



## City of San Juan Capistrano Agenda Report

TO: Honorable Mayor and Members of the City Council

FROM: *BS* Ben Siegel, City Manager  
Jeffrey Ballinger, City Attorney *MM for SB*

DATE: June 21, 2016

SUBJECT: Adoption of an Ordinance Adding New Article 3 to Chapter 4 of Title 2 of the San Juan Capistrano Municipal Code Changing the City's Electoral System from At-Large to By-District Elections and Establishing District Boundaries

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### RECOMMENDATION:

Open the public hearing, receive public comments, close the public hearing, and by motion:

- 1) Select districts for 2016 and 2018 Municipal Elections; and,
- 2) Consider the adoption of an Ordinance adopting a Voting District Map and establishing a district-based election system in the City of San Juan Capistrano to take effect immediately pursuant to Government Code section 36937(a) as an ordinance relating to an election.

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### EXECUTIVE SUMMARY:

On June 6, 2016, the City Council held two public hearings for the transitioning of at-large elections to by-district elections. The City Council approved the final district boundary map at its first public hearing. The second public hearing to select the districts for the 2016 and 2018 Municipal Elections, and to adopt the Ordinance establishing the district-based election system was continued to the June 21, 2016, meeting.

DISCUSSION/ANALYSIS:

A. Background

In December 2015, the City Council received correspondence from Shenkman and Hughes alleging that the City's at-large method of electing its council members violated the California Voting Rights Act ("CVRA"). In January 2016, while the City Council was reviewing the matter, Shenkman and Hughes filed an action against the City, on behalf of the Southwest Voter Registration Education Project and two individuals alleging a violation of the CVRA and seeking an order preventing the City from conducting further at-large city council elections (the "CVRA Litigation").

On February 16, 2016, the City Council authorized staff to take steps necessary to transition the election of City Council members from an at-large election process to a by-district election process for the November 8, 2016, Municipal Election. State law requires that the City Council conduct at least two public hearings to consider the district boundaries prior to holding a public hearing to adopt an ordinance approving district elections. The City Council further directed that the process to transition from at-large to by-district elections include no less than three community forums so that the voters of the City can have meaningful input in the district mapping process.

In order to avoid incurring further legal expenses and focus City resources on the establishment of district elections, the City Council approved entering into a stipulated judgment with the plaintiffs in the CVRA Litigation, in which the City agreed to approve five (5) city council districts, with two members of the City Council to be elected utilizing the by-district method in the November 8, 2016, Municipal Election and each fourth year thereafter, and three members to be elected by district in the November 6, 2018, Municipal Election and each fourth year thereafter. The City also agreed that the district with the highest percentage of Latino eligible voters will be one of the two districts to elect a council member in November 8, 2016.

In accordance with the City Council action on February 16, 2016, the City retained a demographer, Q2 Data & Research, LLC, to assist in developing the district boundaries. Ms. Karin MacDonald of Q2 Data & Research facilitated three community outreach meetings on May 4, May 7 and June 1, 2016. The meetings were well attended, and many members of the public provided input regarding proposed voting district boundaries.

Based upon the input received at the May 4 and May 7 community meetings, a preliminary "draft" district map was created for City Council consideration at the public hearing held on May 18, 2016. At that meeting, the City Council directed Ms. Mac Donald to work on revisions to the preliminary draft map. A third and final community outreach meeting was held on June 1, 2016, to obtain additional community input regarding the district boundaries. As a result of input received from the City Council and the community, in both oral and written form, a revised draft district boundary map was prepared. Thereafter, the City Council will

conduct the second public hearing on June 6, 2016, to consider further refinements to the revised draft district boundary map. The City Council adopted a final district boundary map, at the June 6, 2016, public hearing.

B. Establishing a By-District Electoral System by Ordinance

Section 34886 of the Government Code permits a City Council of a city with a population of fewer than 100,000 people to change the city's method of election, by ordinance, to a by-election system in which each City Council member is elected only by the voters in the district in which the candidate resides in order to implement the guarantees of the CVRA. The population of the City of San Juan Capistrano, as of the 2010 Census, was 34,593, thereby allowing the City to utilize the process in Section 34886 to establish by-district elections.

