



Agenda Item Staff Report

To: Honorable Mayor and Members of the City Council
For the Meeting of August 24, 2021

From: Chris Constantin, City Manager
Jeff Malawy, City Attorney

Subject: Second Public Hearing to Receive Input from the Community Regarding a District Based Election System for City Council

SUMMARY

On August 25, 2020, the City Council approved a settlement agreement with attorney Kevin I. Shenkman, who had alleged the City's at-large system of electing City Councilmembers violates the California Voting Rights Act because it allegedly abridges the rights of Latino voters. Under the settlement agreement, Mr. Shenkman waives all of his claims against the City, provided the City adopts an ordinance transitioning to district elections in time for the next City Council election. If the City Council chooses to transition to district elections, it would need to adopt the ordinance by December 9, 2021 in order to hold district elections in the June 2022 City Council election. The settlement allows the City to choose its own district boundaries, rather than risk a court doing so, and avoids the potential of paying millions of dollars in attorney fees to Mr. Shenkman (as other cities have been ordered to pay).

A transition to district elections requires conducting at least four public hearings and then approving a districts map and ordinance. Two hearings must be before any district maps are drawn. At least two hearings must be held after maps are drawn. Tonight is the second public hearing to receive input from the community on a potential transition to district elections and on potential district boundaries.

RECOMMENDATION

Staff recommends the City Council: 1) receive a report on the districting process and permissible criteria to be considered to create district boundaries; and 2) conduct a public hearing to receive public input on district boundaries.

BACKGROUND

The members of the San Dimas City Council are currently elected at-large. In an at-large election system, every voter in the City votes for each member of the City Council, regardless of where the voter or the candidate resides.

On March 23, 2020, the City received a letter from attorney Kevin I. Shenkman that alleges the City's at-large election system violates the California Voting Rights Act (Elections Code sections 14025 to 14032). Specifically, Mr. Shenkman alleges the City's at-large elections illegally abridge the rights of Latino voters. The Letter further states, even though in the 2017 and 2020 municipal election there were four Latino candidates, none were elected. The 2010 census showed Latinos constitute about 31.44% of the City's population, yet there has never been a Latino candidate elected to the City Council. Based on those allegations, Mr. Shenkman and his client demand the City begin the process of changing its system of at-large elections and threaten legal action if the City does not do so.

The City Attorney's Office is not aware of any city or other local agency that has obtained a final court decision successfully defending itself from a CVRA lawsuit. Many cities have changed from at-large to district-based elections in response to CVRA letters like Mr. Shenkman's, including local cities such as South Pasadena, Monterey Park, Arcadia, Duarte, Glendora, West Covina, Claremont, Rancho Cucamonga, Chino, Chino Hills, Fontana, Eastvale, Jurupa Valley, and Corona. Statewide, over 150 of the state's 482 cities have transitioned, or are in the process of transitioning, from at-large elections to district elections. Cities that have attempted to mount a defense in court have paid large attorney fees awards (in the millions of dollars) to the plaintiffs, plus the City's own attorney fees.

On August 25, 2020, the City Council approved a settlement agreement with Mr. Shenkman. Under the settlement agreement, Mr. Shenkman waives all of his claims against the City, provided the City adopts an ordinance transitioning to district elections in time for the next City Council election. If the City Council chooses to transition to district elections, it would need to adopt the ordinance by December 9, 2021 in order to hold district elections in the June 2022 City Council election. The settlement agreement allows the City to select its own district map, rather than risking a court draw a map for the City.

Under a district-based system of elections, the City would be divided into geographic districts, and City Council candidates may only run for the seat representing the district in which they reside, and voters may only vote for the candidates from their district. The City currently has a directly elected Mayor, elected at-large. The Mayor can continue to be elected at-large even under a district-based election system for the other city councilmembers.

