

ATTACHMENT B

RESOLUTION NO. 21-100

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF VICTORVILLE, CALIFORNIA, DECLARING ITS INTENTION TO TRANSITION FROM AT-LARGE TO DISTRICT-BASED ELECTIONS FOR MEMBERS OF THE CITY COUNCIL UNDER ELECTIONS CODE SECTION 10010

WHEREAS, under the charter of the City of Victorville (the “City”) members of the City Council are currently elected in “at-large” elections, in which each Councilmember is elected by the registered voters of the entire City; and

WHEREAS, Government Code Section 34886 in certain circumstances, authorizes the legislative body of a city of any population to adopt an ordinance to change its method of election from an “at-large” system to a “by-district” system in which each councilmember is elected only by the voters in the district in which the councilmember resides without being required to submit the ordinance to the voters for approval; and

WHEREAS, on August 12, 2021, the City Clerk received a certified letter from attorney Scott J. Rafferty on behalf of his client Neighborhood Elections Now alleging that that the City’s at-large council member electoral system violates the California Voting Rights Act (“CVRA”) and threatening litigation if the City declined to adopt a district-based electoral system; and

WHEREAS, the City denies that its election system violates the CVRA or any other provision of law and asserts that Victorville’s electoral system is legal in all respects and further denies any wrongdoing whatsoever in connection with the manner in which it has conducted its City Council elections; and

WHEREAS, the current membership of the Victorville City Council reflects of the diversity of the City’s residents and the City Council is committed to furthering diversity and inclusion in the City; and

WHEREAS, Elections Code Section 10010 provides a “safe harbor” procedure whereby a jurisdiction can expeditiously adopt an ordinance to change to a by-district election system and avoid the high cost of litigating a CVRA challenge. Under that procedure, if the City adopts a resolution outlining its intention to transition from at-large to district -based elections, specific steps it will undertake to facilitate the transition, and an estimated time frame for doing so, then a prospective plaintiff may not bring a CVRA lawsuit within 90 days after that resolution’s passage and attorneys’ fees would be capped at a maximum of \$30,000 (as adjusted annually for CPI); and

WHEREAS, although Mr. Rafferty’s letter contained no evidence supporting a CVRA violation claim, the City Council has determined that the public interest would be served by considering transitioning to a district-based electoral system because: (1) the cost to defend against a CVRA lawsuit is extraordinarily high; (2) the risk of losing such a lawsuit would require the City to pay the prevailing plaintiffs’ attorneys’ fees, (3) the City would be unable to recoup attorneys’ fees even if it prevailed in a CVRA lawsuit; (4) the City can transition to district-based elections under

the safe harbor procedure and take advantage of statutory cap; and (5) the City can maintain its autonomy and ability to involve and respond to the community during CVRA districting implementation process, and possibly secure additional time to complete the implementation process beyond the 90-day statutory timeline provided for in the Elections Code; and

WHEREAS, Elections Code section 10010 requires that a City transitioning to district-based elections under the safe harbor procedures do all of the following within 90 days from the date this resolution is approved:

1. Prior to drawing a draft map or maps of the proposed boundaries of the districts, the City Council shall hold at least two (2) public hearings over a period of no more than 30 days, at which the public will be invited to provide input regarding the composition of the districts. Before these hearings, the City may conduct outreach to the public, including to non-English-speaking communities, to explain the districting process and to encourage public participation;
2. After all draft maps are drawn, the 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;
3. The City Council shall also hold at least two (2) additional hearings over a period of no more than 45 days, at which the public will be invited to provide input regarding the content of the draft map or maps and the proposed sequence of elections. 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 days before being adopted;
4. Introduce and adopt an ordinance establishing district elections pursuant to Elections Code Section 10010(a).

WHEREAS, the adoption of a district-based elections system will not affect the terms of any sitting Councilmember, each of whom will serve out his or her current term; and

WHEREAS, the City intends to retain an experienced demographer and such other consultants as may be required to assist the City in developing a proposal for a district-based electoral system.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF VICTORVILLE, CALIFORNIA, DOES HEREBY RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

Section 1. Recitals

That the Recitals set forth above are true and correct, and together with any definitions set forth therein, are hereby incorporated into and made part of this Resolution.

Section 2. Consideration of Ordinance Adoption

That it will consider adoption of an ordinance to transition to a district-based electoral system as authorized by Government Code Section 34886 for use in the City's General Municipal Election for City Councilmembers beginning in November 2022.

