



City Council Agenda Report
Meeting Date: May 2, 2017
Department: City Attorney

SUBJECT:

RESOLUTION OF INTENTION TO TRANSITION TO DISTRICT BASED ELECTIONS

RECOMMENDED ACTION(S):

Adopt a Resolution entitled: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAKE FOREST, CALIFORNIA, DECLARING ITS INTENTION TO TRANSITION FROM AT-LARGE TO DISTRICT-BASED ELECTIONS PURSUANT TO CALIFORNIA ELECTION CODE SECTION 10010(e)(3)(A).

or

Adopt a Resolution as revised pursuant to Council direction.

EXECUTIVE SUMMARY:

Pursuant to Council direction, the April 4, 2017 City Council meeting agenda included a discussion of the possibility of transitioning to by-district elections. Due to the size of the April 4, 2017 agenda, the Council continued the discussion of this item to the April 18, 2017 meeting, and then to the May 2, 2017 meeting. On April 10, 2017, the City received a letter from the law firm of Shenkman & Hughes alleging that the City's at-large method of electing its council members violates the California Voting Rights Act (Government Code Section 14025 et seq. [the "CVRA"]).

The first step in transitioning to district-based elections is adoption of a resolution of intention. Staff has prepared a resolution of intention to transition from at-large to district-based elections pursuant to Government Code Section 34871 and Election Code Section 10010 for the 2018 general municipal election. The purpose of this report is to present the resolution for Council consideration.

BACKGROUND:

The April 4, 2017 City Council meeting agenda included an item for the discussion of the possibility of transitioning to by-district elections. Due to the heavy agenda for that meeting, the City Council was not able to discuss this item, and it was continued to the April 18, 2017 City Council meeting and then to the May 2, 2017

Council meeting. On April 10, 2017, the City received a letter from the law firm of Shenkman & Hughes alleging that the City's at-large method for electing its council members violates the CVRA.

Effective January 1, 2017, Election Code section 10010 was amended to provide a process for the City to transition from at-large to district-based elections, which, if followed, limits the City's exposure to legal fees and costs owed to a potential plaintiff alleging a CVRA violation. The resolution presented to the City Council for consideration is consistent with this process. Transitioning to district-based elections utilizing this process will limit the City's exposure to potential litigation expenses and will also serve the purposes underlying the CVRA.

DISCUSSION:

Summary of Law Authorizing the Adoption of a Resolution of Intention to Transition to District-Based Elections.

As a result of legislative amendments which took effect January 1, 2017, the City has the ability to enact an ordinance transitioning to by-district elections, pursuant to Government Code section 34886. To do so, the City must first hold a number of public hearings to determine district boundaries. This option, if selected, will enable the City to cap attorney's fees and costs owed to a potential plaintiff at \$30,000.

Elections Code section 10010(e), added by AB 350, requires a prospective plaintiff under the CVRA to first send a demand letter to the political subdivision before filing an action in court, and prohibits filing an action within 45 days of the city's receipt of the letter. Upon receipt of the written demand, the city has 45 days to pass a resolution outlining its intention to transition from at-large to by-district elections, the specific steps it will take to facilitate this transition, and the estimated time frame for doing so. If this resolution is passed, a prospective CVRA plaintiff shall not file an action within 90 days of the passage of the resolution.

If an ordinance transitioning to by-district elections is adopted, Elections Code section 10010(f) provides that the prospective plaintiff who sent the letter may make a demand upon the city for reasonable costs incurred to send the letter within 30 days of the adoption of the ordinance. The agency shall reimburse the prospective plaintiff who sent the demand letter the reasonable costs claimed, or an amount to which the parties agree, within 45 days, but that cost is capped at \$30,000.00, adjusted annually to the CPI.

There are two general steps for transitioning to by-district elections: 1) adopting an ordinance transitioning to by-district elections, and 2) engaging in the public

hearing process required to set district boundaries. The process for transitioning to by-district elections was simplified by recent legislation that became effective on January 1 of this year.

Adopting an Ordinance Transitioning to By-District Elections

Transitioning to by-district elections may be done by the City Council enacting an ordinance pursuant to Government Code section 34886, provided that the ordinance includes a declaration that it is being adopted to further the purposes of the CVRA. Under this method, the City Council will need to determine whether it wants to have a mayor elected at-large, with the remaining seats chosen through a by-district election process (with four, six, or eight voting districts). If the City Council chooses not to have an elected mayor, it has the option of establishing five, seven, or nine voting districts.¹

Setting District Boundaries

Prior to adopting an ordinance to transition to by-district elections, the City Council is required to establish district boundaries and the sequencing of district elections. Elections Code section 10010 sets forth the City Council public hearing process for establishing district boundaries and the sequencing of district elections. This process requires a series of noticed public hearings during which the public has a right to provide input on proposed district boundaries. Specifically, the City must hold at least two “clean slate” hearings at which the public can provide input on district boundaries before any maps are prepared. Thereafter, the City must hold at least two public hearings to consider draft maps. Finally, the City must hold a public hearing at which the map is adopted and sequencing of district elections is established. The map and sequencing must be approved by ordinance.

The creation and approval of voting district maps is intended to be a transparent public process. Voting district maps must be prepared in compliance with certain State and federal requirements, including consideration of communities of interest, natural geographic boundaries, and, perhaps most importantly, the “one-person, one vote” standard, which requires all voting districts be as nearly equal in population as possible.

The Proposed Resolution of Intention

The attached resolution of intention to transition to district-based elections declares the City’s intention to transition to district-based elections for the 2018 general municipal election, and provides the following timeline for the adoption of an ordinance approving district based elections:

- a. Within 45 days of the adoption of the resolution, staff shall issue an RFP for a

¹ Govt. Code §34871.

qualified and experienced demographer to assist the City with the transition to district-based elections and bring back to the City Council for consideration and selection, a list of qualified and interested demographers.

b. Within 30 days of the selection and retention of a demographer, City staff and the demographer will develop a schedule of the steps necessary to transition to district-based elections by ordinance, as provided by Elections Code Section 10010(a), including conducting public outreach and all necessary public hearings. This schedule shall be presented to the City Council for approval.

c. The City Council shall adopt an ordinance transitioning to district-based elections no later than February 28, 2018.

The proposed resolution provides for the establishment of five (5) city council districts and contemplates a rotating mayor, which is the City's current practice. If it is the desire of the Council, the resolution can be amended to change the number of districts and provide for a mayor to be elected at-large.

FISCAL IMPACT:

Transitioning to district elections will require the City to retain the services of a demographer. The cost of such services can range from \$20,000 - \$40,000. The City could also receive an invoice from Shenkman & Hughes for costs associated with sending the letter alleging a CVRA violation. The invoice will be required to be supported by documentation justifying the amount requested, but cannot exceed \$30,000.

ATTACHMENTS:

Resolution of Intention

Initiated By: Stephanie D. Smith, City Clerk
Submitted By: Matthew E. Richardson, City Attorney
Approved By: Debra Rose, Interim City Manager