DISCUSSION

The process of considering whether to transition to district elections involves using census and geographic data to develop districts of the City from which Councilmembers will be elected. Ultimately, the City Council chooses whether to transition to district elections and, if so, where the district lines will be drawn. During the process, the public will have the opportunity to draw and submit district maps for the City Council's consideration, and the City may develop its own maps for consideration. The City Council must conduct at least four public hearings (two hearings before any maps are drawn, and at least two hearings after maps are drawn) to take public input on whether to transition to district elections, and if so, which districts map should be selected.

The first step is to hold two public hearings to invite public input regarding the composition of the City's voting districts before any draft maps are drawn. The first hearing was held on August 10, 2021. The second hearing is tonight, August 24, 2021¹. After these two public hearings are

¹ On July 26, 2021, Public Notices were posted for both public hearings in a newspaper of general circulation.

complete, in late September or October after the 2020 Census results are released, mapping software will be released to the public in San Dimas, to allow the public to draw and submit proposed district maps for consideration by the City Council. The City Council must hold at least two additional public hearings on proposed maps drawn by the public, staff, and/or the City Council. The maps must be publicly available for at least seven days before the public hearing, and if a change is made to the map after the public hearing, the revised map must be available at least seven days before the districts are adopted by ordinance.

The purpose of the first two (pre-map) public hearings is to inform the public about the districting process and to hear from the community on what factors should be taken into consideration while creating district boundaries. The public is requested to provide input regarding communities of interest and other local factors that should be considered while drafting district maps. A *community of interest* is a neighborhood or group that would benefit from being in the same district because of shared interests, views, or characteristics. Possible community features include, but are not limited to:

- A. School attendance areas;
- B. Natural dividing lines such as major roads, hills, or highways;
- C. Areas around parks and other neighborhood landmarks;
- D. Common issues, neighborhood activities, or legislative/election concerns; and
- E. Shared demographic characteristics, such as:
 - (1) Similar levels of income, education, or linguistic insolation;
 - (2) Languages spoken at home; and
 - (3) Single-family and multi-family housing unit areas.

In creating the district boundaries, the City must ensure compliance with the following state and federally-mandated criteria:

Federal Laws:

1. Each council district shall contain a nearly equal population as required by law; and
2. Each council district shall be drawn in a manner that complies with the Federal Voting Rights Act. No council district shall be drawn with race as the predominate factor in violation of the principles established by the United States Supreme Court in *Shaw v. Reno*, 509 U.S. 630 (1993), and its progeny.

California Criteria for Cities

1. Geographically contiguous
2. Undivided neighborhoods and “communities of interest” (socio-economic geographic areas that should be kept together)
3. Easily identifiable boundaries
4. Compact (Do not bypass one group of people to get to a more distant group of people)

Other Traditional Districting Principles:

1. Respect voters’ choices / continuity in office
2. Future population growth

NEXT STEPS

Following tonight's hearing, in late September or October after the 2020 Census results are released by the federal government, mapping software will be released to the public in San Dimas, to allow the public to draw and submit proposed district maps for consideration by the City Council. City staff/consultants and City Councilmembers may also submit proposed maps. Draft district maps and proposed election sequencing will be posted to the City website and available at City Hall. Draft maps will be posted at least seven days prior to the public hearing where they are considered. Public Hearings #3 and #4 are planned for October 12 and October 26, 2021. Additional hearings may take place up to the December 9, 2021 deadline.

Due to COVID-19, the U.S. Census Bureau has announced it plans to release the 2020 Census results data to the states not later than September 30, 2021, which is six months later than the results are normally released after a census. That makes a very short time period of about two months for the City and public to develop proposed maps, hold at least two required public hearings after maps are drawn, and select a map and decide whether to transition to district elections by the December 9, 2021 deadline.

Respectfully submitted,

Chris Constantin
City Manager

A handwritten signature in blue ink, appearing to read 'Jeff Malawy', is written over a light blue horizontal line.

Jeff Malawy
City Attorney