Section 3. Working Cooperatively for Benefit of Entire City

Should a district-based electoral system be adopted, it is the City Council's desire and intention that City resources will continue to be prioritized based on the greatest citywide benefits and needs, and that the City Council will continue to work cooperatively for the benefit of the entire City and preserve the City's mission and vision. Nothing in this resolution is intended to impair the City's cohesiveness or impair its ability pursue its policies and goals.

Section 4. Implementation; Staff Direction

That City staff is directed to engage and work with the City's demographer and such other appropriate consultants as may be 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 CVRA, the Federal Voting Rights Act, and all other applicable federal and state laws.

Section 5. Tentative Timeline

That the tentative timelines set forth in the attached Exhibit 1 for conducting a public process to solicit public input and testimony on proposed district-based electoral maps before adopting any such map and transitioning to district elections is hereby approved.

Section 6. Adjustment to Tentative Timeline

That the tentative timelines in the attached Exhibit 1 may be adjusted by the City Manager and the City Attorney as necessary, consistent with the timeframes in Elections Code Section 10010 and any agreement tolling safe harbor deadlines reached with the plaintiff's attorney to allow additional time for public input or otherwise as appropriate.

Section 7. Posting of Information

That City staff is directed to post information regarding the proposed transition to a district-based election system, including maps, notices, agendas, and other information and to establish a means of communication to answer questions from the public.

Section 8. CEQA Exemption

That this Resolution of Intention is not a project subject to CEQA, because it is an organizational or administrative activity that will not result in direct or indirect physical changes in the environment. (CEQA Guidelines Section 15378(b)(5).)

Section 9. **Effective Date**

That this Resolution shall take effect immediately upon its adoption.

Section 10. **Certification**

That the City Clerk shall certify to the passage and adoption of this Resolution; shall enter the same in the book of original Resolutions; and shall make a minute of passage and adoption thereof in the records of the proceedings, in the minutes of the meeting at which this Resolution is passed and adopted.

Exhibit 1 to Resolution No. 21-100

Tentative Districting Timelines

Activity	Estimated Timing	Estimated Timing if Extension Agreed to by Prospective Plaintiff
Received Demand Letter	08/12/2021	N/A
Adjourned Regular Council Meeting Vote on adoption of Resolution of Intention	09/27/2021	N/A
Hold 1 st Public Hearing to gather input from public regarding composition of districts (no draft maps drawn until 1 st and 2 nd Public Hearings completed)	10/12/2021**	11/09/2021**
Hold 2 nd Public Hearing for same purpose within 30 days of first of 1 st Public Hearing (no draft maps drawn until 1 st and 2 nd Public Hearings completed)	11/9/2021**	12/7/2021*
Post on City’s website a tentative schedule of the public outreach events and the public hearings held pursuant to this section. (at City’s discretion unless extension agreement made with plaintiff, then website set-up mandatory within 10 days of entering written agreement)	TBD or N/A	TBD or N/A
All initial draft maps posted on City’s website or as otherwise provided (at least 7 days prior to next round of public hearings)	11/23/2021	1/18/2022 (Additional time in between 2 nd 3 rd hearings are to continue outreach and education and to permit public to submit maps prior to a deadline to be determined)
Hold 3 rd Public Hearing to gather public input on draft maps and election sequencing	11/30/2021**	1/25/2022**

Activity	Estimated Timing	Estimated Timing if Extension Agreed to by Prospective Plaintiff
Changes to initial draft maps posted on website at least 7 days prior to next public hearing	12/7/2021	2/15/2021
Hold 4 th Public hearing to gather public input on draft maps and election sequencing: (4 th public hearing must be held within 45 days of 3 rd public hearing)	12/14/2021**	2/22/2022**
5 th Public Hearing To adopt maps and election sequencing; Introduce ordinance to establish district elections for first reading	12/21//2021*	3/8/2022**
6 th Public Hearing Second reading and vote on final passage of ordinance to establish district elections	12/27/2021***	3/15/2022*
Safe Harbor Deadline (within 90 days of Resolution of Intention Adoption)	12/27/2021 (moved to next working day; day 90 falls on Sunday)	03/28/2021 (moved to next working day; day 180 falls on Sunday)
First by-district Elections held for 2 Districts	11/08/2022	N/A
Remaining 3 Districts hold first by-district elections	November 2024	N/A

* Regular Meeting

** Special Meeting

*** Adjourned Regular Meeting