Election Sequencing in New Single Member Districts -- Principles and Practices

Presented to City Council of the City of Sunnyvale
October 8, 2019
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Final "Sequencing" Is Determined When a Final Map Is Selected.

- Each draft map has been published with a proposed election year for each district ("sequencing" or "sequence of elections") assigned by the author of the map, or, if not, assigned by random selection.

- The City Council has authority to assign the final sequence of elections to the map it chooses for placement on the March 2020 ballot, even if the final sequence differs from that proposed by the author of the map.

- This presentation concerns applicable legal principles and, once legal principles are observed, typical practices in determining sequencing.

- The final sequence of elections will be specific to the selected map.

Determining Election Year for Districts: 2020 or 2022

- Authority of the City Council: Calif. Const. art. IX, § 5(b)

  "(b) It shall be competent in all city charters to provide, in addition to those provisions allowable by this Constitution, and by the laws of the State for: … (3) conduct of city elections and (4) plenary authority is hereby granted, subject only to the restrictions of this article, to provide therein or by amendment thereto, *the manner in which, the method by which, the times at which, and the terms for which the several municipal officers and employees whose compensation is paid by the city shall be elected or appointed*, …"

Determining Election Year for Districts: 2020 or 2022

- Elec. Code § 10010 & CVRA

- "(b) In determining the ***final sequence*** of the district elections ..., the governing body shall give ***special consideration to the purposes of the California Voting Rights Act*** of 2001, and ***it shall take into account the preferences expressed by members of the districts***.

- The CVRA provides protection from dilution of the right to vote of Protected Classes by at-large elections in the presence of legally significant racially polarized voting & authorizes "appropriate remedies", "tailored to remedy the violation", which can go beyond the establishment of district-based elections.

Special consideration to the "purposes of the California Voting Rights Act" – Legislative History

- Support voter "turn-out" of Protected Classes by scheduling elections in CVRA remedial districts in the Presidential election year.

  > "In November of 2015, the Anaheim City Council scheduled the elections for the two Latino plurality districts for 2016, but scheduled the elections for the only Latino majority district for 2018. The scheduling of the only Latino majority district in a midterm election year *could have the effect of putting the elections for a district whose population consists of a majority of a protected class during a cycle in which turnout is traditionally decreased*." (Assembly Floor Analysis, Concurrence In Senate Amendments, AB 350 (Alejo) As Amended August 17, 2016.)

- Another reasonable interpretation: Provide for the ability of Protected Classes to elect chosen candidates as soon as possible.

"The City Council shall take into account the preferences expressed by members of the districts"

- Public input on the sequencing of elections in CVRA remedial districts must be taken into account.

- When, as in Sunnyvale, the next election is a Presidential election the choice may seem easy.

- However, public comment may support delaying election in CVRA remedial district for two years, for example, to develop candidates.

- Public comment may support staggering elections in CVRA remedial districts when there is more than one such district.

Determining Election Year for Districts Not Subject to Special CVRA Considerations

- **_Typically_**, jurisdictions opt for some continuity on the governing body.

  1. In all cases, the election schedule must maintain the correct number of members of the City Council with terms staggered as specified in the City Charter.

  2. When one current Council Member (or multiple Council Members whose terms expire in the same year) resides in a district, that district would be assigned to that Council Member's election year.

  3. If two Council Members with terms expiring in different years reside in a district, the selection of election year for that district could a) take into consideration that the member with the later election year would continue in office, or b) take other factors into consideration, or c) be made by lot.

  4. If more than two Council Members whose terms expire in different years reside in a district, the selection of election year could a) be based on the election year of the majority of resident Council Members, or b) take into consideration that the member(s) with the later election year would continue in office, or c) take other factors into consideration, or d) be made by lot.

Hypothetical #1
(Considers expiration of terms; 3 Council Members elected every other year in Presidential or Gubernatorial Election year;
multiple Council Members in Districts B & C with different terms)

Hypothetical District (No Reference To Any Specific Draft Map)	No. of At- large Resident Council Members/ Election Year	Elected in 2020	2020 Holdover	Elected in 2022
A	1 (2020)	1		District A incumbent continues in office
B	3 (2-2020 & 1-2022)	1	1 - At-large incumbent in office	District B incumbent continues in office
C	2 (1-2020 & 1-2022)	1	1 - At-large incumbent in office	District C incumbent continues in office
D	1 (2022)		1 - At-large incumbent in office	1
E	None			1
F	None			1
Total Council Members	7	6 (3 at-large incumbents and 3 newly elected by-district in 2020) + Mayor		6 elected by-district + Mayor

Hypothetical #2
(Considers expiration of terms; 3 Council Members elected every other year in Presidential or Gubernatorial Election year;
multiple Council Members in District B with same term & in District C with different terms)

Hypothetical District (No Reference To Any Specific Draft Map) District	No. of At-large Resident Council Members/ Election Year	Elected in 2020	2020 Holdover	Elected in 2022
A	1 (2020)	1		District A incumbent continues in office
B	2 (2020)	1		District B incumbent continues in office
C	2 (1-2020 & 1-2022)	1	1 - At-large incumbent in office	District C incumbent continues in office
D	1 (2022)		1 - At-large incumbent in office	1
E	1 (2022)		1 - At-large incumbent in office	1
F	None			1
Total Council Members	7	6 (3 at-large incumbents and 3 newly elected by-district in 2020) + Mayor		6 elected by-district + Mayor

Determining Election Year for Districts Not Subject to Special CVRA Considerations

- There are alternatives to considering the expiration of the terms of current Council Members:

  1. All districts seats are up for election in 2020, three of which will have a short term.

  2. Selection "by lot".

  3. Determination focused on other policy considerations, such as providing for an early election in neighborhoods of the City that may not have had a resident elected to the council in recent years, or providing for a district-based election in all geographic parts of the City each election year.

  4. Combination of considerations.

Hypothetical #3
(Provides for a district-based election in all geographic parts of the City each election year;
3 Council Members elected every other year in Presidential or Gubernatorial Election year)

Hypothetical District (No Reference To Any Specific Draft Map) District	No. of At-large Resident Council Members/ Election Year	Elected in 2020	2020 Holdover	Elected in 2022
A - South	2 (2020)			1
B - South	3 (2-2020 & 1-2022)	1	1 - At-large incumbent in office	District B incumbent continues in office
C - Central	2 (2022)		2 - At-large incumbents in office	1
D - Central	None	1		District D incumbent continues in office
E - North	None			1
F - North	None	1		District F incumbent continues in office
Total Council Members	7	6 (3 at-large incumbents and 3 newly elected by-district in 2020) + Mayor		6 elected by-district + Mayor

QUESTIONS?