reports and online biographies of the officeholders. To identify Latino candidates, we relied on news reports and online biographies of those candidates.

This Rose Institute initial analysis reviews ten cities: nine that have held at least one election by district since CVRA prompted them to change their election system, and Wildomar, which is holding its first election in November, but it is included since both seats are uncontested and, thus, already known. This initial review identifies which cities have seen increases in Latino representation.

For each city, the numbers and the citywide Latino percentage of Citizens of Voting Age (CVAP) in the city is provided. We look at CVAP because the courts in Voting Rights Act litigation tend to use the CVAP counts from the Census Bureau as the best available measure of eligible voters. Follow up research will narrow that data to analyze the Latino (and other “protected class” population) percentages of CVAP in each district, but we have not yet compiled that data for all the cities.

Some of the advantages of by-district elections are that they make it easier for candidates to run and get to know voters. Because there are fewer voters in a district than city at large, the cost of putting a candidate statement in the sample ballot decreases significantly and the pool of people who can run against a given candidate is restricted to the others who reside in the district. These advantages of shrinking the voter pool for a given election also come with a risk: with fewer people eligible to run, there is an increase in uncontested elections. In the nine cities that have held new district elections, this review has identified 58 district seats up for election over 22 election cycles (including those held this November in those nine cities). Of those 58 contests, 47 were contested and 11 (19 percent) were uncontested (meaning no more than one candidate ran for that district). It is notable, however, that 8 of the 11 uncontested elections were in the City of Madera. In the eight cities other than Madera, 48 seats have been up for election with 45 contested and 3 (6 percent) uncontested. Among those jurisdictions that changed to by-district elections and that are holding

election this November, our review identified 57 district seats up for election, with 47 contested and 10 (18 percent) uncontested.

Another significant effect of the California Voting Rights Act is the financial cost it has imposed on cities--many challenges so far have resulted in settlements or legal awards over one million dollars. Arguably, these financial risks were a major reason some (and likely most) of the cities made the change to by-district elections, independent of actual or perceived violations of voting rights. The influence of the Act’s penalty provisions on city governments will be part of the Rose Institute’s ongoing research.

In summary, 2016 saw a significant expansion in the number of cities changing their elections from at-large to by-district elections, and we expect that rate of change to accelerate in coming years. It is likely, but far from guaranteed, that the change in election systems will increase the number of Latinos elected, as most, but not all, cities changing previously have seen such increases. While acknowledging that determining the ethnicity of elected officials is difficult, we estimate that number of Latinos elected to city councils in nine cities that have held by-district elections (and the one city where both 2016 districts are uncontested) increased the number of Latinos councilmembers in seven of the ten cities. The total number of Latinos on those ten city councils increased from seven after the last at-large election to eighteen elected by district so far.

The tables below display the CVAP data compiled from the 2010 to 2014 American Community Survey Special Tabulation data, which we have disaggregated to the Census Block level of geography and then aggregated by City.

Table 1: Changes in Latinos Elected in Ten Changed Cities With Election Results
(Listed by Latino % of Citizen Voting Age Population)

City	Population	LatinoCVAP	Latinos_Pre_Change	Latinos_Post_Change	Elections Held	Seats Up	Contested	uncontested
Sanger	24,270	74%	1	4	3 + 2016	9	8	1
Whittier	85,331	60%	0	1	1	2	1	1
Madera	61,416	60%	0	2	2 + 2016	10	2	8
Chula Vista	243,916	51%	1	3	1 + 2016	2	2	0
Compton	96,455	48%	1	2	2	7	7	0
Tulare	59,278	43%	0	1 (+2?)	2 + 2016	8	7	1
Escondido	143,911	30%	1	1	1 + 2016	4	4	0
Wildomar	32,176	29%	1	1	2016	2	0	1
Modesto	201,165	26%	1	1	4	13	13	0
Santa Barbara	88,410	24%	1	2	1	3	3	0

Table 2: Twenty-One Cities Holding Their First District Elections in 2016

Notes: In King City, one Latino is running unopposed, another district has two candidates but both are Latino, and a Latino is running against a non-Latino in the third district that is contested this year. In Turlock, only Latino candidates are running in one district, and a Latino is running against a non-Latino in another district that is up for election this year. Wildomar is in this table because its first election is in 2016, though it is also in Table 1 because both seats are uncontested so the results are already known.

City	Population	LatinoCVAP	Latinos_Pre_Change	Latinos_Post_Change	Seats Up	Contested	Uncontested
King City	12,874	79%	0	2 or 3	3	2	1
Los Banos	35,972	55%	0	Up to 2	2	2	0
Chino	77,983	48%	0	0	2	0	2
Palmdale	152,750	46%	2	Up to 3	4	4	0
Patterson	20,413	45%	1	Up to 1	2	1	1
Riverbank	22,678	44%	3	1	2	1	1
Visalia	124,442	37%	0	0	2	2	0
Merced	78,958	37%	3	Up to 2	3	3	0
Highland	53,104	36%	0	Up to 2	4	4	0
Eastvale	53,683	36%	0	Up to 1	3	3	0
Anaheim	336,265	35%	1	Up to 4	4	4	0
Woodland	55,468	35%	1	Up to 2	3	3	0
Buena Park	80,530	29%	0	Up to 1	2	1	1
Wildomar	32,176	29%	1	1	2	0	1
Turlock	68,549	27%	1	0	2	2	0
Hemet	78,657	27%	0	Up to 1	3	3	0
Dixon	18,351	27%	0	Up to 1	2	2	0
Banning	29,603	26%	0	1	3	1	2
Garden Grove	170,883	24%	0	Up to 2	4	4	0
Yucaipa	51,367	23%	0	0	3	3	0
San Juan Capistrano	34,593	19%	1	Up to 1	2	2	0