The proposed ordinance adds a new Article 3 to Chapter 4 (Municipal Elections) of Title 2 (Administration) to create the By-District Electoral System. The ordinance provides for the following:

- Identifies the boundaries of the five districts in the District Boundary Map.
- Provides for the schedule of the district elections (which districts are elected in 2016 and which are elected in 2018), to be determined by the City Council.
- Provides that when a candidate vacates his or her residence within a district and does not establish a new residence in that district within 30 days, a vacancy is created, which may be filled in accordance with Sec. 2-1.301 of the San Juan Municipal Code.
- Provides that if a vacancy occurs before the completion of the full four-year term of a council office to be elected by district in 2018, that vacancy may be filled by a person residing anywhere within the corporate boundaries of the city, and if the vacancy is filled by election, the election shall be at-large.
- Includes a District Boundary Map which complies with federal requirements of equal population, compliance with the Federal Voting Rights Act, and the avoidance or racial gerrymandering. Further the map reflects community and City Council input regarding communities of interest.
- With respect to scheduling the districts for which elections will be held in November 8, 2016, the City is required to select District No. 1 because it has the highest percentage of Latino voter eligible residents. The City Council, thus, needs to select one more district for the November 8, 2016, Municipal Election. The remaining three districts will be up for election in November 6, 2018.

Staff is recommending that the City Council conduct a public hearing, receive public comments and following the public hearing, select the districts for the 2016 and 2018 Municipal Elections, and consider an Ordinance adopting a Voting District Map and establishing a district-based election system for San Juan Capistrano City Council Municipal Elections.

FISCAL IMPACT:

The cost to conduct by-district elections is based on the number of registered voters per district; therefore, the estimated cost will be determined once the Registrar of Voters has the final district maps.

ENVIRONMENTAL IMPACT:

This matter is exempt from review under the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment. It can be seen with certainty that there is no possibility that the enactment of an ordinance establishing a by-district electoral system for city council elections may have a significant effect on the environment. Therefore, this matter is not subject to CEQA (Section 15061 (b)(3) of the CEQA Guidelines), and staff is directed to file a notice of exemption.

PRIOR CITY COUNCIL REVIEW:

- On February 16, 2016, the City Council directed staff to commence the process to transition from at-large elections to by-district elections for the November 8, 2016, Municipal Election; return to City Council for approval a mapping process; and request for proposals for demographic services be conducted only by the City Manager and City Attorney.
- On March 1, 2016, the City Council authorized the City Manager to execute a Professional Services Agreement to provide demographic services for the transition from at-large to by-district elections; and appropriation from General Fund reserve equal to the amount of the Professional Services Agreement.
- On April 19, 2016, the City Council approved Professional Services Agreements with Q2 Data & Research, LLC, and with Ames & Associates to perform demographic and community outreach services for the transition to District Elections.
- On May 18, 2016, the City Council held the first of two public hearings to consider the establishment of district boundaries for by-district elections.
- On June 6, 2016, the City Council held the second of two public hearings to consider the establishment of district boundaries for by-district elections.

COMMISSION/COMMITTEE/BOARD REVIEW AND RECOMMENDATIONS:

Not applicable.

**NOTIFICATION:**

The City has conducted extensive community outreach to notify the public of the community meetings and public hearings, including articles in local newspapers, sending e-notifications, citywide mailer, and working with local non-profit groups and organizations within the City to inform and involve community members in the district boundary drawing process.

**ATTACHMENT(S):**

Attachment 1 – Draft Ordinance with Exhibit A – Proposed District Boundary Map

ORDINANCE NO. 1035

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN JUAN CAPISTRANO, CALIFORNIA, ADDING A NEW ARTICLE 3 TO CHAPTER 4 OF TITLE 2 OF THE SAN JUAN CAPISTRANO MUNICIPAL CODE TO CHANGE THE CITY'S ELECTORAL SYSTEM FROM AT-LARGE TO BY-DISTRICT ELECTIONS WITH RESPECT TO ELECTING CITY COUNCIL MEMBERS, ESTABLISHING DISTRICT BOUNDARIES, AND SCHEDULING ELECTIONS WITHIN THE DISTRICTS

