



File #: 19-0675, Version: 1

REPORT TO COUNCIL

SUBJECT

Public Hearing Pursuant to Elections Code Section 10010(a)(2) to Receive Public Comment Regarding the Content of the Draft City Council Districting Maps Published on September 3, 2019, and the Proposed Sequence of Elections

BACKGROUND

On September 5, 2018, the City Council held a public hearing regarding changing the City's current at-large with numbered seats system for electing City Council members to a district-based form of elections (RTC No. 18-0776). Council directed staff to scope a public outreach and education plan for receiving public input on transitioning to district-based elections.

In October 2018, the City received a certified letter from attorney Laura Ho of the law firm Goldstein, Borgen, Dardarian & Ho, alleging on behalf of potential plaintiff Samir Kalra that the City's current electoral system violates the California Voting Rights Act ("CVRA") because it "dilutes the voting power of Asian American voters." Three additional potential plaintiffs, Sunnyvale residents Galen Kim Davis, Kathy Higuchi, and Bowman Ching, joined the CVRA challenge in January 2019.

Council adopted a resolution of intent to change to district-based elections pursuant to Elections Code section 10010 in November 2018, which provided a 90-day "safe harbor" period during which the City could not be sued. In adopting that resolution, the Council restated its prior direction to move forward with a change to district based elections, and its commitment to do so with public outreach and engagement.

In December 2018, Council adopted a community outreach plan and directed staff to return in February 2019 with an update on initial outreach. Based on the results of the initial public outreach as well as legal issues and risks, Council adopted an amended Resolution of Intent, Resolution No. 931-19 (Attachment 1), on March 19, 2019 to place a charter amendment on the ballot in March 2020.

Staff presented information on outreach efforts from December 2018 through April 2019, public input and polling results regarding the preferred structure of a district-based Council election system, as well as legal analysis on a community alternative (the 4+3 model) at a study session on June 11, 2019 (RTC No. 19-0524).

On June 18, 2019 Council provided direction to staff to prepare a ballot measure amending the City Charter to change the electoral system from seven at-large numbered seats to six district seats and an at-large, directly elected mayor and engage in a public process for district-map drawing to determine the boundaries for six city council districts (RTC No. 19-0362).

ENVIRONMENTAL REVIEW

The action being considered does not constitute a “project” with the meaning of the California Environmental Quality Act (“CEQA”) pursuant to CEQA Guidelines sections 15320, 15378 and 15061 (b)(3) as it is an organizational structure change and does not have the potential to result in either a direct or reasonable foreseeable indirect physical change in the environment.

DISCUSSION

Phase 2 of the public engagement process is outreach with the community to develop proposed district maps for Council consideration. The City hired National Demographics Corporation (NDC) to facilitate the map making process with the community and PlaceWorks continued to support the City with the community engagement.

State law has strict process requirements for creating district boundaries. The City is required to hold a minimum of four public hearings and make maps under consideration publicly available for at least seven days before a public hearing. Districts must comply with the following state and federally mandated legal criteria:

1. each council district shall contain a nearly equal population as required by law;
2. each council district shall be drawn in a manner that complies with the Federal Voting Rights Act; and
3. no council district shall be drawn with race as the predominant factor in violation of the principles established by relevant caselaw.

In addition to these legal criteria, other factors may be considered, such as communities of interest and geographic boundaries. Residents will be encouraged to comment on maps created by others at community meetings, pop-up events, and four Council hearings all prior to the Council selecting a final map in November. The Council will be informed of public input, but has the discretion to balance criteria and input when making a final selection.

Outreach Meetings

The kick-off community engagement meeting on mapping was held on July 15, 2019 in the Sunnyvale Library Program Room. Approximately 50 community members attended and received presentations on the background of the district-based election process from PlaceWorks and NDC on the map making process, criteria for district maps, and tools available for use in developing district maps.

In addition, the City held two training and technical assistance meetings at the Civic Center that provided computers for community members to get on-line and use the map making tool “maptitude.” An excel map making tool and paper-kits were also made available to community members. The first training and technical assistance meeting was held on July 31, 2019 from 6:00-8:00pm and about 20 community members attended. The second meeting was held on August 20, 2019 from 6:00-8:00pm and about 10 community members attended. Overall, City staff was pleased with the number of community members who participated in this portion of the outreach process. City staff, along with staff from NDC and PlaceWorks, attended to provide support to the participants.

