

RESOLUTION NO. 2017-82

A RESOLUTION OF THE CITY OF ENCINITAS CITY COUNCIL, DECLARING ITS INTENT TO TRANSITION FROM AT-LARGE TO DISTRICT-BASED COUNCIL MEMBER ELECTIONS, OUTLINING SPECIFIC STEPS TO BE UNDERTAKEN TO FACILITATE THE TRANSITION AND ESTIMATING A TIME FRAME FOR ACTION PURSUANT TO ELECTIONS CODE SECTION 10010

WHEREAS, four members of the City Council of the City of Encinitas ("City") are currently elected in "at-large" elections, in which each City Council member is elected by the registered voters of the entire City and serves a four-year term;

WHEREAS, in 2012 Encinitas residents voted to directly elect the mayor, with the mayor serving a two year term;

WHEREAS, California Government Code Section 34886, in certain circumstances, authorizes the legislative body of a city to adopt an ordinance to change its method of election from an "at-large" to "district-based" in which each council member is elected only by the voters residing in the district in which the candidate resides;

WHEREAS, the City received a certified letter on July 20, 2017, from the law firm of Shenkman & Hughes, asserting that the City's electoral system violates the California Voting Rights Act ("CVRA") and threatening litigation if the City declines to voluntarily change to a district-based election system for electing council members;

WHEREAS, the California Legislature, in amendments to Elections Code section 10010, has provided a method whereby a jurisdiction can expeditiously change to a by-district election system and avoid litigation under the CVRA;

WHEREAS, changing to a district-based electoral system pursuant to Elections Code section 10010 would, on the one hand, avoid 1) the extraordinary cost to defend against a CVRA lawsuit, and 2) the risk of losing such a lawsuit, which would require the City to pay the prevailing plaintiffs' attorneys' fees, and, on the other hand, 3) cap the reimbursable costs and attorneys' fees payable to plaintiffs' attorneys at a maximum of \$30,000.00; and

WHEREAS, prior to the City Council's consideration of an ordinance to establish district boundaries for a district-based electoral system, California Election Code Section 10010 requires all of the following:

1. Prior to drawing a draft map or maps of the proposed boundaries of the districts, the City shall hold at least two (2) public hearings over a period of no more than thirty (30) days, at which the public will be invited to provide input regarding the composition of the districts;
2. After all draft maps are drawn, City shall publish and make available for release at least one draft map and, if members of the City Council will be elected in their districts at different times to provide for staggered terms of office, the potential sequence of the elections shall also be published. The City Council shall also hold at least two (2) additional hearings over a period of no more than forty-five (45) days, at which the

public shall be invited to provide input regarding the content of the draft map or maps and the proposed sequence of elections, if applicable. The first version of a draft map shall be published at least seven (7) days before consideration at a hearing. If a draft map is revised at or following a hearing, it shall be published and made available to the public for at least seven (7) days before being adopted; and

WHEREAS, the City will retain an experienced demographer to assist the City to develop a proposal for a district-based electoral system; and

WHEREAS, the adoption of a district-based electoral system will not affect the term of any sitting Council Member, each of whom will serve out his or her current term.

NOW, THEREFORE, BE IT RESOLVED, the City shall consider an ordinance to change to a district-based election system for use in the City's General Municipal Election for City Council Members beginning in November 2018.

FURTHER, the City Council directs staff to work with the City's retained demographer, and other appropriate consultants as needed, to provide a detailed analysis of the City's current demographics and any other information or data necessary to prepare a draft map that divides the City into voting districts in a manner consistent with the intent and purpose of the California Voting Rights Act and the Federal Voting Rights Act.

FURTHER, the City Council approves the tentative timeline set forth in Exhibit A, attached to and made a part of this resolution, for conducting a public process to solicit public input on proposed district-based electoral maps before adopting any such map.

FURTHER, the City Council instructs staff to institute a program for public outreach to inform the residents of Encinitas of this resolution and the process set forth in Exhibit A, and to facilitate and encourage public participation.

FURTHER, the timeline contained in Exhibit A may be adjusted as deemed necessary, provided that such adjustments shall not prevent the City from complying with the time frames specified by Election Code Section 10010.

PASSES AND ADOPTED, by the City Council of the City of Encinitas, this 30th day of August, 2017, by the following roll call vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

ATTEST:

Catherine Blakespear, Mayor

Kathy Hollywood, City Clerk

EXHIBIT A

TENTATIVE TIMELINE: IMPLEMENTATION OF "DISTRICT-BASED" ELECTION METHOD

| DATE | EVENT | COMMENT |
|--------------------------|--|---|
| August 30, 2017 | Day 1 Resolution of Intention: City Council adopts Resolution declaring its intention to transition from at-large to district-based elections | CVRA Action cannot be commenced for 90 days. |
| Starting August 31, 2017 | Public Outreach | |
| September 6, 2017 | 1st Public Hearing | Re: Composition of Districts NO MAPS YET DRAWN |
| September 20, 2017 | 2nd Public Hearing Set Deadline for Receipt of Maps from Members of Public | Re: Composition of Districts NO MAPS YET DRAWN |
| September 29, 2017 | Publish Draft Maps and Potential Sequence of Elections | |
| September 30, 2017 | Public Workshops | |
| October 11, 2017 | 3rd Public Hearing | Re: Draft Maps |
| October 27, 2017 | Publish Any Amended Maps and Any Maps Received from Members of the Public and Potential Sequence of Elections | |
| November 8, 2017 | 4th Public Hearing Introduce ordinance establishing district elections, adopting district boundaries, and setting election sequence | Re: Draft Maps If selected map is amended, ordinance cannot be introduced until 7 days after amended map is published. |
| November 15, 2017 | 5th Public Hearing 2nd reading of ordinance establishing district elections: approval or defeat of ordinance | |
| November 28, 2017 | Day 90 | |
| December 15, 2017 | Effective date of ordinance establishing district elections | |
| November 6, 2018 | First election using new district-based election system | |