WHEREAS, the City of San Juan Capistrano supports the full participation of all residents in electing Members of the City Council; and,

WHEREAS, the City of San Juan Capistrano currently elects five (5) City Council Members using an at-large election system; and,

WHEREAS, in the at-large election system, candidates may reside in any part of the City and each City Council Member is elected by the voters of the entire City; and,

WHEREAS, in a by-district election system, a candidate for City Council must reside in the district that he or she wishes to represent, and only the voters of that district are entitled to vote to decide who their representative will be; and,

WHEREAS, under the provisions of California Government Code sections 34870-34884, a proposal to adopt a by-district method of election in a general law city must be submitted to the voters of the City along with the proposed boundaries of the districts; and,

WHEREAS, California Government Code section 34886, effective January 1, 2016, permits the City Council of a city with a population of fewer than 100,000 people, to change the city's method of election by ordinance, with certain formalities, to a "by-district" system in which each City Council member is elected only by the voters in the district in which the candidate resides; and,

WHEREAS, the City of San Juan Capistrano's population under the 2010 Census was approximately 34,593; and,

WHEREAS, the City received a letter dated December 16, 2015, from Shenkman & Hughes asserting its at-large electoral system violates the California Voting Rights Act, and threatening litigation if the City declined to adopt by-district elections in time for the 2016 City Council elections; and,

WHEREAS, notwithstanding that the City Council had agendized the matter in closed session and representatives from Shenkman & Hughes were aware that the matter was under review by the City Attorney, on January 27, 2016, a civil action was filed against the City by Shenkman & Hughes on behalf of the Southwest Voter Registration Education Project and two individual residents alleging that the City's at-large election system violates the California Voting Rights Act; and,

WHEREAS, neither the December 16, 2015, letter nor the complaint in the civil action contain any evidence of a violation, but the cost of defending against a claim under the California Voting Rights Act is extremely high, even if the City is successful, and at this time such an expensive defense would severely burden the City's budget and curtail the City's ability to provide needed services to its residents; and,

WHEREAS, in order to avoid the litigation costs associated with defending the civil action, the City entered into a Stipulated Judgment pursuant to which it agreed to adopt by-district elections in time for the 2016 City Council elections; and,

WHEREAS, pursuant to California Government Code section 34886, it is declared the change in the method of electing members of the City Council of the City of San Juan Capistrano made by this ordinance is to implement the guarantees of Section 7 of Article I and of Section 2 of Article II of the California Constitution, as set forth in Section 14031 of the California Voting Rights Act; and,

WHEREAS, under the provisions of California Elections Code section 10010, a political subdivision that changes from an at-large method of election to a by-district method of election shall hold at least two public hearings on a proposal to establish the district boundaries of the political subdivision prior to a public hearing at which the governing body of the political subdivision votes to approve or defeat the proposal, and,

WHEREAS, the City Council held public hearings on the proposal to establish district boundaries on May 18, 2016, and June 6, 2016, at which it considered the proposal to establish district boundaries, and also held a public hearing on June 6, 2016, the public meeting at which the City Council voted on the proposal; and,

WHEREAS, in addition to the public hearings, the City also conducted three community outreach meetings on May 4, 2016, May 7, 2016, and June 1, 2016, in order to provide the San Juan Capistrano residents the opportunity to actively participate in the establishment of district boundaries for the by-district elections; and,

WHEREAS, the purpose of this Ordinance is to enact, pursuant to California Government Code section 34886, an ordinance providing for election of the Members of the City Council of the City of San Juan Capistrano by-district five single-member districts as reflected in Exhibit A to this Ordinance; and,

WHEREAS, this ordinance is adopted pursuant to Government Code section 36937(a) as an ordinance relating to an election, and, therefore, takes effect immediately upon passage and adoption.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAN JUAN CAPISTRANO, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Article 3 is hereby added to Chapter 4 of Title 2 of the San Juan Capistrano Municipal Code with the title "City Council Electoral System" to read as follows:

Sec. 2-4.301 By-District Electoral System

A. Pursuant to California Government Code section 34886, Members of the City Council of the City of San Juan Capistrano shall be elected by-district in five (5) single-member districts.

