



THE CITY OF  
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CALIFORNIA

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## STAFF REPORT

### MEETING

DATE: April 9, 2019

TO: City Council

FROM: Terrie Gillen, City Clerk  
Regan M. Candelario, City Manager

SUBJECT: **DISTRICT ELECTIONS – SECOND PUBLIC HEARING**

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### REQUEST

Hold the second public hearing to receive further public feedback regarding the composition of City Council districts as the City transitions from at-large district elections to by-district elections; and adopt a resolution approving the criteria to be used to guide the establishment of the districts.

### BACKGROUND AND DISCUSSION

In 2002, the Legislature enacted the California Voting Rights Act (CVRA) (Elec. Code §§14025 – 14032), which prohibits California public agencies from imposing or applying an at-large election method “that impairs the ability of a protected class to elect candidates of its choice or its ability to influence the outcome of an election.” (Elec. Code §14027) A protected class is defined by the CVRA as “a class of voters who are members of a race, color, or language minority group, as this class is referenced and defined in the federal Voting Rights Act of 1965.”

The CVRA defines an at-large method of election to include the election method used by the City of Novato, in which the voters of the entire City elect all the members of the City Council. In a lawsuit brought pursuant to the CVRA, a plaintiff who establishes a history of “racially polarized voting” under a city’s at-large election system can require a city to change to a district-based election system.

The City Council received a letter from Kevin Shenkman with the Law Offices of Shenkman & Hughes, PC, on February 13, 2019. The letter urged the City to change its at-large voting system to a district-based voting system, and threatened to sue the City if it does not do so. Although the City strongly disagrees with the accusation, the City Council is taking the necessary steps to protect itself from this threatened litigation.

The City is allowed a 45-day safe harbor response period to decide how to proceed addressing the letter: move to by-district elections by ordinance or challenge the pending litigation. A potential plaintiff may not file a lawsuit under the CVRA until 45 days have elapsed from the receipt of the certified letter. In this instance, that deadline was March 29, 2019.

On March 12, the City Council received a presentation from outside attorney Sean Welch with

Nielsen Merksamer Parrinello Gross & Leoni, LLP; discussed the matter before them; and adopted Resolution No. 2019-021 declaring its intent to transition from at-large elections to by-district elections, making said findings exempt from CEQA Guidelines, amending the FY 18/19 budget to increase professional services, and setting the dates for the community public hearings.

Since the City passed the Resolution of Intention under Elections Code section 10010, the safe harbor is extended. The City has 90 days, in this case until June 10, to adopt an ordinance implementing district-based elections before a lawsuit may be filed under the CVRA.

During the 90-day districting period, the City Council is required to conduct at least five (5) public hearings to determine how to draw the district maps and adopt one of them. The requirements for the meetings are established by Election Code section 10010:

- a. Before drawing a draft map or maps of the proposed boundaries of the districts, the City must hold at least two public hearings over a period of no more than 30 days, at which the public is invited to provide input regarding the composition of the districts.
- b. After all draft maps are drawn, the City must 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.
- c. After the draft map or maps are published, the City Council must also hold at least two additional hearings over a period of no more than 45 days, at which the public is invited to provide input regarding the content of the draft map or maps and the proposed sequence of elections, if applicable. The first version of a draft map must be published at least seven days before consideration at a hearing. If a draft map is revised at or following a hearing, it shall be published and made available to the public for at least seven days before being adopted.

The City Council held its first of five public hearings on March 26, at which the Council received presentations from both Mr. Welch and the City's demographer consultant, Doug Johnson, president of the National Demographics Corporation. These presentations provided information as to what the transition process would entail and how the districts could potentially be legally drawn and in various ways such as all the districts must have substantially equal populations. Novato's current population is nearly 55,000+. In addition to the population, other factors that may be considered include, among others, geography, topography, cohesiveness, contiguity, compactness and integrity of territory, and communities of interest. After the presentations, the City Council received public feedback.

Today is the second public hearing, which again allows the public another opportunity to share their thoughts and opinions on how the districts can be drawn. However, at the end of the hearing, staff recommends that the City Council adopt a resolution to specify the factors that should guide the establishment of the districts and which the City's consulting demographer should consider in creating one or more draft district maps.

The demographer's draft maps and proposed election sequence will be published no later than April 15, 2019, for public review prior to the April 23 Council meeting. At that meeting, the City Council will hold another public hearing to consider the draft maps and election sequences.

If the City Council requests preparation of any new or revised maps at that time, the new maps must be published for public review no later than May 6 for the public hearing scheduled for May 14, 2019. At that meeting, the City Council will take any additional public comment on the proposed maps, and may then approve a final district map by introducing an ordinance to establish the districts. Final action on the ordinance must be taken by June 10, 2019, to comply with the statutory 90-day timeline.

### **PUBLIC OUTREACH**

Building on the efforts identified in the March 26 staff report, Staff has continued its public outreach, particularly adding its outreach to the libraries, faith-based organizations, Novato Gymnastics Center, and the use of a Multicultural Outreach Specialist at the Margaret Todd Senior Center. Furthermore, staff is continuously updating its website and webpage and creating easier steps to get to the information, such as creating immediate links to the staff reports and attachments in both English and Spanish. Staff has also continued to place public notices in the Marin Independent Journal, and sending out periodic email blasts regarding upcoming meetings.

### **FISCAL IMPACT**

There is no additional fiscal impact, because the Council had adopted Resolution No. 2019-021, which included amending the FY 18/19 budget to cover the costs of the entire course to move forward from at-large elections to by-district elections.

### **RECOMMENDATION**

Staff recommends that the City Council hold the second public hearing, receive public comments pertaining to the composition of the future Council districts, and adopt the resolution approving the criteria for establishing districts.

### **ATTACHMENT**

1. Draft resolution approving criteria for establishing districts
2. As was stated above, prior staff reports, its attachments, and presentations are found at [novato.org/elections](http://novato.org/elections)