Table 3: Eight Cities Voting in 2016 on Whether to Change to By-District Elections

City	Population	Latino CVAP	Wht. CVAP	Blk. CVAP	Asn. CVAP
Bellflower	76,616	44%	28%	16%	11%
Corona	152,374	33%	47%	6%	12%
Costa Mesa	109,960	21%	65%	2%	11%
El Cajon	99,478	22%	63%	7%	4%
Eureka	27,191	6%	80%	3%	4%
Fullerton	135,161	25%	48%	3%	22%
Placentia	50,533	26%	54%	2%	17%
Rancho Cucamonga	165,269	33%	47%	9%	10%

Table 4: Six Cities Already Working to Change to By-District Elections for 2017 or 2018

City	1st Election	Population	Latino CVAP	Wht. CVAP	Blk. CVAP	Asn. CVAP
Ceres	2017	45,417	43%	45%	2%	7%
Hesperia	2018	90,173	39%	50%	7%	2%
La Mirada	2017	48,527	36%	42%	2%	18%
Upland	2018	73,732	31%	54%	6%	9%
Redlands	2018	68,747	24%	61%	6%	7%
San Marcos	2018	83,781	23%	63%	3%	10%

Table 5: Uncontested Elections So Far

City	Population	Latino CVAP	Latinos Pre Change	Latinos Post Change	Elections Held	Seats Up	Contested	Uncontested
Madera	61,416	60%	0	2	2 + 2016	10	2	8
Sanger	24,270	74%	1	4	3 + 2016	9	8	1
Whittier	85,331	60%	0	1	1	2	1	1
Tulare	59,278	43%	0	1 (+2?)	2 + 2016	8	7	1
Chula Vista	243,916	51%	1	3	1 + 2016	2	2	0
Compton	96,455	48%	1	2	2	7	7	0
Escondido	143,911	30%	1	1	1 + 2016	4	4	0
Modesto	201,165	26%	1	1	4	13	13	0
Santa Barbara	88,410	24%	1	2	1	3	3	0

Table 6: Twenty-Seven Cities Holding By-District Elections Prior to Passage of CVRA

City	Population	Latino_CVAP	Wht_CVAP	Blk_CVAP	Asn_CVAP
Los Angeles	3,792,621	33%	41%	13%	13%
San Diego	1,307,402	21%	54%	7%	16%
San Jose	945,942	24%	37%	4%	33%
San Francisco	805,235	11%	48%	6%	32%
Fresno	494,665	37%	40%	9%	12%
Sacramento	466,488	20%	44%	15%	18%
Long Beach	462,257	29%	38%	16%	14%
Bakersfield	347,483	36%	47%	9%	6%
Riverside	303,871	39%	43%	8%	8%
San Bernardino	209,924	48%	27%	18%	5%
Moreno Valley	193,365	45%	26%	21%	7%
Salinas	150,441	56%	30%	3%	10%
Pomona	149,058	57%	20%	11%	11%
Pasadena	137,122	25%	47%	13%	15%
Berkeley	112,580	9%	61%	10%	19%
Inglewood	109,673	35%	5%	57%	2%
San Leandro	84,950	20%	32%	13%	32%
Menifee	77,519	25%	62%	7%	5%
Redondo Beach	66,748	14%	68%	3%	13%
Hanford	53,967	36%	53%	5%	5%
Colton	52,154	64%	20%	10%	5%
Watsonville	51,199	64%	29%	1%	5%
Hollister	34,928	58%	36%	2%	2%
Seal Beach	24,168	11%	78%	1%	10%
Dinuba	21,453	75%	21%	0%	3%
Parlier	14,494	93%	5%	1%	1%
Bradbury	1,048	16%	55%	3%	27%

City of Vallejo District Based City Council Elections

KEY DATES

April 23, 2019 by 5:15pm

Deadline to submit any and all proposed maps **no later than 5:15 pm**. Maps can be dropped off at the City Clerk's Office or emailed to maps@cityofvallejo.net.

April 30, 2019

City staff will publish all maps to be considered by Council at Public Hearing #3.

May 14, 2019 at 7:00pm – Public Hearing #3

City Council meeting at City Hall to hear public input on draft district maps.

June 4, 2019

City staff will publish all maps to be considered by Council at Public Hearing #4.

June 11, 2019 at 7:00pm – Public Hearing #4

City Council meeting at City Hall to hear public input on draft district maps.

July 9, 2019 at 7:00pm – Introduction of Ordinance

City Council meeting at City Hall to select a district map and introduction of an ordinance to transition to district based City Council elections.

July 23, 2019 at 7:00pm – Adoption of Ordinance

City Council meeting at City Hall for possible Adoption of Ordinance.

— If language interpretation is required, please email us at maps@cityofvallejo.net. —

For more information visit www.cityofvallejo.net/DrawVallejo

Email maps@cityofvallejo.net to share your thoughts or questions with the City.