B. (1) Beginning with the municipal election in November 8, 2016, Members of the City Council shall be elected in the electoral districts established by Sec.2-4.302 and subsequently reapportioned as provided by State law. Elections shall take place "by-district" as that term is defined in California Government code section 34871, meaning one Member of the City Council shall be elected from each district, by the voters of that district alone. Each Member of the City Council shall serve a four-year term until his or her successor is qualified.

(2) Except during the transition period as provided in subdivision (4) of this section, the Council Member elected or appointed to represent a district must reside in that district and be a registered voter in that district, and any candidate for City Council must reside in, and be a registered voter in, the district in which he or she seeks election at the time nomination papers are issued pursuant to California Government Code section 34882 and Elections Code section 10227.

(3) Termination of residency in a district by a Council Member shall create a vacancy for that Council district unless a substitute residence with the district is immediately declared and established within thirty (30) days after the termination of residency. In the event that a vacancy is created as a result of termination of residency as provided herein, such vacancy shall be filled pursuant to the provisions of Sec. 2-1.301.

(4) Notwithstanding any other provision of this section, the Council Members in office at the time this Article takes effect shall continue in office until the expiration of the full four-year term to which he or she was elected and until his or her successor is qualified. At the end of the full four-year term of each Council Member, that Council Member or that Council Member's successor shall be elected on a by-district basis in the districts established in Sec.2-4.302 and as provided in Sec.2-4.303. In 2016, the full four-year term of two Council Members expire and said Council Members or their successors shall be elected by-district. In 2018, the full four-year term of three Council





nonvisible boundary to AT and SF Railway, and proceeding northerly along AT and SF Railway to San Juan Canyon, and proceeding northerly along San Juan Canyon to the point of beginning.

(2) Council District 2 shall comprise all that portion of the City beginning at the point of intersection of the Mission Viejo/San Juan Capistrano city line and Marguerite Pkwy, and proceeding easterly along the Mission Viejo/San Juan Capistrano city line to the San Juan Capistrano city line, and proceeding easterly along the San Juan Capistrano city line to shoreline, and proceeding southerly along shoreline to I- 5, and proceeding northerly along I- 5 to unnamed Ramp, and proceeding northerly along unnamed Ramp to I- 5, and proceeding northerly along I- 5 to Trabuco Creek Rd, and proceeding northerly along Trabuco Creek Rd to Rancho Viejo Rd, and proceeding westerly along Rancho Viejo Rd to unnamed Local road, and proceeding northerly along unnamed Local road to Trabuco Creek Rd, and proceeding northerly along Trabuco Creek Rd to Village Rd, and proceeding northerly along Village Rd to Applewood Ct, and proceeding northerly along Applewood Ct to unnamed Local road, and proceeding westerly along unnamed Local road to Briarwood Ln, and proceeding westerly along Briarwood Ln to Edgewood Rd, and proceeding southerly along Edgewood Rd to Village Rd, and proceeding southerly along Village Rd to Creekwood Rd, and proceeding westerly along Creekwood Rd to Riviera Ct, and proceeding northerly along Riviera Ct to Westmont Ct, and proceeding southerly along Westmont Ct to Eastview Ct, and proceeding easterly along Eastview Ct to Lakeview Rd, and proceeding westerly along Lakeview Rd to Village Rd, and proceeding southerly along Village Rd to Rancho Viejo Rd, and proceeding northerly along Rancho Viejo Rd to Marguerite Pkwy, and proceeding northerly along Marguerite Pkwy to the point of beginning.

