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AGENDA
OXNARD CITY COUNCIL
South Oxnard Community Center, 200 E. Bard Road, Oxnard
January 3, 2018
Special Meeting – 6:00 PM

A. ROLL CALL / POSTING OF AGENDA

B. OPENING CEREMONIES

Pledge of allegiance to the flag of the United States.

C. PUBLIC HEARING

1. SUBJECT: Public Hearing Regarding Composition of Possible City Council Districts (30/30/30)

RECOMMENDATION: That City Council hold the second public hearing to review the districting process for City Council elections and receive public input regarding the composition of potential City Council districts.

Legislative Body: CC

Contact: Stephen M. Fischer

Phone: 385-7483

D. ADJOURNMENT

In compliance with the Americans with Disabilities Act, if you require special assistance to participate in a meeting, please contact the City Clerk's Office at 385-7803. Notice at least 24 hours prior to the meeting will enable the City to reasonably arrange for your accessibility to the meeting.

City of Oxnard internet address: www.oxnard.org.



**CITY COUNCIL
AGENDA REPORT**

**TYPE OF ITEM: Public Hearing
AGENDA ITEM NO.: C1**

DATE: January 3, 2018

TO: City Council

FROM: Stephen Fischer
City Attorney

A handwritten signature in black ink, appearing to read "S. Fischer".

SUBJECT: Public Hearing Regarding Composition of Possible City Council Districts
(30/30/30)

CONTACT: Stephen Fischer, City Attorney
Stephen.Fischer@oxnard.org, 385-7483

RECOMMENDATION:

That City Council hold the second public hearing to review the districting process for City Council elections and receive public input regarding the composition of potential City Council districts.

BACKGROUND

Historically, the City has elected its Councilmembers through an at-large election system. Under this system, candidates for the City Council can reside anywhere in the City and are elected by the registered voters of the entire City. (The Mayor is separately elected, but is also elected through an at-large election system.)

The City received a letter dated October 7, 2017 claiming that the City's current method of electing the City Council through at-large elections violates the California Voting Rights Act ("CVRA"). The letter alleges that the City's elections "may be occurring by polarized voting," and threatens litigation if the City declines to adopt a district-based election system. A district-based election system is one in which a city is divided into separate districts and a councilmember is elected from each district by registered voters residing in that district.

The CVRA (Elections Code Section 14025 et seq.) was adopted in 2002, and is based upon the Federal Voting Rights Act of 1965 ("FVRA") with some important differences that make at-large election systems much more susceptible to legal challenge. For a plaintiff to be successful in a claim of violation under the FVRA relating to at-large elections, the plaintiff must show that:

1) a minority group is sufficiently large and geographically compact to form a majority of the eligible voters in a single-member district; 2) there is racially-polarized voting; and 3) there is “white bloc voting” (the term used by the courts reviewing such cases) sufficient usually to prevent minority voters from electing candidates of their choice. If a plaintiff proves these three elements, then the federal court will consider whether, under the “totality of circumstances,” the votes of minority voters are diluted by the at-large election system.

The CVRA removes two of these factors. It eliminates what is known as the “geographically compact” FVRA precondition (e.g., can a majority-minority district be drawn) as well as the “totality of the circumstances” or “reasonableness” test. Because the CVRA eliminates some of the elements that a plaintiff must prove, defending a lawsuit brought pursuant to the CVRA is substantially more difficult to defend against than a claim under the FVRA. As a result of the lower threshold for proving a claim under the CVRA, many jurisdictions have voluntarily switched to district-based election systems instead of facing litigation.

Because of the low standards necessary for a plaintiff to prevail in CVRA litigation, every public entity defendant since the CVRA was enacted in 2002 has either lost in court or settled. To date, every government defendant has ultimately been forced to pay at least some portion of the plaintiff’s attorney fees and costs. Awards in contested CVRA cases have reportedly ranged from approximately \$400,000 to over \$4,500,000. For example, in February 2015, the City of Santa Barbara reportedly paid \$800,000 in attorney’s fees and expert costs to settle its CVRA lawsuit. Another example is the City of Palmdale, which incurred expenses in excess of \$4.5 million.

Although there is a case pending in federal court challenging the constitutionality of the CVRA (*Higginson v. Xavier Becerra and the City of Poway*; Case No. 17 CV2032 WQHJLB, filed October 4, 2017), it is not anticipated that this litigation will be resolved during the so-called “safe harbor” period described below. Some cities involved in the case by filing amicus (friend of the court) briefs are still moving forward with the districting process while this federal litigation is ongoing. If the federal court issues an injunction against the enforcement of the CVRA prior to the City considering the adoption of districts, then the City can consider its options at that time. However, the federal court has given no indication when it will take any action in this matter.

