

California Voting Rights Act District Elections

City Council Meeting
April 11, 2018

Background

▶ March 6, 2018

- City received a certified demand letter from Shenkman & Hughes, PC alleging CVRA violation

▶ California Voting Rights Act (CVRA) (2002)

- Prohibits at-large elections from diluting votes of protected class (e.g. race, color, language)
- Easy for plaintiffs to challenge at-large elections

At-Large v. District Elections

▶ At-Large Elections (current)

- Voters from the entire City choose all five (5) Councilmembers

▶ District Elections (proposed)

- Create Maps to divide City into separate districts
- Councilmember must reside in district he/she represents

Types of District Elections

▶ “From District” Elections

- Voters from the entire City choose five (5) Councilmembers
- One Councilmember resides in each district

▶ “By District” Elections

- Only the voters who reside in the same district where the candidate lives may vote

AB 350 (2016) – Safe Harbor

- ▶ City's liability capped at \$30,000

1) 45-days

- Adopt resolution of intention to transition to “by district” elections

2) 90-days

- Hold 2 public hearings for public input on maps
- Hold 2 public hearings to draw maps
- Introduce and adopt ordinance

Legal and Financial Implications

▶ CVRA Lawsuits

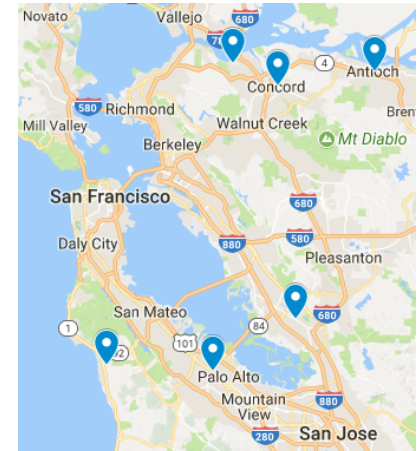
- Plaintiff has low bar to prevail in CVRA lawsuit
- Even when City prevails, another plaintiff may allege CVRA violation later

▶ Costs to litigate

- Legal fees are approximately \$500,000
- Must pay plaintiff's legal fees if City is unsuccessful
- Broad range of \$385,000 to \$4,500,000 for plaintiff's legal fees
- Court imposes district elections & draws maps

Other Bay Area Cities

- ▶ **City of Half Moon Bay**
 - March 6, 2018 received demand letter
- ▶ **City of Menlo Park**
 - Recently transitioned to by district elections
 - Result of receiving demand letter
- ▶ **City of Concord and City of Fremont**
 - Currently transitioning to by district elections
 - Result of receiving demand letter
- ▶ **Cities of Martinez & Antioch**
 - Recently transitioned to by district elections
 - Result of receiving demand letter



Transition to By District Elections

► Phased Approach

- City conducts outreach and receives input
- City proposes sequence of elections specified at time district maps are drawn
- No Councilmember's term may be cut short
- Term of office remains 4 years
- Staggered elections will continue

Criteria for Drawing Maps

▶ Federal Requirements

- 1 person 1 vote rule: nearly equal populations
- Race cannot be the predominant factor
- Cannot dilute minority voting rights

▶ Additional Criteria

- Topography, geography, compactness
- Communities of interest
(e.g. school districts, HOAs, voting precincts)

Tentative Timeline*

Date	Event	Comment
April 11	Adopt Resolution of Intent	90-day safe harbor period begins
April 25	1st Public Hearing	Receive Public input on districts
May 9	2nd Public Hearing	Receive Public input on districts
May 23	3rd Public Hearing	Comment on maps drawn
June 20	4th Public Hearing	Comment on maps drawn
June 27	5th Public Hearing	Introduce ordinance establishing district elections
July 11	6th Meeting	Adopt ordinance

* may be adjusted as deemed necessary, provided that the adjustments comply with the time frames specified by Elections Code Section 10010.

Recommended Action

That City Council adopt a resolution of intent:

- 1) Declaring its intent to transition to by district elections
- 2) Outlining specific steps to be undertaken
- 3) Estimating a time frame of action

(Elections Code Section 10010)