(3) Council District 3 shall comprise all that portion of the City beginning at the point of intersection of San Juan Canyon and the Laguna Niguel/San Juan Capistrano city line, and proceeding southerly along San Juan Canyon to Trabuco Creek, and proceeding southerly along Trabuco Creek to Del Obispo St, and proceeding westerly along Del Obispo St to Alipaz St, and proceeding northerly along Alipaz St to Calle Rio Vista, and proceeding westerly along Calle Rio Vista to Via Belardes, and proceeding southerly along Via Belardes to Paseo Carolina, and proceeding southerly along Paseo Carolina to unnamed Local road, and proceeding westerly along unnamed Local road to nonvisible boundary, and proceeding southerly along nonvisible boundary to unnamed Local road, and proceeding northerly along unnamed Local road to Alipaz St, and proceeding southerly along Alipaz St to nonvisible boundary, and proceeding easterly along nonvisible boundary to Alipaz St, and proceeding southerly along Alipaz St to canal/aqueduct, and proceeding easterly along canal/aqueduct to shoreline, and proceeding northerly along shoreline to I- 5, and proceeding southerly along I- 5 to San Juan Creek Rd, and proceeding easterly along San Juan Creek Rd to Valle Rd, and proceeding southerly along Valle Rd to La Novia Ave, and proceeding easterly along La Novia Ave to unnamed Vehicular trail, and proceeding southerly along unnamed Vehicular trail to ridge line, and proceeding westerly along ridge line to unnamed Vehicular trail, and proceeding easterly along unnamed Vehicular trail to Ave Calita, and proceeding easterly along Ave Calita to Via de Agua, and proceeding southerly along Via de Agua to Calle Canto, and proceeding westerly along

Calle Canto to Via Cascada, and proceeding southerly along Via Cascada to Calle de Bonanza, and proceeding westerly along Calle de Bonanza to unnamed Local road, and proceeding southerly along unnamed Local road to Paseo Brillo, and proceeding easterly along Paseo Brillo to Via de Agua, and proceeding southerly along Via de Agua to Camino Las Ramblas, and proceeding westerly along Camino Las Ramblas to Pacific Coast Hwy, and proceeding westerly along Pacific Coast Hwy to the Dana Point/San Juan Capistrano city line, and proceeding westerly along the Dana Point/San Juan Capistrano city line to the Laguna Niguel/San Juan Capistrano city line, and proceeding northerly along the Laguna Niguel/San Juan Capistrano city line to the point of beginning.

(4) Council District 4 shall comprise all that portion of the City beginning at the point of intersection of AT and SF Railway and Trabuco Creek, and proceeding southerly along AT and SF Railway to nonvisible boundary, and proceeding easterly along nonvisible boundary to unnamed Local road, and proceeding easterly along unnamed Local road to Camino Capistrano, and proceeding southerly along Camino Capistrano to Oso Rd, and proceeding westerly along Oso Rd to Ave de la Vista, and proceeding southerly along Ave de la Vista to Avenida de la Vista, and proceeding southerly along Avenida de la Vista to Ave de la Vista, and proceeding southerly along Ave de la Vista to Avenida de la Vista, and proceeding southerly along Ave de la Vista to Avenida de la Vista, and proceeding southerly along Avenida de la Vista to Paseo Santa Clara, and proceeding easterly along Paseo Santa Clara to unnamed Local road, and proceeding northerly along unnamed Local road to La Zanja St, and proceeding easterly along La Zanja St to El Camino Real, and proceeding southerly along El Camino Real to El Horno St, and proceeding northerly along El Horno St to I- 5, and proceeding southerly along I- 5 to unnamed Ramp, and proceeding southerly along unnamed Ramp to I- 5, and proceeding southerly along I- 5 to shoreline, and proceeding westerly along shoreline to canal/aqueduct, and proceeding westerly along canal/aqueduct to Alipaz St, and proceeding northerly along Alipaz St to nonvisible boundary, and proceeding easterly along nonvisible boundary to Alipaz St, and proceeding northerly along Alipaz St to unnamed Local road, and proceeding westerly along unnamed Local road to nonvisible boundary; and proceeding northerly along nonvisible boundary to unnamed Local road, and proceeding northerly along unnamed Local road to Paseo Carolina, and proceeding northerly along Paseo Carolina to Via Belardes, and proceeding northerly along Via Belardes to Calle Rio Vista, and proceeding easterly along Calle Rio Vista to Alipaz St, and proceeding southerly along Alipaz St to Del Obispo St, and proceeding easterly along Del Obispo St to Trabuco Creek, and proceeding northerly along Trabuco Creek to the point of beginning.