Because of claims of abuses by some plaintiff’s attorneys in CVRA cases, the Legislature adopted AB 350 in 2016 to place a “safe harbor” cap of a maximum of \$30,000 on attorney’s fees that a plaintiff would be entitled to recover if the target city, within 45 days of receipt of the plaintiff’s properly served demand letter, adopts a Resolution of Intent to consider an ordinance to establish a district-based election system, and then adopts such an ordinance within 90 days following the date it adopted the Resolution of Intent.

That 90-day period to adopt the ordinance would include the following steps:

1) Prior to drawing a draft map or maps of the proposed boundaries of the districts, the City

Council would hold at least two public hearings over a period of no more than 30 days, at which time the public will be invited to provide input regarding the composition of the districts. (Election Code §10010(a)(1).)

2) After the draft maps are drawn, the City would publish and make available for release at least one draft map and, if members of the City Council will be elected in their districts at different times to provide for staggered terms of office, the potential sequence of the elections would also be published. (Election Code §10010(a)(2).)

3) The City Council would hold at least two additional public hearings over a period of no more than 45 days, at which the public shall be invited to provide input regarding the content of the draft map or maps and the proposed sequence of elections, if applicable. (Id.)

4) The first version of a draft map is required to be published at least seven days before consideration at a public hearing. If a draft map is revised at or following a public hearing, it is required to be published and made available to the public for at least seven days before being adopted. (Id.)

At its November 27, 2017 meeting, the City Council adopted Resolution No. 15,068, which indicated the City's intent to consider transitioning from at-large elections to district elections for members of the City Council pursuant to Elections Code Section 10010.

On December 12, 2017, the City Council held the first of two public hearings over a period of no more than 30 days for the public to provide input regarding the composition of the proposed City Council districts. Under state law, these public hearings are required to occur prior to the City's drawing of a draft map or maps of the proposed boundaries of the districts.

At the December 12, 2017 City Council meeting, demographer Robert McEntire from National Demographics, the firm selected to provide demographic services relating to the drawing of the districts, provided an overview of the districting process and previewed the online interactive system that allow the public to draw and submit proposed districting plans for the City Council's consideration. A total of 14 members of the public also provided public comments at the December 12, 2017 City Council meeting relating to this matter.

ANALYSIS

Tonight's public hearing will be the second of two public hearings required to be held regarding composition of City Council districts. In addition to a presentation from City staff regarding the districting process, a demographer from National Demographics will be available to discuss issues relating to the districting, including the tools that allows the public to draw and submit proposed districting plans for the City Council's consideration. The deadline to submit maps is January 5, 2018 at 5:00 p.m.

Draft maps are then scheduled to be released online at <https://www.oxnard.org/draft-district->

maps/ by no later than January 10, 2018. After the release of the maps to the public, four hearings will be held to discuss the draft maps and proposed sequencing of district elections. These public hearings are scheduled for January 17, 2018, January 29, 2018, February 7, 2018 and February 20, 2018 at the City Council Chambers. In addition, the City will hold a Community Workshop on January 22, 2018 at 6:00 p.m. at the Oxnard Performing Arts and Convention Center's Hueneme Room to discuss the districting process, draft maps and the proposed sequencing of elections. The Inter-Neighborhood Council Organization (INCO) will also hold a special meeting on January 25, 2018 at 7:00 p.m. at City Council Chambers to discuss the districting process, draft maps and the proposed sequencing of elections. The meeting schedule is located online at <https://www.oxnard.org/district-based-elections-schedule/>.

The City Council will hold a public hearing on February 27, 2018 to consider an ordinance designating districts and the timing of elections in each district (i.e., either November 2018 or November 2020). If a majority of the City Council votes for the ordinance, the City Council will consider the second reading and adoption of the ordinance the following week. If adopted, the new City Council districts would not become effective until the November 2018 election, with the specific date on which a councilmember would be elected from each new district provided for in the ordinance.

STRATEGIC PRIORITIES

Not applicable.

FINANCIAL IMPACT

There is no specific financial impact from tonight's public hearing, although the consideration of transitioning to a district-based election system will take significant staff time and involves the use of a demographer to attend specific public hearings and provide online public outreach tools included in the scope of services.