The mapping tools were available on SunnyvaleElections.org from July 31 to August 24, 2019.

Overview of Maps Submitted

All maps submitted as well as additional information on the districting process were made available for public review on the SunnyvaleElections.org website on September 3, 2019 seven days before this meeting.

Map Submissions: A total of 21 qualified maps were submitted by the public and 3 sample maps were prepared by NDC (Attachment 2). Five maps are included as Attachment 5 but were not analyzed and are deemed not qualified because they do not meet the six-district requirement, were not population balanced or were not contiguous. The qualifying maps submitted by the public were evaluated by NDC. Overall the maps submitted by community members were population-balanced. In addition to the maps, included in the report are plan submitter comments (Attachment 3).

The focus of tonight's hearing is to provide an opportunity for the Council to review all viable maps and narrow them to a group of up to eight maps, which will then be the subject of further community outreach and refinement. NDC will make a presentation to the Council and identify maps that meet the required criteria and should be considered further by Council.

Map Sequencing: Prior to passage of Elections Code section 10010, sequencing was typically not discussed or determined until the end of the mapping process, when mapping options are significantly narrowed. Elections Code section 10010 now requires that proposed sequencing be published for every draft map. However, at the current stage of the map selection process (20 maps), discussion of sequencing is premature and potentially confusing; especially as the Council will ultimately narrow the maps under consideration to two or three before making a final decision.

The only maps that included sequencing from the maker are maps 120, 121 and 122. Therefore, staff applied random sequencing to all maps submitted without sequences from the map makers. A table showing map sequencing is provided in Attachment 4.

Because staff has not had an opportunity to educate the community on sequencing or engage them with their preferences, we feel the random approach is the best option. In addition, staff will encourage the community to provide their proposed sequence.

When establishing the election sequence, Elections Code section 10010(b) specifically provides that "the governing body shall give special consideration to the purposes of the California Voting Rights Act of 2001 (Chapter 1.5 (commencing with Section 14025) of Division 14 of this code), and it shall take into account the preferences expressed by members of the districts."

After the public refines and the Council further narrows and receives public input on a more focused group of maps, the Council will be able to have a more thoughtful and effective public discussion on election sequencing.

Next Steps

Tonight the Council is asked to narrow the maps submitted to no more than 8 maps. Following this meeting, the community will be asked to review and make refinements to the narrowed group of maps selected by the Council. Refinements will be due to the City by September 29, 2019.

Public outreach during the refinement stage of the process will include a staff booth at the State of the City event to solicit community input on the maps, and a community meeting to review and

provide input on preferred maps on September 26, 2019 at the Sunnyvale Community Center from 6:00-8:00pm.

Once community input is received and refined maps are submitted, the next City Council public hearing will be held on October 8, 2019 when the Council will review the community input and refined maps submitted by the public, and further narrow the group of maps under consideration to three to four. During the month of October 10 pop-up events are scheduled to engage the community on the refined maps. On November 5, 2019, there will be a public hearing for the Council to narrow the maps to 2 or 3 options. Finally, at a public hearing on November 12, 2019 Council will be asked to select a single map and election sequence for Council elections beginning in November 2020. This information will be considered by voters for the March 2020 charter amendment ballot measure.

FISCAL IMPACT

No new fiscal impacts are anticipated at this time from the issues discussed in this report.

PUBLIC CONTACT

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall, at the Sunnyvale Senior Center, Community Center and Department of Public Safety; and by making the agenda and report available at the Sunnyvale Public Library, the Office of the City Clerk and on the City's website.

ALTERNATIVES

1. Provide direction to staff on specific maps to be considered for further refinement by the community and consideration of the sequencing of election in the districts of each map.
2. Other direction as provided to staff by the Council.

STAFF RECOMMENDATION

Staff makes no recommendation.

Reviewed by: Teri Silva, Assistant City Manager

Approved by: Kent Steffens, City Manager

ATTACHMENTS

1. Resolution No. 931-19
2. Qualified Maps
3. Plan Submitter Comments
4. Proposed Election Sequencing
5. Not Qualified Maps