(5) Council District 5 shall comprise all that portion of the City beginning at the point of intersection of the San Juan Capistrano city line and shoreline, and proceeding southerly along the San Juan Capistrano city line to the San Clemente/San Juan Capistrano city line, and proceeding southerly along the San Clemente/San Juan Capistrano city line to the Dana Point/San Juan Capistrano city line, and proceeding westerly along the Dana Point/San Juan Capistrano city line to Pacific Coast Hwy, and proceeding northerly along Pacific Coast Hwy to Camino Las Ramblas, and proceeding easterly along Camino Las Ramblas to Via de Agua, and proceeding northerly along Via de

Agua to Paseo Brillo, and proceeding westerly along Paseo Brillo to unnamed Local road, and proceeding northerly along unnamed Local road to Calle de Bonanza, and proceeding easterly along Calle de Bonanza to Via Cascada, and proceeding northerly along Via Cascada to Calle Canto, and proceeding easterly along Calle Canto to Via de Agua, and proceeding northerly along Via de Agua to Ave Calita, and proceeding westerly along Ave Calita to unnamed Vehicular trail, and proceeding westerly along unnamed Vehicular trail to ridge line, and proceeding northerly along ridge line to unnamed Vehicular trail, and proceeding northerly along unnamed Vehicular trail to La Novia Ave, and proceeding westerly along La Novia Ave to Valle Rd, and proceeding northerly along Valle Rd to San Juan Creek Rd, and proceeding westerly along San Juan Creek Rd to I- 5, and proceeding northerly along I- 5 to shoreline, and proceeding easterly along shoreline to the point of beginning.

B. The Council districts specified in subdivision (A) shall continue in effect until they are amended or repealed in accordance with law.

#### Sec.2-4.303 Election Schedule

Council Members shall be elected in Council Districts 1 and \_\_\_\_ beginning at the municipal election in November 8, 2016, and every four years thereafter. Council Members shall be elected from Council Districts \_\_\_\_, \_\_\_\_, and \_\_\_\_ beginning at the municipal election in November 6, 2018, and every four years thereafter.

#### Sec.2-4.304 Implementation

A map showing the districts described in the Ordinance codified in this Article is attached hereto as Exhibit A and incorporated herein by this reference. To the extent there is a conflict between the descriptions contained in the Ordinance codified in this Article and the map incorporated herein, the map shall prevail.

If necessary to facilitate the implementation of this Ordinance, the City Clerk is authorized to make technical adjustments to the district boundaries that do not substantively affect the populations in the districts, the eligibility of candidates, or the residence of elected officials within any district. The City Clerk shall consult with the City Manager and City Attorney concerning any technical adjustments deemed necessary and shall advise the City Council of any such adjustments required in the implementation of the districts.

#### SECTION 2.            Effective Date.

This Ordinance shall be effective immediately as an ordinance relating to an election pursuant Government Code section 36937(a).

SECTION 3. Inconsistencies.

To the extent the terms and provisions of this Ordinance may be inconsistent or in conflict with the terms or conditions of any prior City ordinance, motion, resolution, rule or regulation government the same subject, the terms of this Ordinance shall prevail with respect to the subject matter thereof.

SECTION 4. Interpretation.

In interpreting this Ordinance or resolving any ambiguity, this Ordinance shall be interpreted in a manner that effectively accomplishes its state purposes.

SECTION 5. Severability.

If any section, subsection, subdivision, sentence, clause phrase, or portion of this Ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court or competent jurisdiction, then such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of San Juan Capistrano hereby declares it would have adopted this Ordinance and each section, subsection, subdivision, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, or portions thereof be declared invalid or unconstitutional.

PASSED, APPROVED AND ADOPTED this 21<sup>st</sup> day of June 2016.

\_\_\_\_\_  
PAM PATTERSON, ESQ., MAYOR

ATTEST:

\_\_\_\_\_  
MARIA MORRIS, CITY CLERK

STATE OF CALIFORNIA                    )  
COUNTY OF ORANGE                    )  
CITY OF SAN JUAN CAPISTRANO        )

I, Maria Morris, City Clerk of the City Council of the City of San Juan Capistrano, California, do hereby certify that the foregoing Election Ordinance No. 1035 was duly introduced and passed at a regular meeting of the City Council on the 21<sup>st</sup> day of June 2016, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

\_\_\_\_\_  
Maria Morris, City Clerk

**San Juan Capistrano  
City Council Districts**

